



# AGENDA

## CITY COUNCIL & PLANNING COMMISSION MEETING

**Marjorie Stewart Senior Center  
855 N. Sherwood Boulevard  
December 5, 2000 - 6:00 PM**

- 1. 6:00 PM Call to Order & Roll Call for Planning Commission**
- 2. PA 00-04 Title 1 Housing & Employment Accommodations:** City Plan and Code amendments to comply with Metro Functional Plan. (continued from 11-21-00 PC Meeting, public hearing closed) (*Carole Connell, Planning Consultant*)
- 3. Adjourn to Joint City Council & Planning Commission meeting**

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- 4. 7:00 PM Call to Order & Roll Call for Planning Commission & City Council**
- 5. Public Hearing:**
  - a. PA 00-05 2040 Title 6, Regional Accessibility (Ordinance #2000-1103)** (*Carole Connell*)
  - b. PA 00-07 Transportation Management Plan for Highway 99W (Ordinance #2000-1104)** (*Terry Keyes & Carole Connell*)
  - c. Ordinance #2000-1105:** an Ordinance implementing the City of Sherwood Highway 99W Capacity Improvement Funding (CIF) Program and Declaring an Emergency (while not subject to Planning Commission action, testimony on this ordinance will be accepted and should be provided at this public hearing)
- 6. Council goes into recess, but remains at table**
- 7. Planning Commission deliberation; issue recommendation (Commission adjourns)**
- 8. City Council reviews Planning Commission recommendation**
- 9. Council deliberations**
- 10. Council action** (proposed Ordinances available if Council chooses to adopt at this meeting)
- 11. Resolution #2000-914:** a Resolution Adopting an Access Plan for the Proposed Meinecke-Handley-99W Intersection. (*Terry Keyes*)
- 12. City Council Adjourns**

# **APPROVED MINUTES**

City of Sherwood, Oregon  
**Planning Commission Minutes**  
**December 5, 2000**

**1. Call to Order/Roll Call**

Vice-Chair Keith Mays called the meeting to order at 6:10 PM.

Commission Members present:

Jeff Fletcher  
Jean Lafayette  
Keith Mays  
Ken Shannon  
Angela Weeks (6:25 PM)

Staff:

Carole Connell, Planning Consultant  
Roxanne Gibbons, Recording Secretary

Commission Members absent:

Adrian Emery  
Jeff Schroeder

**2. PA 00-04 Title 1 Housing & Employment Accommodations Plan Text Amendment**

Vice-Chair Mays announced that the public hearing was closed and the Commission would continue their deliberations on this application. He asked Carole Connell to provide an update for the Commission. Any decision by the Commission would be a recommendation to the City Council.

Ms. Connell said following the public hearing on November 21, 2000, she revised the Staff Report. She referred the Commission to the Staff Report and Exhibit A dated November 29, 2000. The revised recommendations are contained in the salmon colored pages of the report. She also incorporated comments from the City Council work session that was held on November 28, 2000. She reviewed the Summary of Title 1 proposed recommendations and noted:

- Page 14 contains the statement that the City's public facility plans can adequately accommodate the planning period.
- Page 13 lists 2040 Map changes to Metro to assure consistency between the Sherwood Plan Map and the 2040 Map.
- Page 12 inserts the reference to the new timeframe "2017" and inserts reference to the 2040 Growth Plan into the Plan.
- Pages 11 and 12 contain the Accessory Dwelling Unit provisions (Section 2.208 of the Code).

Jean Lafayette said at that the last meeting, the Commission asked that a new Item "I" be considered, that an Accessory Dwelling Unit (ADU) shall not be partitioned off from the parent parcel. Ms. Connell agreed.

Ms. Connell said the Commission removed the option of allowing an ADU on a lot with a manufactured home as well as allowing a manufacturing home on an individual lot as an ADU. There is also a provision that the ADU shall be designed to be compatible with the original design characteristics and style of the building and appears to be a single-family residence.

Ms. Connell continued her review as follows:

- Page 10 discusses minimum densities in the residential zones. Metro's recommendation is that no other methods to increase density are necessary, if you put an 80% minimum density into each zone. If the Commission does not wish to use the 80% minimum density, there needs to be an explanation and new housing count.
- The Council recommended the densities contained in the table on Page 9.

Ms. Connell discussed different options for the Commission to consider in their recommendation for minimum densities. The Commission reviewed these options.

**Keith Mays moved the Planning Commission recommend to the City Council approval of PA 00-04 Title 1 Housing & Employment Accommodations Plan Text Amendments as amended, including the addition of Item "I" to the ADU Section 2.208. Seconded by Jeff Fletcher.**

**This recommendation included the following minimum Densities for Residential Zones:**

<b>VLDR, VLDR PUD, LDR, MDRL</b>	<b>70%</b>
<b>MDRH</b>	<b>50%</b>
<b>HDR</b>	<b>80% (includes new maximum density of 24 du)</b>

**Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain**

Ms. Connell congratulated the Planning Commission on completing the Metro 2040 Functional Plan requirements.

There being no further business to discuss, the Planning Commission meeting adjourned at 6:40 PM. A Joint Planning Commission and City Council meeting was scheduled for 7:00 PM.

Respectfully submitted:

Planning Department

City of Sherwood, Oregon  
**Joint City Council & Planning  
Commission Minutes  
December 5, 2000**

**1. Call to Order/Roll Call**

Mayor Walt Hitchcock called the meeting to order at 7:15 PM.

Council Members present:

Walt Hitchcock, Mayor  
Mark Cottle, Council President  
Sterling Fox, Councilor  
Tom Krause, Councilor  
Bill Whiteman, Councilor

Staff:

John Morgan, City Manager  
Terry Keyes, City Engineer  
Shannon Johnson, Legal Counsel  
Roxanne Gibbons, Recording Secretary

Commission Members present:

Jeff Fletcher  
Jean Lafayette  
Keith Mays, Vice-Chair  
Jeff Schroeder  
Ken Shannon  
Angela Weeks, Chair

Consultants:

Carole Connell, Planning Consultant  
Jeff Wise, Traffic Engineer, Hopper & Dennis

Commission Members absent:

Adrian Emery

Mayor Hitchcock announced the Agenda includes a public hearing on three issues; PA 00-05 2040 Title 6 Regional Accessibility, PA 00-07 Transportation Management Plan for Highway 99W, and Ordinance #2000-1105 Highway 99W Capacity Improvement Funding (CIF) Program. This ordinance is not a Planning Commission action, but testimony will be taken during the public hearing process. All three hearings will be heard during the public testimony. He asked that testimony be limited to five (5) minutes per person. He encouraged anyone who had something to say to provide testimony.

**5. Public Hearings**

Mayor Hitchcock opened the public hearings for the above-entitled actions. John Morgan, City Manager read the hearings disclosure statement.

Angela Weeks announced she would not be participating as a Commission member in the decision, but planned to provide testimony as a citizen. Ken Shannon announced he would not be participating as a Commission member in the decision, but planned to provide testimony as a citizen. Mark Cottle declared he had a potential conflict of interest because he represented a land owner that owns property on 99W, and he owns property with a landowner, but the property is

not along Highway 99W. He does not have any financial interest in any property that relates to the 99W corridor.

Shannon Johnson asked if the reason for the conflicts of interest with Ms. Weeks and Mr. Shannon were that they own property in the area that may be affected. Ms. Weeks said she did not personally own property, but her in-laws own property. Mr. Shannon said he owns property in the area that may be affected by the ordinances.

Terry Keyes, City Engineer, introduced Carole Connell, the consulting planner who worked on the package with him. He also introduced Mr. Jeff Wise, Traffic Engineer, Hopper & Dennis Engineers in Vancouver, Washington, who worked on the project and was in attendance.

Mr. Keyes noted one item that was discussed previously and is not on the Agenda, is the adoption of a new arterial collector map. Staff needs more time to work on this map and it should be ready early in 2001. He identified who would be presenting the staff reports.

Carole Connell entered the following exhibits that had been received into the record:

- November 17, 2000 letter from the Langer Family Farm
- November 15, 2000 letter from Kurt Kristensen
- November 27, 2000 e-mail from Kurt Kristensen
- Undated letter from a property owner, Darrell Smith, 510 E. Third, Yamhill, Oregon 97148
- December 5, 2000 letter from Perkins Coie LLP re: Proposed Traffic Management Plan
- December 5, 2000 letter from Robert L. LeFeber, representing the Commercial Realty Advisors re: Proposed Traffic Management Plan
- December 5, 2000 letter from Oaktree Investment re: proposed Ordinances 2000-1104 and 2000-1105, Traffic Management Plan
- December 5, 2000 letter from John Alto

Copies were distributed to the Council and Commission.

#### **5a. PA 00-05 2040 Title 6 Regional Accessibility (Ordinance 2000-1103)**

Carole Connell referred the Council and Commission to the Staff Report dated November 28, 2000 and labeled as Exhibit A in the Ordinance. A complete copy is included in the packets and City Planning File PA 00-05. She made the following comments:

- In the Staff Report, several LCDC goals have been addressed that specifically relate to this amendment. For clarification of the record, *those goals that were not addressed do not directly apply to these amendments.*
- The intent of Title 6 is to improve connectivity and circulation with the road system within and throughout the City of Sherwood. The elements of Title 6 being proposed for adoption are as follows:
  - Reference Metro's Regional Street Design Elements and Guidelines when planning for improvements to those facilities, including those built by ODOT or Tri-Met.

- Add to the Zoning Code a new section for pedestrians and bicycle paths as noted in the bold and italicized text on page 4 of the Staff Report.
- Revise Section 6.305.05 Cul-de-sacs, to reduce the maximum length of cul-de-sacs from 600 feet to 200 feet.
- Revise Section 7.400 Street Design Standards, to reduce the length of blocks from 1,200 feet to 530 feet to increase circulation and put less pressure on arterial and collector streets.
- Revise Section 8.304.04 Visual Corridors as noted in the bold and italicized text. This amendment is a result of the vision that was prepared from the Highway 99W Study. It is an attempt to increase the landscaping requirements along the highway to provide a more aesthetic environment as new development occurs. This does not change any of the existing landscape corridor widths. It does require more trees and larger trees.

Bill Whiteman asked what the timeframe was to prepare these ordinances. Staff responded that the proposed ordinances were prepared within the last thirty (30) days. Ms. Connell said the Planning Commission has had informal discussions with regard to Title 6 for a longer period of time. The formal work sessions began on November 14, 2000.

**5b. PA 00-07 Transportation Management Plan for Highway 99W (Ordinance 2000-1104)**

Carole Connell referred the Council and Commission to the Staff Report dated November 29, 2000 and labeled as Exhibit A in the Ordinance. A complete copy is included in the packets and City Planning File PA 00-05. She made the following comments:

- The LCDC goals have been specifically addressed in the findings of this report that affect this development and these amendments. For clarification of the record, *those goals that were not addressed do not directly apply to these amendments.*
- The Staff Report contains the criteria, findings and recommendation for amendments.
- On Page 5 of 5 of the Staff Report, the Transportation Management Plan Highway 99W Program is implemented through the Zoning Code.
- A new section is proposed to be added to the Zoning Code; Section 6.307 Highway 99W Capacity Allocation Program (CAP) codifying the provisions attached as Exhibit “A” is the specific description of how the CAP works.
- Add an additional criterion to the Zoning Code Section 4.302.03 Conditional Use Permits as follows:
  - New criterion F. for a proposed conditional use permit in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 6.307 Highway 99W Capacity Allocation Program, unless excluded therein.
- Add an additional criterion to Zoning Code Section 5.102.094 Site Plan Required Findings as follows:
  - New criterion E. for a proposed conditional use permit in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial



(RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 6.307 Highway 99W Capacity Allocation Program, unless excluded therein.

- Add to the Permitted Use Sections of the NC, OC, OR, RC and GC Zones the following new permitted use:
  - Multi-family housing within a Planned Unit Development (PUD), subject to the provisions of Section 2.105.04 High Density Residential (HDR) Dimensional Standards.

### **5c. Ordinance 2000-1105 Implementing the City of Sherwood Highway 99W Capacity Improvement Funding (CIF) Program**

Terry Keyes referred the Council and Commission to the Staff Report dated December 5, 2000 to the City Council. He noted:

- This ordinance is complementary to Ordinance 2000-1104. It is designed to ensure infrastructure is built as development occurs. This is similar to the requirements for sewer, water and storm water systems.
- If a development takes capacity out of the system in the 99W corridor, it must be put back in; such as by adding turn lanes or extending turn lanes.
- It applies to site plans, conditional use permits, and building permits for non-residential projects. It includes some exclusions such as when someone goes through the CAP Ordinance and receives a Capacity Allocation Certificate, they are exempted from this Ordinance. The need for mitigation has been defined.
- He referenced a memo dated 12-5-00 that was distributed to the Commission and Council tonight. It recommends adding a new subsection under Section V-Mitigation, “If mitigation is required at locations where the net trips from a regulated activity are less than ten (10), the applicant, at the discretion of the City Engineer, may provide the City the funding for the cost of this mitigation. The City shall then combine this funding with funds from other mitigation projects to construct the mitigation in an efficient manner.” This change allows the City to collect funds for small increments of required mitigation and combine these funds to efficiently construct mitigation projects. This would be a new Section D, under Mitigation and Implementation, page 3 of Exhibit A.

**Mayor Hitchcock called for public testimony from either proponents or opponents.**

**Jim Morse, 17147 Old River Road, Lake Oswego 97035 (business address: 15905 SW Tualatin-Sherwood Road) & Ty Wyman, Attorney, 900 SW 5<sup>th</sup> Avenue, Suite 2600, Portland, Oregon 97204 (opponents), addressed the City Council and Commission.**

Mr. Morse said their development, the Regal Cinema Complex, was approved three years ago as a three-phased project. Phase 1 was construction of the cinema, Phase 2 the development of the pad sites around the cinema and Phase 3 expansion of the cinema. All of these approvals were based on different traffic improvements being made in the area. They applied yesterday with ODOT, again, for a right-in and right-out from Highway 99W to the site. If and when this access



is approved, then the pads that were approved in 1998 would be developed. His concern is whether the proposals being discussed tonight would limit the type of use for the pads. He asked since they were approved prior to the adoption of the ordinances, if would they fall under the existing code requirements?

Mr. Wyman said they are asking for a clarification. They understand and appreciate the City's desire to mitigate the impacts of future development by developing a transportation system concurrency. Mr. Morse has a three-phase site plan approval on the Regal Cinemas site. Traffic generation was considered for all three phases. A mitigation plan was adopted for all three phases, up front. If the new ordinances were to applied to the site, it would throw an already adopted mitigation plan which theoretically achieved concurrency, in and of itself, right out the window. He asked the Council and Commission for clarification whether this project is vested against application of the new ordinances, should they be adopted.

Mr. Keyes said Mr. Morse attended some of the meetings for the property owners along Highway 99W when the proposed ordinances were discussed. In checking the Regal Cinemas file, there seems to be approval for the other pads, but it was not a clearly written approval. It seemed to imply that if access was granted by ODOT, a right-in and right-out, that the other pads are approved. It was not clear whether these pads would have to go through another site plan review process.

Mr. Cottle said he recalled the application being approved with the condition that the pads could not be utilized until the access from 99W is received.

Mr. Wyman said the Notice of Decision states, "either access from 99W or a secondary access." This could be a loop road or another access.

Mr. Cottle said the Notice of Decision required the applicant to complete all of the traffic mitigation at the time the theater was constructed. The applicant improved 99W and the secondary turn lane as well as Tualatin Sherwood Road. This is what he remembered.

Mayor Hitchcock said the issue of whether the application is vested is probably a little undefined at this time. The whole purpose of this plan is to allow things to go forward on 99W. In the next 30 days an internal arterial plan should be ready and part of this would be to bring the loop road out.

Mr. Wyman said his review of the approval is that future site plan approval for the pads would be required. However, Phases 2 and 3 have specific mitigation plans. It would probably benefit future hearings bodies if there could be some clarification as to the status of those mitigation plans. Their hope is that the clarification is conclusive on the issue.

Mayor Hitchcock said the Commission and Council are not able to deal with this type of review at this meeting. These are questions that cannot be answered tonight and may not be appropriate to answer without a specific site plan application.

Mr. Cottle suggested the applicant work with the Staff to work out the technical issues, taking into account the record. If a work session is warranted to get some clarifications, this could be done.

Mr. Whiteman asked if there was any indication that ODOT's position had changed regarding the right-in and right-out from 99W?

Mr. Morse said he owns the Regal Cinemas property. Regal Cinemas has been difficult to deal with during the last 1-1/2 years in trying to get anything done. Regal was supposed to apply for this access on their own. He is doing this out-of-pocket right now to get it done. They did speak with ODOT and feel they have made a very good case with ODOT for the access.

**Clarence Langer, 15585 SW Tualatin-Sherwood Road, Sherwood, Oregon 97140 (opponent), addressed the City Council and Commission.** Mr. Langer said following the first informal meeting that was held with a few of the landowners who could be affected by these ordinances, he compiled a list of questions. These questions were attached to the written letter that the Council and Commission received tonight. He noted some concerns:

- To-date they have not received a response to their questions in a letter dated November 17, 2000.
- Mr. Keyes brought in some different concepts at the next meeting of property owners and their questions changed.
- On page 4 of 5 of the Staff Report, paragraph 10, it states the City has responded to all of the individual inquiries. According to his records, no one has responded to their questions.
- With regard to the ODOT issues, the conceptual engineering plan that was shared by Mr. Keyes just showed concepts. Because the meetings were informal and he questioned whether all of the landowners agreed with these concepts. He did not believe this to be the case. Everybody was being informed and nobody agreed to what was being presented.
- He understands there has been an application to ODOT for an access bonding project funding.
- His biggest concern is their approved PUD 95-1 which is s a mixed-use PUD. Within the PUD is a 59-acre piece that is zoned Light Industrial (LI). On page 2 of 5, Exhibit A, paragraph D, line 5, mentions 8 trips and anything over 8 trips is when the traffic needs to be mitigated. What it does not say is that that same zoning receives the 43 trips allocated to the other zones.
- At the initial meeting with Staff, all of the zones and separate tax lots were allocated a number 43. He asked if this had changed?

Mr. Cottle responded there are two different issues. One is how many trips are allowed per acre on the site and the second issue is when do you have to start mitigating. For the GI and LI zones, you have to start mitigating after the site generates more than 8 trips.

Mr. Keyes clarified that 43 trips are allocated to the commercial and industrial zones. In cases where there are less than 8 trips, the applicant does not have to go through the process. If the

development generates more than 8 trips, then you have to go through the process and do mitigation. The process allows up to 43 trips and this is explained in the Staff Report.

Mr. Keyes said if someone generates 10 trips that do not have any impact, then there would not be any mitigation.

Mr. Langer said if there is an impact, the ordinance would limit the possible future tax bases that could be acquired on the property. It also would severely limit the possible employment base. If the dates in the packet are correct, they are working on a 20-year program. Secondly, for the next 20 years everybody in the City is going to have to go outside the City for employment. Is this what Sherwood really wants? Another consequence in regard to PUD 95-1, is the fact that Mr. Cottle is on the record as stating there is a grandfathered clause with the provision granting a general commercial use in this LI zone. Mr. Cottle said this at a Council meeting held downtown at the Masonic Hall.

Mr. Langer said in light of Measure 7, the Council and Commission should have a real close interest in considering restrictions that would be placed on this PUD property. If they are inclined to pass any ordinance, he suggested they pass the traffic map that Mr. Keyes has provided.

**Ken Shannon, 22275 SW Pacific Highway, Sherwood, Oregon 97140 (proponent), addressed the Council and Commission.** He noted:

- When this proposal was first discussed, he was pretty leery because it affected what he could and could not do with his property. He was very excited about Measure 7 because having done business on Highway 99W for a number of years, he has dealt with ODOT many times.
- His property has a zoning that allows certain things that can be done. He wants to be able to develop his property to the zone.
- After reviewing the proposals, there is not a lot he cannot do with his property. It seems to take ODOT off of his back and he thoroughly appreciates this fact.
- He is a little concerned that if this is passed and they want to develop, that ODOT can still say “no”.
- These ordinances allow him options that he has never seen before on Highway 99W. His access remains in tact.
- He has had a retail business on Highway 99W for a long time and his access is a very important part of the success of his business.
- These ordinances give him the same opportunity as his surrounding property owners, including Mr. Jim Claus and Mr. Clarence Langer. He wants the best options afforded to him and this will help a lot.
- He called Mr. Keyes several times with questions that were answered.
- Another integral part of this plan is the Highway 99W/Meinecke intersection improvements.
- These ordinances do not deny you the ability to develop your land to its potential.

**Bryan Cavaness, 1211 SW Fifth Avenue, 16<sup>th</sup> Floor, Portland, Oregon 97204 (opponent), representing Mr. & Mrs. Hosler, who are property owner on Highway 99W, addressed the Council and Commission.** Mr. Cavaness noted:

- He thought this was great idea from the perspective of trying to improve the traffic congestion on Highway 99W. He drove out here tonight from Portland on 99W and from Greenburg Road in Tigard to Sherwood it was basically a parking lot.
- He had some concerns about the implementation of the Capacity Allocation Program (CAP), Ordinance 2000-1104.
- On page 1 of Exhibit A, Item 4 under Definitions, it states the latest edition of the ITE Manual will be used. The language that refers to Table 3 in the report states that the 5<sup>th</sup> Edition of the ITE Manual was used for these traffic figures. The ITE 5<sup>th</sup> Edition was adopted and published in 1991. In late 1997, the ITE adopted the 6<sup>th</sup> Edition. If an application was submitted today, would it be judged on the 6<sup>th</sup> Edition of the ITE. Some of these numbers would be higher than in the 5<sup>th</sup> Edition. He provided some examples.
- He asked for clarification on the statement that the trip limit means the maximum number of trips per acre....that can be accommodated without violating the level of service standard. What happens, if after development is in place, there are 45 or 53 trips. The report states that the permit can be revoked. What would the process be for this? What if there is a catastrophic loss on the piece of property that has 67 trips. Can it be rebuilt to the 67 trips or is it limited to the 43 trips? What would the vested rights be with this property?
- He discussed the approval criteria that relates to Ordinance 2000-1105. These criterion remain vague and open to interpretation. Is there a way to narrow the scope of this interpretation?
- What limitations would be placed on how the “net acreage” is determined? Are wetlands, right-of-way dedications and open space included in this calculation? The City Engineer told him that the figure would exclude flood plains. It would be helpful if information could be specifically stated as to what the net acreage includes.
- If there is a house or two houses that are demolished for future development, would the 10 trips be lost if the use no longer exists?
- Generally speaking, he thought the plan is a good idea, but there are certain concerns in terms of exactions and the requirement for landscaping the medians in the ODOT right-of-ways. These are some of the items that need to be addressed.

**Gary Langer, 14020 SW 98<sup>th</sup>, Tigard, Oregon 97224 (opponent), addressed the City Council and Commission.** He read a letter which is made a part of these minutes. He attended three meetings presented by Terry Keyes, the City Engineer. He thought there would be ODOT representatives at these meetings. The ramifications of this transportation plan impact every property owner inside the designated area along Highway 99W. By holding the meetings between 3 PM and 5 PM, it seemed restrictive for those who have to work. All three meetings were posted as informal, but the missing link that kept appearing was where are the documents with specific dollar amounts. He and his brother presented written questions to be answered. No one on the Council or City Staff have provided them with any answers regarding the changes. Why has the out-going Mayor thrust all of the City Staff time into mandating such a devastating transportation plan in less than five weeks without property notification to each and every

property owner? The plan needs a full investigation into what the real facts are regarding ODOT and trip allocation requirements. In summary:

- Are trip allocations really a requirement of ODOT?
- Do all the business and property owners have a written notice regarding the procedures and plans to change land zone uses? Where they allowed time to respond and investigate the overall effects?
- Down zoning property and overriding the comprehensive plan with the suggested overlay restricts and in some cases, eliminates the opportunities to develop certain parcels of land. Measure 7 could become very expensive and require you to consider what you have done if this plan is adopted.
- This is the only time there has been an opportunity to provide public testimony.
- Has the City considered what they will do if the money for 99W/Meinecke intersection is not received?
- His family has been a part of the community for a long time. They believe this plan will jeopardize the way Sherwood looks for a long time.
- What can they do to get the Council to take more time, obtain legal advice for down zoning and getting ODOT to share the state highway plan.
- Fifteen other local cities have turned down this type of plan for the same reasons he is expressing tonight.

In response to Mr. Whiteman's question about what other cities have turned this type of plan down, Mr. Langer said they talked to Forest Grove, Tigard and several other cities. Tigard is in the process of making improvements to Highway 99W, but they are not down zoning or limiting and restricting property owners businesses. Mr. Langer said the transportation plan with the road changes is a great idea, but the trip allocation is not a good idea.

**Robert Simon, representing Willamette Landing Investments, PO Box 6059, Portland, Oregon 97228-6059 (opponent), addressed the City Council and Commission. He noted:**

- Leo Huff, Planning Director for Region 1 of ODOT, states that the City does not need to adopt this growth management ordinance in order to get the ODOT access management money.
- He attended the Oregon Transportation Commission (OTC) work session in November. It was not clear to him that they were going to allocate the full \$5 million for the 99W/Meinecke intersection. They will not know what will be allocated until next week.
- It was not clear, in light of Measure 7, if ODOT was going to fund as much of the package that the Mayor referred to in one of the other meetings, e.g., access roads.
- This is a great ordinance and from the 1000 Friends of Oregon's perspective, it is a very attractive ordinance, but the ordinance is not necessary to accomplish the City objectives.
- If the objective is to maintain a level of service at "E", then the City may wish to consider the fact that you need to develop a contract with the cities that surround Sherwood so that you do not get their through traffic.

- He did not believe the Council wants to make Sherwood a “bedroom community” or create a situation where there are no jobs for high school graduates or stay at home spouses. Why would the City not want to have these types of development opportunities.
- 43 trips per acre does not pencil out for any of the things his client builds. He is not talking about Fred Meyer. He has not seen any other developers say the ODOT numbers do not work for them. Maybe he is the first. A Payless would not fit under this scenario based on the “peak hours”.

In response to a question from Council, he said the proposed Target store would pencil out to less than the 43 trips during “peak hours” by virtue of the multiple access points. He said the Council could look at the remaining General Commercial sites and see what uses are available. The issue is that the City has not done this. The City should ask these property owners if they have any plans to develop and find out whether this proposal would negatively affect their investment and retirement expectations prior to adopting the ordinances. The Council has an opportunity to adopt any ordinance that is tailored to the citizens who own the property and want to bring jobs to the City. The ordinances do not need to be adopted tonight in order to get the funds from ODOT. The Langers have spent over \$75,000 redesigning the Langer PUD to try to develop a more balanced PUD.

**Roger Grahn, 23287 LaSalle, Sherwood, Oregon 97140 (opponent), addressed the City Council and Commission.** He noted:

- With regard to the plan on Highway 99W, he thinks it is a great idea, but it is fraught with legal difficulties. The overwhelming issue is Measure 7. Clearly, Measure 7 is going to cause a negative impact on the City in claims from just about every property owner and he did not think the City has enough money to cover these potential claims.
- The landscaping improvement plans on Highway 99W will just aggravate the Measure 7 issues.
- The City has a long history of rushing to judgment and then losing in Court.
- It is time to step back and take a more realistic analysis. It would be prudent, in his view, to stop and get some financial analyses from independent appraisers.
- With regard to Title 6 proposing to reduce the block length from 1200 ft to 500 ft is clearly a Measure 7 claim by requiring someone to build more streets. The cost of the additional streets will be deducted from the value of the property.
- By excluding the Old Town Area from the trip allocation, the City is exposing itself to another clear legal claim from a recent Supreme Court decision this year.
- The Council needs to consider all of these things.

**Robert J. Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140 (proponent), addressed the City Council and Commission.** He noted:

- Everyone needs to remember where the City has been and where it is now.
- The first controversial decision was when the City increased the SDC’s. This was a tough decision by the Council. The City is better off now for this decision.



- Then the City closed down what was classified as “nuisances”. Each decision was controversial.
- Other than the competition this is going to give the developed areas on 99W at Six Corners and Tualatin-Sherwood Road, there is nothing in this that does anything, except aid the tax base and bring revenues back to the town.

Mr. Cottle said Mr. Claus is suggesting that from 12<sup>th</sup> Street and 99W towards Newberg is relatively undeveloped because of access problems with 99W. This ordinance is going to open up much of this area to development and in turn, competing with the development in the Six Corners and Tualatin-Sherwood Road Corridor.

Mr. Claus said there is no question that this is what is going to happen, but this should not really be the basis for approval. The basis should be a macro-question that no one is asking. What is the last thing in Sherwood that we have to solve? The last thing Sherwood needs is the infrastructure in town. The Urban Renewal Plan will help resolve this problem by completing Adams Avenue, developing parking for downtown and building a community theater. This will complete a part of the infrastructure the City does not have enough money to complete. It will also complete a parkway for access from Stella Olsen Park to the Tualatin River National Wildlife Refuge.

Mr. Claus said there are some losses and there are some new rules, but it is time we have them on 99W because of the runaway congestion with the developers out there to-date. This proposal does nothing, but put a very specific traffic engineering formula on developers. He encouraged the Council to pass the ordinance.

Mr. Mays asked Mr. Claus about Measure 7. Mr. Claus said Measure 7 was developed by people who were looking at a very different question than what this ordinance does. In this instance, it is very complicated what you do to property. For example, when the City puts in the infrastructure, the property values immediately increase. This may increase property values because it is going to bring a better use pattern in. He was not worried about Measure 7. What makes us wealthy is when a community really works.

**Angela Weeks, 21970 SW Pacific Highway, Sherwood, Oregon 97140 (proponent), addressed the City Council and Commission.** Ms. Weeks said she attended all of the informal meetings put together by the City Engineer. Mr. Keyes did a good job of answering questions. She called him and all of her questions were answered. The trip allocation is a very fair way for all of the property owners to be able to build-out their property. She agreed with a lot of Mr. Claus’ testimony. She supported these ordinances because they are in the best interest of the community. She did have a concern about whether the City really wanted to require 200 foot cul-de-sacs. She encouraged the Commission and Council to adopt the proposed ordinances.

Mayor Hitchcock said there are so many exclusions that you probably would not see a 200 foot cul-de-sac.



**Patrick Lucas, 23861 Dewberry Place, Sherwood, Oregon 97140 (proponent), addressed the City Council and Commission.** Mr. Lucas said that in general he supported the ordinances. His concern was his development on the north side of 99W across from the Safeway site. He spent a lot of time and money on this development and made improvements to Scholls-Sherwood Road and Borchers Drive. He also paid for one-half of the traffic signal. He said the new program would cause him to lose 75 trips. He asked if his project would be grandfathered in this plan or when he develops the office complex is he going to have to pay more money for traffic impact fees or other mitigation.

Mr. Cottle said Mr. Lucas had the same question that was asked earlier. These are questions that would be dependent on the specific application, its status and the conditions of approval.

Mr. Keyes said the office complex proposed by Mr. Lucas has not been submitted formally to the City at this time. However, this type of use would probably not generate trips any where near the limit of 43 trips. He thought the traffic studies Mr. Lucas has already done are probably sufficient for the numbers the City will require. At this time, he could not say whether Mr. Lucas would have to do more mitigation.

**Mayor Hitchcock asked if there was anyone else who wished to provide testimony. There being no further testimony, Mayor Hitchcock closed the public hearing on PA 00-05, PA 00-07 and Ordinance 2000-1105 for deliberations by the Commission and Council.**

**Mayor Hitchcock recessed the meeting at 8:40 PM for a break.**

## **7. Planning Commission Deliberations and Recommendation**

**Vice-Chair Keith Mays reconvened the Planning Commission meeting at 8:55 PM.** He asked Mr. Keyes to read a letter into the record from ODOT.

Terry Keyes read a letter from Kay VanSickle, Region 1 Manager, ODOT to Mayor Hitchcock dated November 30, 2000, into the record. This letter referenced the Meinecke Road/99W intersection funding (access bonding project). In part, the letter stated that ODOT Region 1 selected 99W through Sherwood as their (ODOT) access bond project. The project will improve the Meinecke Road intersection, close median cross-overs and define highway access points between Sherwood Boulevard and Sunset. We requested \$5 million for the access bonding project. The Oregon Transportation Commission (OTC) is scheduled to discuss and approve the access bonding for all regions at its December 13, 2000 meeting. Salem staff has assured us that the Sherwood project will be approved.

### **PA 00-05 Title 6 Plan Text Amendment (Ordinance 2000-1103)**

Vice-Chair Mays said the most significant items of PA 00-05 are the reduction of cul-de-sac length from 600 feet to 200 feet and reducing block lengths from 1,200 feet to 530 feet in length.

Ms. Lafayette asked if Tualatin-Sherwood Road was considered when addressing the visual corridors. Ms. Connell said the Code already has standards for visual corridors. Tualatin-

Sherwood Road has a 15 foot visual corridor for any new business and Highway 99W has a 25 foot visual corridor. This proposal elaborates that properties zoned residential or office commercial must do more specific landscaping than what the existing visual corridor standard is now. The Commission had no further amendments to the proposal.

**Jeff Schroeder moved the Planning Commission recommend to the City Council approval of PA 00-05 2040 Title 6 Regional Accessibility Plan Text Amendment (Ordinance 2000-1103) as amended with the addition of the words “if feasible” to Item E.2 of Exhibit A. Seconded by Keith Mays.**

**Vote for Passage of Motion: 4-Yes, 0-No, 0-Abstain**

**PA 00-07 Transportation Management Plan for Highway 99W Plan Text Amendment (Ordinance 2000-1104)**

Vice-Chair Mays said the testimony tonight included concerns about Measure 7 and existing developments. He said the plan that PA 00-07 encompasses is a good idea. If the interpretation from the Attorney General is that the City will encounter liability under Measure 7, the Council will probably review this ordinance again, if it is adopted.

Ms. Lafayette asked for clarification regarding Exhibit A; under Section 6.307B Exclusions, what type of projects would be excluded from the 99W Capacity Allocation Program (CAP).

Mr. Keyes said the amendment is written so that the CAP only applies to commercial and industrial property. Ms. Connell said the reference under “Exclusions” is made to a project or activity versus a zoning district.

Ms. Lafayette asked for clarification regarding the calculation for gross versus net acreage. Mr. Keyes said it is the gross area of the parcel less or minus the flood plain. The Commission agreed this clarification should be made to the amendment. They added the following wording to Section G.1.a on page 4 of Exhibit A, “....activity, less 100-year flood plain area, in accordance with FIRM map for Sherwood.”

Mr. Keyes and Mr. Wise further explained the Trip Allocation Certificate process. The ordinance is written to define whatever area is being applied for that you cannot go outside the area to get the correct trips.

Mr. Fletcher asked if there were any existing buildings or developments that would fail under the new trip allocation system. Mr. Keyes said the G.I. Joes development that includes GI Joes and other pads would fail under the proposed system.

There being no further discussion,

**Keith Mays moved the Planning Commission recommend approval to the City Council of PA 00-07 Transportation Management Plan for Highway 99W (Ordinance 2000-1104) as amended in Section G.1.a on page 4 of Exhibit A. Seconded by Jean Lafayette.**

**Vote for Passage of Motion: 4-Yes, 0-No, 0-Abstain**

**Vice-Chair Mays adjourned the Planning Commission meeting at 9:25 PM.**

**Mayor Hitchcock reconvened the Regular City Council meeting at 9:28 PM.**

Mayor Hitchcock asked the Recording Secretary to review the recommendation from the Planning Commission. Ms. Gibbons advised the City Council that the Planning Commission had unanimously recommended approval of PA 00-05 and PA 00-07, with minor changes. She and Ms. Connell reviewed the changes to both plan text amendments. PA 00-05, was amended by adding the words “if feasible” to page 4 of 4 of Exhibit A under Section E.2, “.....fifty (50) feet apart, if feasible.” and “...twenty-five (25) feet apart, if feasible.” PA 00-07, was amended by adding wording to Exhibit A of Section G.1.a. “....activity, less 100-year flood plain area, in accordance with FIRM map for Sherwood.”

#### **9./10. Council Deliberation and Action**

##### **PA 00-05 Title 6 Regional Accessibility (Ordinance 2000-1103)**

Mr. Whiteman asked how reducing the block size would move vehicles through a neighborhood. Ms. Connell said by the increased accessibility and increased connectivity of block sizes being reduced. In the end, this would reduce the amount of trips placed on arterials and collector streets. It would give you more options getting in and out. Mayor Hitchcock said that the reduction of block size would probably not affect many new developments because most of the existing land is already built-out.

Mr. Whiteman asked who would maintain the visual corridors on Highway 99W. Mayor Hitchcock said corridors adjacent to the property would be the property owner responsibility and at this time, the median would be the responsibility of ODOT. However, if the ordinance is adopted, there will probably need to be additional agreements and consensus with ODOT. This will be a Council policy.

There being no further discussion, Ordinance 2000-1103 was read in caption for adoption.

**Bill Whiteman moved the City Council approve Ordinance 2000-1103, PA 00-05 Title 6 Regional Accessibility, as amended. Seconded by Mark Cottle.**

**Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain**

##### **PA 00-07 Transportation Management Plan for Hwy 99W (Ordinance 2000-1104)**

Mr. Whiteman said he was in favor of the ordinance and he did not hear a lot of criticism from the majority of people who testified. However, there were several good questions such as which

edition of the ITE manual would be used. Mr. Cottle said the Ordinance is clear. It states that it is the most recent edition of the ITE Manual would be used.

Mr. Keyes said if an existing building is destroyed and the owner wants to rebuild within the same building footprint, just a building permit would be required. Mr. Cottle discussed the Code requirements for rebuilding a non-conforming use. Mr. Johnson said a building permit would not trigger the trip allocation permit. This is probably not the place to figure out requirements for individual site plans. Whether or not the prior approval would apply, would be determined after review by the Staff.

Mr. Whiteman said he was somewhat concerned about the timeframe that the ordinance was prepared in. Mr. Cottle said this ordinance would probably need to be reviewed on an on-going basis, just like the Development Code is reviewed and revised.

Mayor Hitchcock said the City offers developers an ability for density transfers. However, you don't want to penalize someone for transferring the density by not offering them the trips to go with that density. He asked Staff if this would be relevant discussion. Mr. Shannon said that the trip allocation program is not connected with residentially-zoned property. Mr. Keyes said density transfers do not apply to commercial property and this ordinance only applies to commercial property.

Mr. Krause said he had several people approach him on this issue. The majority of people thought the proposal is fair and works out to be kind of an equal share of what is out there.

Mr. Fox said he supported the proposal.

Mr. Whiteman asked how this ordinance would be applied to a PUD, such as Mr. Langer's PUD. Mr. Keyes said a good example would be the two parcels north of Meinecke Road on the west side of 99W; a GC parcel and a HDR piece. These parcels could apply for a PUD and have 43 trips per acre on the commercial piece and calculate the trips per acre on the residential piece. Mr. Wise said there would be a certain amount of trips they could use for the HDR piece and the trips for both zones would be combined for the entire development. Ms. Connell said a PUD is normally reviewed for blocks of land for general uses. When the applicant applies for the specific site plan within the PUD does this proposal come into play. Mr. Whiteman said this would mean that each building would stand alone. He asked how this would affect the proposed Target application. Mr. Keyes said if the application came in after the ordinance was in effect, the City would look at the number of trips generated by the Target and Wendy's. A preliminary review of the application showed 48 trips would be generated and this would be over the 43 trips allowed. The applicant would have the option of either lowering the trips or adding to the total acreage of the parcel.

Mr. Cottle said if the Target application was submitted and deemed complete prior to adoption of the ordinance, the ordinance would not apply. Mr. Shannon said this was correct.

Mayor Hitchcock said this ordinance would probably be reviewed again during the process of reviewing of the Transportation Plan.

There being no further discussion, Ordinance 2000-1104 was read in caption for adoption.

**Mark Cottle moved the City Council approve Ordinance 2000-1104, PA 00-07 Transportation Management Plan for Highway 99W, as amended and declaring an emergency. Seconded by Walt Hitchcock.**

**Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain**

**Ordinance 2000-1105**

Mayor Hitchcock said this ordinance is a portion of the funding mechanism for the plan the Council just adopted.

Ordinance 2000-1105 was read in caption for adoption.

**Mark Cottle moved the City Council approve Ordinance 2000-1105 Implementing the City of Sherwood Highway 99W Capacity Improvement Funding (CIF) and declaring an emergency. Seconded by Tom Krause.**

**Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain**

**11. Resolution 2000-914 Access Plan for Proposed Meinecke/Highway 99W Intersection**

Mark Cottle asked if the roundabouts shown on the plan are being adopted as a part of this resolution. Mr. Keyes said the resolution would adopt an access plan for the proposed Meinecke/Handley/99W intersection. This plan is a guideline to take to ODOT identifying what the City would like. The plan mainly identifies where the intersection would cross 99W and the access points.

**Mark Cottle moved the City Council adopt Resolution 2000-914 Access Plan for Proposed Meinecke/Highway 99W Intersection. Seconded by Sterling Fox.**

**Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain**

Mayor Hitchcock said when the City passes a major ordinance, the City gets what is known as “placeholder” land use applications. These are applications that are submitted on a certain date for the purpose of beating the implementation of an ordinance. Frequently, the applications are missing items and are applications that are incomplete. The typical process has been to allow these applications to be modified and completed as they move through the process. He would like to direct Staff, with the Council concurrence, not allow the applications to be modified as they move through the process. The Staff should treat all applications very rigidly, if it is deemed that the application is significantly incomplete. In anticipation of this possibility, he said the Council should anticipate bringing on board the firm of Ball, Janik. There was some

discussion regarding “not nickel and diming” applications, but all major applications need to be reviewed and coordinated through the attorney. The Council unanimously concurred.

There being no further business to discuss, Mayor Hitchcock adjourned the City Council meeting at 10:05 PM.

Respectfully submitted,

Recording Secretary for the  
Planning Commission & Council