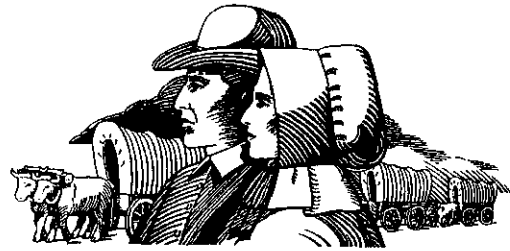


CITY OF OREGON CITY

PLANNING COMMISSION

320 WARNER MILNE ROAD
TEL (503) 657-0891

OREGON CITY, OREGON 97045
FAX (503) 657-7892



AGENDA

City Commission Chambers - City Hall

June 9, 2003 at 7:00 P.M.

The 2003 Planning Commission Agendas, including Staff Reports and Minutes, are available on the Oregon City Web Page (www.orcity.org) under PLANNING.

PLANNING COMMISSION MEETING

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:01 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 7:02 p.m. 3. **APPROVAL OF MINUTES:** *May 12, 2003 and May 21, 2003.* (Minutes are available on the Oregon City Web Page [www.orcity.org] under PLANNING)
- 7:05 p.m. 4. **HEARINGS:**
- PZ 02-01** (*Quasi-Judicial Amendment to the Comprehensive Plan Hearing*), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for an amendment to the Comprehensive Plan for 1.04 acres designated High Density Residential to Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2400, 2500, 2600, and 2700.
- PZ 02-02** (*Quasi-Judicial Amendment to the Comprehensive Plan Hearing*), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for an amendment to the Comprehensive Plan for 0.92 acres designated Low Density Residential to Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2800, 2900, 3000, and 3100.
- ZC 02-01** (*Quasi-Judicial Zone Change Hearing*), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Zone Change for 1.04 acres zoned RA-2: Multi-Family Dwelling to C: General Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2400, 2500, 2600, and 2700.
- ZC 02-02** (*Quasi-Judicial Zone Change Hearing*), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Zone Change for 0.92 acres zoned R-10: Single-Family Dwelling to C: General Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2800, 2900, 3000, and 3100.
- SP 02-09** (*Quasi-Judicial Site Plan and Design Review Hearing*), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for Site Plan and Design Review of approval of a one-story retail building and associated parking lot for the properties identified as Map 3S-

2E-5DB, Tax Lots 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200, 3201, 3300 and Map 3S-2E-5D, Tax Lot 500.

WR 02-12 (*Quasi-Judicial Water Resource Hearing*), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Water Resource determination for the properties identified as Map 3S-2E-5DB, Tax Lots 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200, 3201, 3300 and Map 3S-2E-5D, Tax Lot 500

CU 03-02 (*Quasi-Judicial Conditional Use Hearing*), Dan Erwert, Chris Jaeger and Craig Jaeger, Request for a Conditional Use to allow for a Contractor's Office in the HC Historic Commercial District on the property identified as 601 McLoughlin Blvd., Map 2S-1E-36DD, Tax Lots 2600.

CD 03-01 (*Quasi-Judicial Code Interpretation Hearing*), Oregon City School District, Request for a Code Interpretation to allow a LED sign at Oregon City High School Moss Campus on the property identified as 19771 Beaver Creek Blvd., Map 3S-2E-9D, Tax Lots 1300. (Cancellation of Application)

VR 03-09 (*Quasi-Judicial Variance Hearing*), Oregon City School District, Request for a Variance to increase the permitted sign face and height limited allowed in a single family residential zone for the Oregon City High School Moss Campus on the property identified as 19771 Beaver Creek Blvd., Map 3S-2E-9D, Tax Lots 1300.

PD 03-01 (*Quasi-Judicial Planned Unit Development Hearing*), Paul Reeder/Tom Sisul, Request for a continuance to the June 23, 2003 Planning Commission Hearing date for the proposed Planned Unit Development on the properties identified as Map 3S-1E-1CD, Tax Lot 300 and 3S-1E-1A, Tax Lot 1700.

WR 03-01 (*Quasi-Judicial Water Resource Hearing*), Paul Reeder/Tom Sisul, Request for a continuance to the June 23, 2003 Planning Commission Hearing date for the Water Resource determination on the properties identified as Map 3S-1E-1CD, Tax Lot 300 and 3S-1E-1A, Tax Lot 1700.

VR 03-11 (*Quasi-Judicial Variance Hearing*), Paul Reeder/Tom Sisul, Request for a continuance to the June 23, 2003 Planning Commission Hearing date for the proposed Variance to the pedestrian lighting standards within the Planned Unit Development on the properties identified as Map 3S-1E-1CD, Tax Lot 300 and 3S-1E-1A, Tax Lot 1700.

9:15 p.m. 6. **NEW BUSINESS:**

9:25 p.m. 7. **ADJOURN**

NOTE: HEARING TIMES AS NOTED ABOVE ARE TENTATIVE. FOR SPECIAL ASSISTANCE DUE TO DISABILITY, PLEASE CALL CITY HALL, 657-0891, 48 HOURS PRIOR TO MEETING DATE.



30'-0" MAX.

OC PLANNING COMMISSION

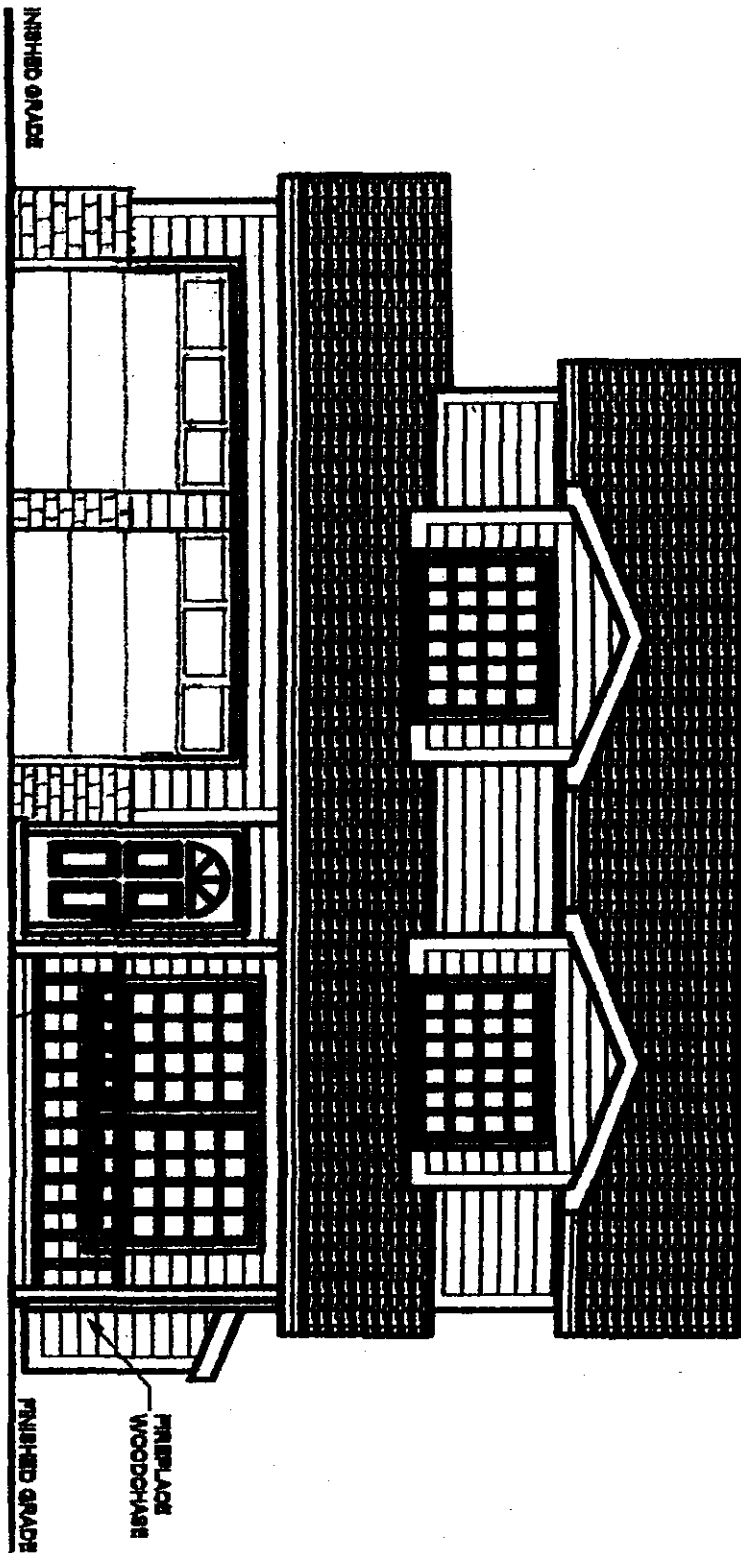
HEARING DATE: 6-9-03

CASE FILE: VR 03-09

EXHIBIT: A

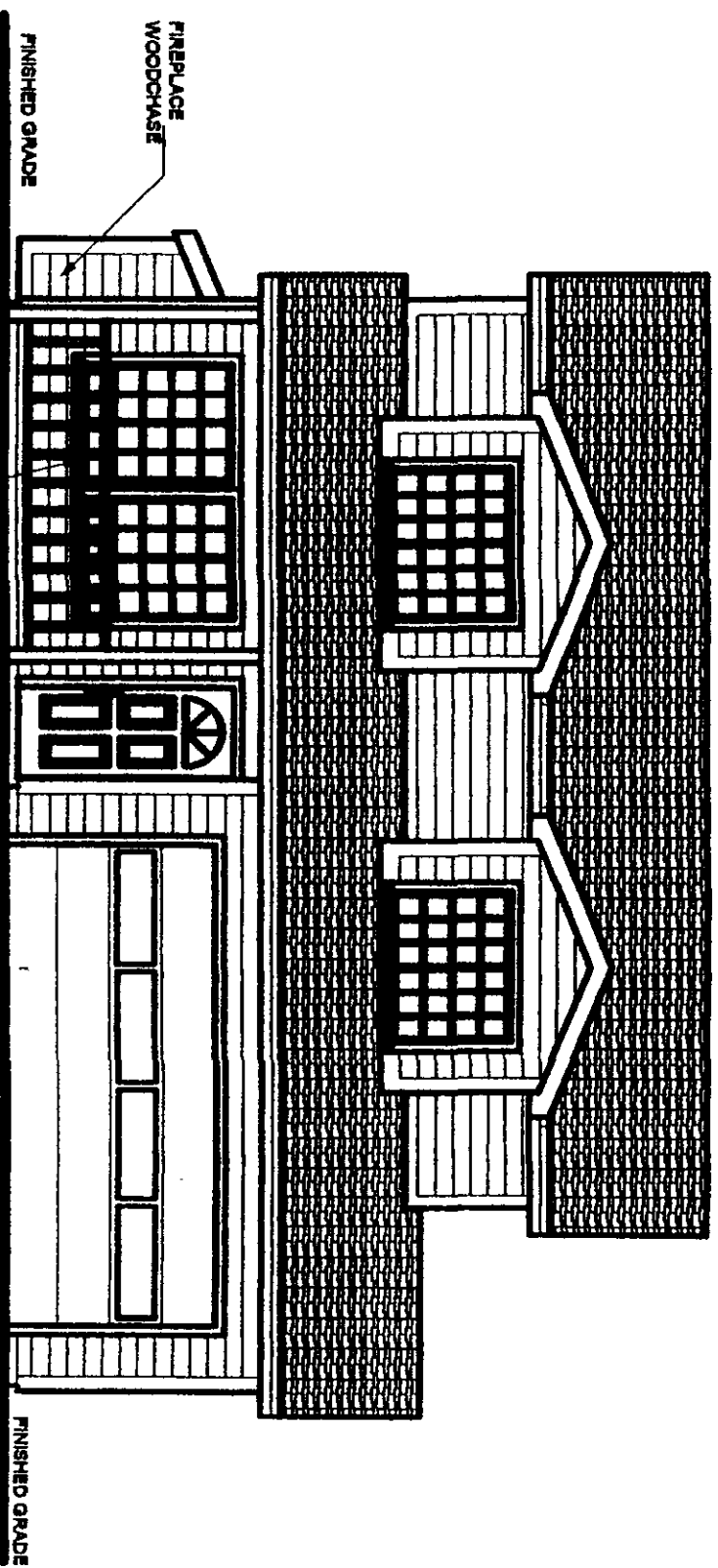
Proposed

OC PLANNING COMMISSION
HEARING DATE: 9.22.03
CASE FILE: PD03-02
EXHIBIT: B



2 - 8' wide garage doors, windows top panel, brick minimum 36" h.

existing



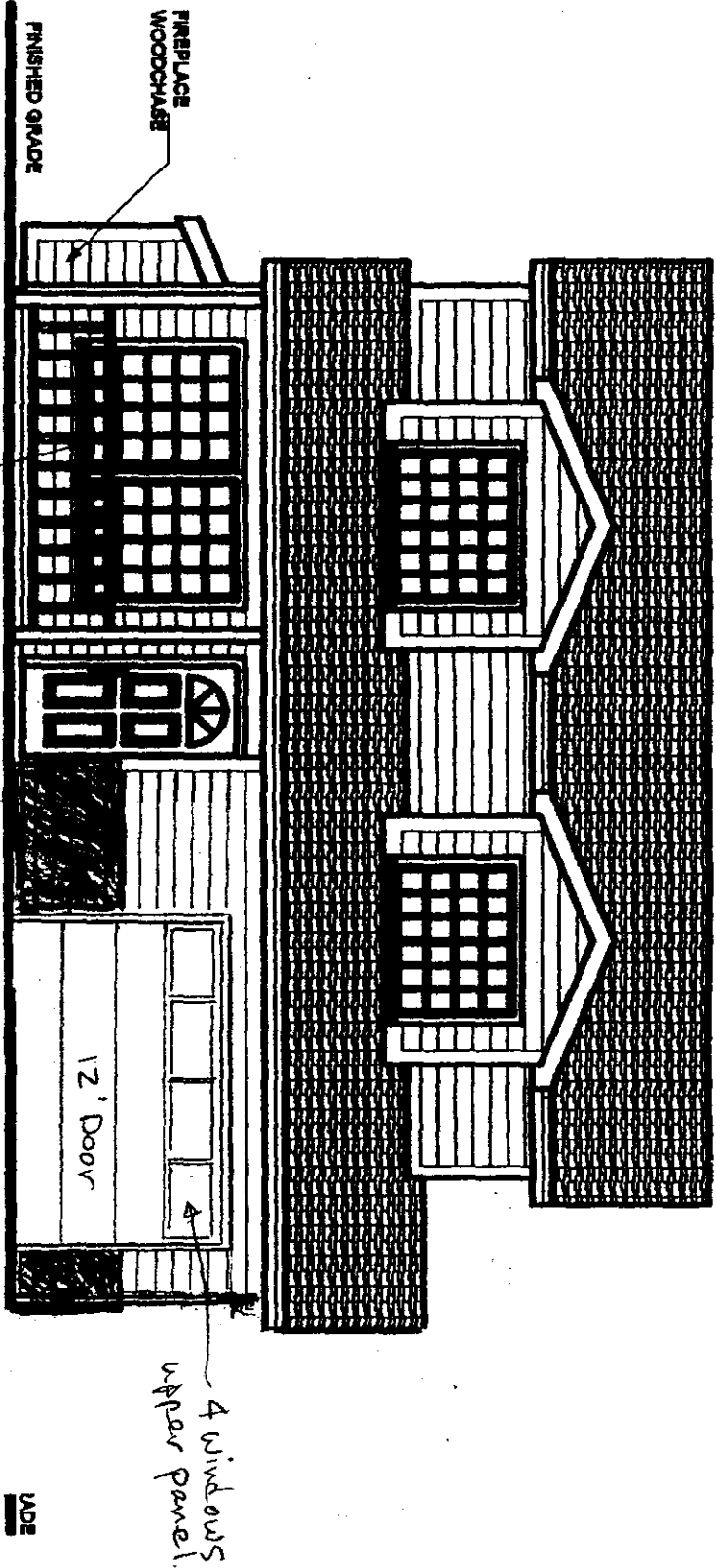
PROPOSED DETAILS, NOTES & SPECIFICATIONS FOR THE:

FRONT ELEVATION

SCALE: 1/4" = 1'-0"

16' door.

Proposed 48' Lots



PROPOSED DETAILS, NOTES & SPECIFICATIONS FOR THE:

FRONT ELEVATION

SCALE: 1/4" = 1'-0"

3-48' wide lots - reduce garage from 20'x20' to 18'wide x 20'
with 16' living area width - total width 34' is 36'

CONCEPTUAL DESIGN

LOT 8-13 Leland Run-2

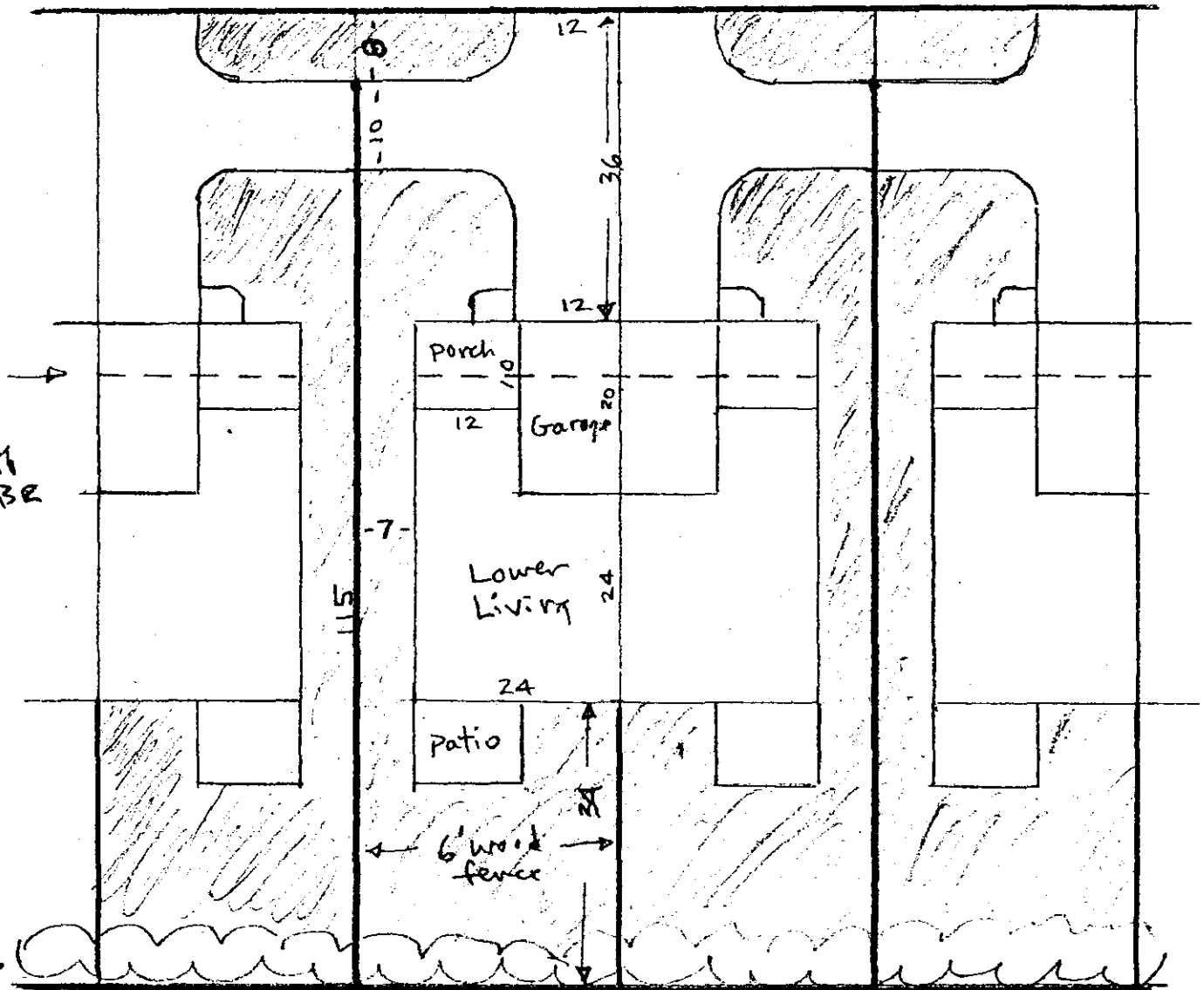
Parking 1-garage
3-out

Front l.s. area - semi
Screen - possib
street trees.

28' Private Street

curb

upper
possib.
deck off
master BR

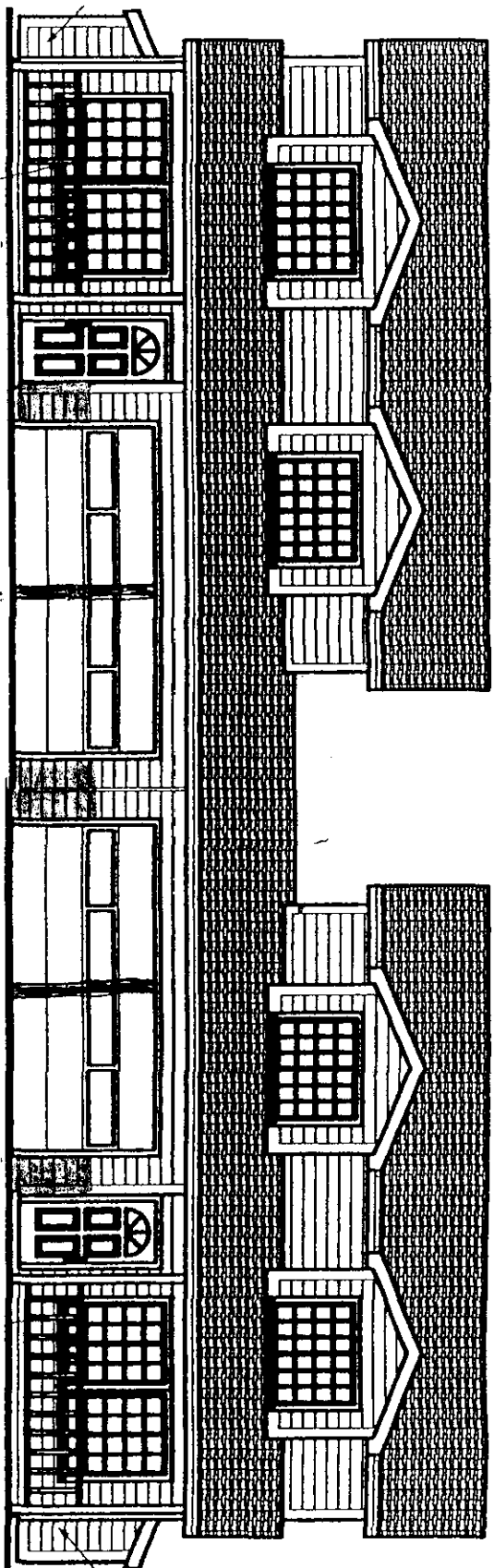


Rear P/L - wood fence 6' height above
Silver fox Lots 1-4

Heavy screen evergreen buffer - fir trees 5-6' o.c. - with
Oregon grape + Rhodys

= l.s. area

Conceptual LR-2 Units 14+15



2-8' overhangs below sides.

SISUL ENGINEERING

A Division of Sisul Enterprises, Inc.

375 PORTLAND AVENUE, GLADSTONE, OREGON 97027

(503) 657-0188

FAX (503) 657-5779

September 22, 2003

City of Oregon City
PO Box 3040
Oregon City, OR 97045-3040

ATTN: Tony Konkol and Planning Commission

Dear Mr. Konkol and Planning Commission Members:

In response to concerns raised by neighbors at a meeting held adjacent to the site on Wednesday September 17th Mr. Flury has proposed some additional conditions upon his development. These additional conditions are being proposed by Mr. Flury to address some of the neighbors concerns, and will be imposed by Mr. Flury on the development whether or not the City conditions the application with what he has proposed.

In response to concerns about size and value of the homes Mr. Flury will have as a requirement of the development through subdivision's Conditions, Covenants and Restrictions (CC&R's) the following:

- Detached homes shall have a minimum living area of 1410 square feet.
- Attached homes shall have a minimum living area of 1300 square feet.

In response to the look of the homes, Mr. Flury will have as a requirement through the CC&R's the following:

- Horizontal siding is required on all exterior walls.
- Brick or stone garage fronts a minimum 36 inches high.

To address neighbors sense of loss of privacy, Mr. Flury will impose as a requirement along the rear of Lots 8-13, the side of Lot 15 and along the rear of Lots 16-18 and Lots 23-25, the following:

- Perpetual Protected Landscape Areas - The landscaping along the rear of Lots 8-13 and along the side of Lot 15, would be done prior to occupancy of the homes. (Other landscaping would be done as follows – front yard areas within 4 months of home completion and rear yards within 6 months of home completion.)

and have constructed;

- An 8 to 9.5 foot fence along the common boundary of development with Lots 1 – 4 of the Silverfox subdivision. This fence will provide Lots 1-4 of Silverfox, 6 feet of fence, above the elevation of the rear of the four Silverfox lots that would lie adjacent to the proposed attached homes. Below the 6 foot upper portion would be a skirting to

OC PLANNING COMMISSION

HEARING DATE: 9-22-03

CASE FILE: PD 03-02

EXHIBIT: C

RECOMMENDED REVISED CONDITIONS OF APPROVAL 25, 26, and 27
ADDITIONAL CONDITIONS OF APPROVAL 29 and 30
PLANNING FILE: PD 03-02
Date: September 22, 2003

25. Prior to the issuance of a building permit for any of the housing units, the applicant shall have received City approved for the landscaping/buffering plan on proposed lots 8-18 and 23-25 as identified on Exhibit A. The landscaping/buffering shall be installed prior to the issuance of a final occupancy permit for the lot. In addition to including for the preservation and replacement of the landscaping in the CC&R's, the applicant shall cause to be recorded a conservation and preservation document that protects the newly landscaped area. Said document shall specifically prohibit the removal of any of the landscaping unless such material has been found to be dead or diseased and in danger of dying, or presents a hazard to a property. If the landscaping is removed for any reason, the property owner shall replace the landscaping with similar materials from the Oregon City Native Plant and Tree list.
26. The attached housing unit driveways on proposed lots 14 and 15 shall be a joint driveway and the driveway shall be limited from the property line to the back of the planter strip to a maximum of 24 feet wide (30 feet wide at the street to allow for the taper). The attached housing unit driveways on proposed lots 8-13 shall be a joint-driveway and the driveway shall be limited to a maximum of 24 feet wide (30 feet wide at the private street to allow for the taper) for a minimum of 8 feet from the edge of the private street pavement.
27. The garage wall of the attached units on proposed lots 8-13 shall be limited to 40% of the length of the street facing building façade and shall incorporate a minimum 3-foot tall brick/stone wall and windows across the width of the garage doors. Where the street facing façade of the building is less than 30 feet long, the garage wall facing the street may be up to 12 feet long if there is one of the following:
- a. Interior living area above the garage. The living area must be set back no more than 4 feet from the street facing garage wall; or
 - b. A covered balcony above the garage that is at least the same length as the street facing garage wall, at least 6 feet deep, and accessible from the interior living area of the dwelling unit.
- The attached units on lots 14 and 15 and all of the detached units shall incorporate a minimum 3-foot tall brick/stone wall, windows across the width of the garage door, and one of the following garage designs:
- a. A maximum 12-foot wide single garage door; or
 - b. Two garages doors, each with a maximum width of 8 feet, with a one-foot wide center post.
29. The detached homes shall have a minimum living area of 1410 square feet. The attached homes shall have a minimum living area of 1300 square feet. All exterior walls of all homes shall have horizontal siding and a minimum 36-inch high brick/stone garage front. This requirement shall be included in the Leland Run 2 CC&R's.
30. An 8 to 9.5-foot fence shall be provided along the common property line with Lots 1-4 of the Silverfox Subdivision as depicted on Exhibit A. This fence shall provide Lots 1-4 of Silverfox 6 feet of fence above the elevation of the rear of the four Silverfox homes that are adjacent to the proposed attached homes. Below the 6 foot upper portion shall be a skirting to the elevation of the Leland Run 2 lots. The fence shall be constructed upon completion of the subdivision and prior to the issuance of a building permit for the homes on lots 8-13 and 15. This requirement shall be included in the Leland Run 2 CC&R's.

OC PLANNING COMMISSION
HEARING DATE: 9.22.03
CASE FILE: PD 03-02
EXHIBIT: D

MJF DEVELOPMENT, INC.

September 12, 2003

To: Homeowner

From: Mike Flury, M.J.F. Development, Inc. (Applicant)

RE: Proposed Planned Unit Development (PD 03-02); Leland Run 2.

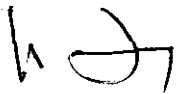
Dear Homeowners,

This memo will serve as an invitation to meet with myself at Timms Way and Silverfox Parkway (see attached) on Wednesday evening at 6 P.M. to discuss the proposed development.

The purpose of the meeting is to show you how we are attempting to be a compatible neighbor with the design and conditions proposed. I will want to hear your concerns, so that maybe additional conditions can be imposed.

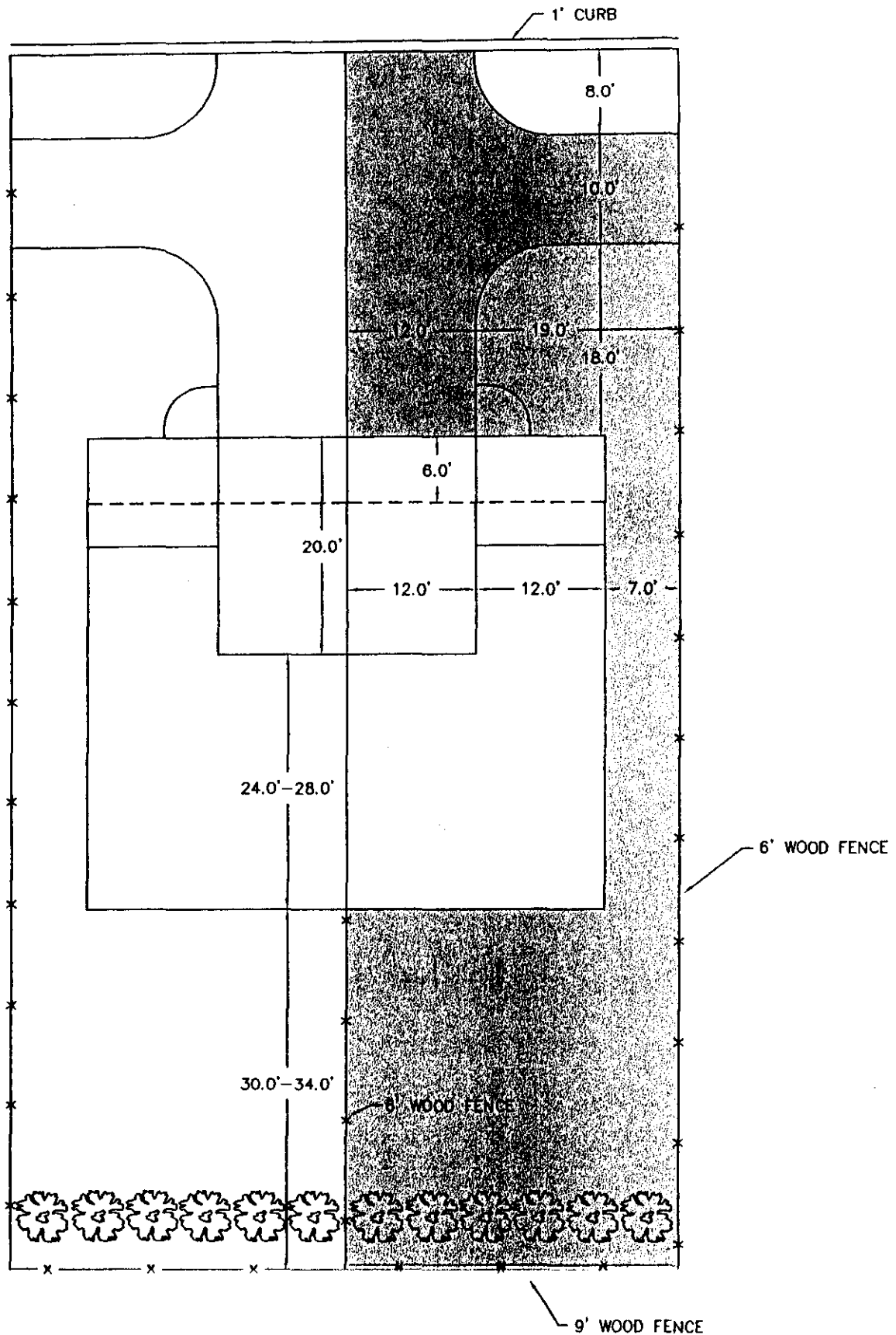
I look forward to meeting with you.

Thank you,



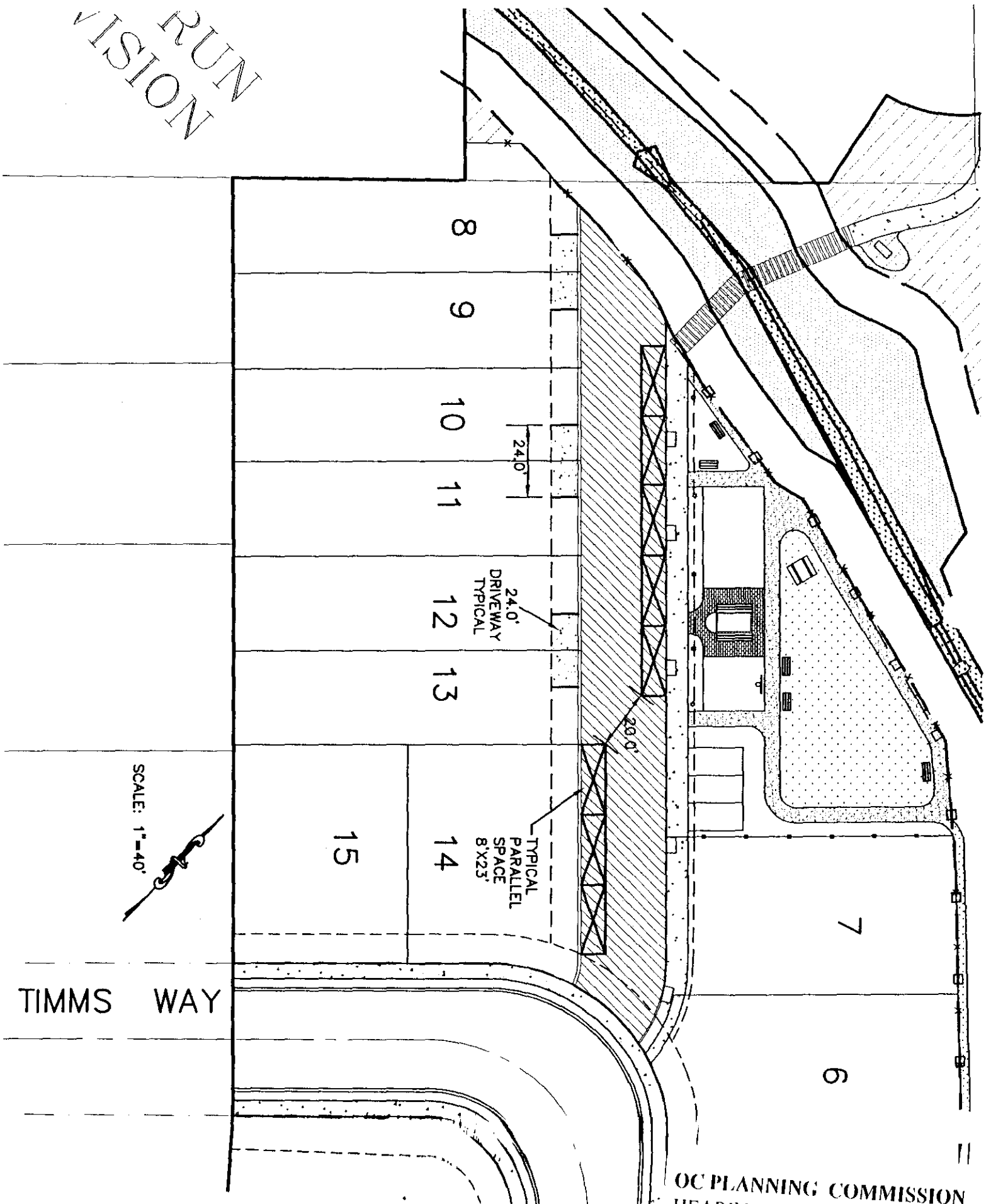
Mike Flury

OC PLANNING COMMISSION
HEARING DATE: 9.22.03
CASE FILE: PD 03-02
EXHIBIT: E



OC PLANNING COMMISSION
 HEARING DATE: 9.22.03
 CASE FILE: PB 03 02
 EXHIBIT: F

RUN
VISION



OC PLANNING COMMISSION
HEARING DATE: 9.22.03
CASE FILE: PD 03-02
EXHIBIT

**CITY OF OREGON CITY
PLANNING COMMISSION MINUTES
May 12, 2003**

COMMISSIONERS PRESENT

Chairperson Linda Carter
Commissioner Dan Lajoie
Commissioner Renate Mengelberg
Commissioner Lynda Orzen
Commissioner Tim Powell

STAFF PRESENT

Chris Cocker, Consulting Senior Planner
Sean Cook, Associate Planner
Dan Drentlaw, Planning Director
William Kabeiseman, City Attorney
Tony Konkol, Associate Planner
Christina Robertson-Gardiner, Assoc. Planner
Pat Johnson, Recording Secretary

COMMISSIONERS ABSENT

None

1. CALL TO ORDER

PZ 02-01 (Quasi-Judicial Amendment to the Comprehensive Plan Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for an amendment to the Comprehensive Plan for 1.04 acres designated High Density Residential to Commercial for the properties identified as Map 3S-2E-5DB, Tax lots 2400, 2500, 2600, and 2700. (cont'd. from 4/08/03).

PZ 02-02 (Quasi-Judicial Amendment to the Comprehensive Plan Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for an amendment to the Comprehensive Plan for 0.92 acres designated Low Density Residential to Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2800, 2900, 3000, and 3100. (cont'd. from 4/08/03).

ZC 02-01 (Quasi-Judicial Zone Change Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Zone Change for 1.04 acres zoned RA-2: Multi-Family Dwelling to C: General Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2400, 2500, 2600, and 2700. (cont'd. from 4/08/03).

ZC 02-02 (Quasi-Judicial Zone Change Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Zone Change for 0.92 acres zoned R-10: Single-Family Dwelling to C: General Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2800, 2900, 3000, and 3100. (cont'd. from 4/08/03).

Chair Carter called the meeting to order at 6:00 p.m., noting that the Wal-Mart applications were a continuance from the hearing of April 8, 2003, at which time the public hearing portion was closed so this meeting would be for deliberation by the Commissioners. She said she wanted to make some opening comments that, had she known earlier how these proceedings were going to go, she would have made up front to give some clarity. However, she still wanted to voice them because she thinks it is important for everyone to understand what the role of the Planning Commission (PC) is, who they are, and how they got there.

Greg Hathaway, an attorney for the applicant, said he had a procedural objection for the record, which he had discussed with City Attorney William Kabeiseman, and he asked if the Chair would like to hear it now or later. **Chair Carter** granted him the floor.

Greg Hathaway, 1300 SW 5th Ave., Portland, Oregon, stated a procedural objection for the record that he feels prejudices the applicant's case, and it has to do with process. He thought it had been established early on amongst the City staff, the applicant, and the Planning Commission (PC) that everyone who desired to participate would be allowed to do so. At the last PC meeting (April 8th), the City staff clarified what the

remaining process would be: There would be an opportunity to introduce new information and then an opportunity for rebuttal, and then an opportunity for the applicant to submit a closing written statement. At that time, staff indicated that they would submit a staff report in the form of a summary of the evidence.

Hathaway said he had a conversation with the City Attorney [indicating Kabeiseman] prior to that meeting as to what constituted a summary of the evidence. At that time, **Hathaway** said his concern was whether or not the Planning staff would basically be doing a second staff report based upon the new evidence that had come in, which is oftentimes very typical (that staff would respond to the new information and provide an additional report).

He said the reason he raised that question to the City Attorney was because he wanted to make sure that if the staff was planning to do a second staff report commenting on the new evidence, that the applicant would be given an opportunity to respond. So he told the City Attorney that if that was the intention of staff, staff needed to produce that second staff report on April 15th, which was the last day for new evidence to come into the record, so that the applicant would be given the opportunity to review that new evidence before doing their closing written statement, which is authorized and allowed under ORS 197.763. But he was assured, and he said the PC was assured on April 8th, that all the staff was going to do was to summarize the evidence and that there was not going to be a second staff report.

Hathaway said he learned this afternoon that on Friday the staff submitted what he (Hathaway) calls a second staff report after the record was closed. He said it is not a summary of the evidence, but it is a brand new staff report. He said it has new findings and new information, and it talks about different standards than were referred to in the first staff report. He said there are inconsistencies in this staff report from the first staff report.

Hathaway said the problem the applicant has is that the process is closed, and if the PC accepts this into the record and considers it (which he said he believes they now have to do because it is before them), the applicant has no opportunity to respond. The matter before the City Council will be on the record.

Therefore, he said the applicant's objection this evening was to ask the PC to honor the process as it was defined and to allow the applicant and other parties who may wish to respond to this second staff report the opportunity to do so, both orally and in writing. He said the applicant would also like the opportunity for some form of oral rebuttal so that the differences in the first staff report and the second staff report could be explained, which would also give the PC the opportunity to ask questions.

Hathaway apologized for doing this at the last minute but he said he just learned of this earlier this afternoon. He said he contacted the City Attorney immediately, who himself indicated that this second staff report is certainly beyond a summary of the evidence. **Hathaway** said he is concerned that if the applicant doesn't get the opportunity to respond to this, it is severely prejudicial to the applicant's position. Therefore, he respectfully requested that the applicant be given the opportunity to respond to this second staff report. (He noted that they all thought this would be completed this evening and that he is going on vacation, so he was not pleased to be making this request either.)

Kabeiseman said he agreed that the staff report was not what he anticipated when he originally discussed it with Hathaway in March or April. However, he said they disagree about a number of other things, including:

- **Kabeiseman** said he doesn't believe there is any new evidence, although there is some additional analysis, which the Oregon Land Use law allows. Given the fact that the nature of the PC is volunteer members who may not be as trained as professionals, he noted that they rely on staff regarding interpretation of different Code provisions and statutory requirements.
- He said he feels that Oregon law is fairly clear that a party is not entitled to rebuttal regarding communications between staff and the decision maker (the PC, in this case).

Kabeiseman apologized for making himself the center of this because he did make the representation. However, he said that the PC's decision this evening was to consider the objection being stated and determine a course of action. His understanding was that Hathaway was suggesting that they reopen the entire process, which is one option, but he (Kabeiseman) doesn't believe it is required because he doesn't believe there is any new evidence.

Other options could include:

- Allowing the applicant alone to submit some type of additional argument.
- Moving forward with their decision.
- Getting new information and seeing if it causes them to reconsider their decision.
- Moving forward with the decision because the process as it worked did, in fact, comply with the statutes and Code.

Jim Bean, 1300 SW 5th Avenue, Suite 3400, Portland, Oregon, (the attorney for the Youngers, who had submitted materials earlier) said he also just received the report today and he would raise the same objections, saying that he thinks this would lend to prejudice, that there are wrong references in the second staff report, and that the applicant and other interested parties should be given the opportunity to respond. He said there is material in this report that they think is easily rebuttable. Therefore, he would join in the objection to this being put into record if there is no chance to respond.

Kabeiseman said staff had confirmed that the packet was mailed out on Tuesday (of the prior week) to these various parties, although he could not say when they received them.

Hathaway said he has never received a staff report from the City staff. He said he received this packet from PacLand earlier this afternoon. He noted that typically items have been e-mailed to him, but he said again that he has never received a copy.

Bean said he got his copy from Hathaway.

Kabeiseman reiterated that staff had indicated they mailed out their packets on Tuesday.

Hathaway clarified that he was not asking to reopen the entire process. He was only asking that it be reopened to be limited to and focus fully on this new report. He said he has not had time to review it fully, but specifically he thought there was new evidence, especially in reference to the ODOT letters.

Chris Cocker, of David Evans & Associates, said he has been assisting staff with the authoring of the staff report. He said he was asked to put together a summary of the information received to date, and the only technique he knows is to start with the criteria and determine what has or has not been addressed. The latest report is just a summary of the items identified in the original staff report, item by item, saying "This is what I see based on what we have" to help the PC make their decision. He said there were improvements from one to another; however, there were a number of things that were still outstanding. He said he doesn't believe he raised any new information in the staff report.

Kabeiseman said it comes down to a question of whether the PC wanted to make a decision this evening. They have heard the objection being submitted, so they could continue or they could allow some additional response arguments.

Powell asked if they (the PC) could choose not to accept this newest staff report as evidence and proceed.

Kabeiseman said he believed they could say they were not going to accept the staff report, but he reiterated that he didn't believe there was any new evidence in it. There is some analysis, but they could choose to strike that analysis and the staff report, and make a decision based on the materials received previously.

Powell asked if they were to allow this piece to be reopened, what is the timeline? **Kabeiseman** said they can control it. Although he doesn't believe they are required to reopen it, he said his guess was that the objectors would say they would want to go through the 7/7/7 period again or perhaps a 7/7 period where rebuttal evidence is allowed and then a final argument. Then, allowing time for another staff analysis, this would probably result in about a month's delay.

Powell said he would be uncomfortable moving forward if, in fact, there are facts they have not seen.

Orzen said she was confused because she had gone through the packet and hadn't seen any new evidence, but she said she is not a lawyer. She said at this point she would prefer to err on the side of doing the right thing.

Lajoie said this staff report feels like a summary, but he couldn't say for sure that in this huge packet every piece of information is only a summary and that there is no new information.

Mengelberg said she thinks it is unfair to make a decision if the applicant and the objectors haven't had time to review the material. She also said same-day notice is not fair. At the same time, to throw out this staff report seems unfair because she relied on it heavily in coming to her conclusion and, in order for her to be absolutely fair in making a decision, she would want to hear rebuttal if the applicant felt it necessary.

After hearing the Commissioners' feelings, **Chair Carter** said it sounded as though they were saying if there is new evidence in this staff report, none of them has caught it. So she would conclude that if there is nothing that stands out, she wasn't sure they needed to continue this hearing for rebuttal about this report. She said she personally took this as a summary of the information already presented, which was done in response to a request from the PC in order to clarify the criteria and the information that has been received. She said if there are discrepancies, at this point in time she doesn't think they will make a difference in the overall procedure. She said this has been very confusing and has involved an extremely large volume of material for review. In conclusion, she said she personally would prefer to complete this tonight. If it is recommended for approval, it can go forward and the applicant doesn't need to be concerned. If it is denied, they can appeal it.

Hathaway said there is more at stake than just the notion that the PC can make a decision and the applicant can appeal it if they so chose. He said it is a matter of honor and integrity in the process, especially after he had conversations about exactly what kind of staff summarization would occur.

He said there are two issues: 1) Is there any new information in the second staff report, and 2) Is this just a summary of the facts? He said it is not just a summary of the facts because staff has actually issued an opinion about the facts. This is the staff's closing statement, he said, because they are recommending denial of these two amendments.

Hathaway said a summary of the evidence would say, "The opponents say this and this" and then the PC would make the decision. He contends that the staff said, "Here is the evidence and here is our opinion," which he said is way beyond the characterization that staff made about what they were going to do. In fact, he thinks

Kabeiseman told him as much on the telephone this afternoon.

Hathaway said he understands the statute to say that the applicant gets the final written statement. He said he wouldn't have a problem with this if it had come in on April 15th and the applicant had been given a chance to respond. But **Kabeiseman** said it would only be a summary of the evidence.

Then today they found out that it is much more, which is why they felt they must lodge the objection because what is at stake is what is called "prejudice in the process," and that prejudice, if not caught at the time it happens, can permeate the entire process, and it can't necessarily be cured at the City Council.

Hathaway said if this had come in on April 15th, he would have specifically dealt with it in his written statement, but he never got the chance to do, so that is the chance he wants now.

Chair Carter said if staff thought it was going to be anything other than a summary that was due by April 15th and they didn't do so, that would indicate that they believed it was a summary.

Kabeiseman said the applicant had no right to it under his understanding of the Oregon Land Use law. They have the right to rebut information from interested parties but they do not have the right to rebut staff's opinion.

Kabeiseman said the question is, Is staff an adversary or support staff for the PC? If, in fact, staff was a party, then the applicant would have the right to rebut. But from a legal aspect, Oregon Land Use law (Hunt vs. the City of Ashland, for instance) says they have no right to rebut staff. Therefore, he believes the PC could make a decision.

However, that doesn't deal with the aspect of what the applicant understood as they made their case, regardless of what staff did or did not do. Therefore, it is up to the PC to decide whether to allow more rebuttal or not.

Chair Carter said she was at a loss as to what to say or how to proceed, and she expressed her frustration that she had some things to say but still had not had a chance to say them. She said if the applicant did not have a legal right to rebuttal; if all parties, staff, and the PC took this as a summary; and if the PC has not gleaned out information that was new or adversarial to the applicant—that it was simply a restatement or reclarification of the testimony that everyone has been privy to—she didn't see any reason for further discussion. It is on the record as a procedural objection and she wanted to proceed.

Hathaway said he had to bring forth the objection in the best interest of his client.

Lajoie asked if it is compliant, with the way things are done, that staff can state their opinion in the staff report.

Kabeiseman said he believes it is okay because staff is here to support the PC. They are a professional staff that is trained in planning and other specialties, and the PC relies on them for that information. He said he believes there is no legal problem with relying on that information and there is no right for the applicant to rebut that.

Because this is a fairly significant issue, **Kabeiseman** suggested they might want to take a brief break. **Powell** thought it was a good suggestion, so **Chair Carter** called a recess until 6:40 p.m.

Upon reconvening, **Chair Carter** said, for the sake of fairness to all parties since the PC's integrity seems to be consistently under attack, the PC would do whatever necessary for the applicant to feel satisfied that they have received a fair hearing. Therefore, they would allow the applicant to respond to what the PC considers a summary of the evidence and criteria that were submitted during the public process hearing.

A gentleman in the audience wanted to speak, but **Kabeiseman** asked if he had a procedural question. Based on prior discussion between them, **Kabeiseman** said he thought the gentleman's testimony was substantive and, therefore, not appropriate at this time. However, he noted that the man could appeal to the City Commission if he feels his material was not properly addressed and dealt with in a fair manner by staff.

Chair Carter asked if he would have an opportunity to speak if there were a continuation. **Kabeiseman** said that would depend on how the PC chose to proceed.

Lajoie moved for a continuance limited strictly to this newest staff summary (Exhibit A) on a 7/7/7 basis. **Please note, the vote was to continue on a 7/7 basis***

Kabeiseman noted that he understood that the applicant would only be rebutting information within this newest staff report, not any other materials. He explained that they would grant anyone seven days to rebut new evidence and it would be limited—there would be no further opportunities for rebuttal. That would be followed by seven days for additional argument, for a total of 14 days.

Mengelberg asked if there would be yet another staff report. **Kabeiseman** reiterated that he didn't feel there was anything wrong with the staff report that was submitted, other than it might not have met the representations that were made to the applicant. He said, though, that legally the staff can make such a staff report (although he noted that some people disagree about that). He then asked if they would want another analysis. **Mengelberg** said no.

Mengelberg asked him for a clarification of the timing. **Kabeiseman** said the next seven days are for anyone to rebut new evidence, arguments, or testimony specifically related to this new staff report. If there is any submission of new evidence that is not actually new evidence, he would recommend that they not accept it. If arguments are submitted that were previously submitted, he would again recommend that they not accept it.

Following those seven days, another seven days will be allowed for a final closing argument by the applicant, after which the record should be complete. There will be no additional staff report.

Upon voting, the motion passed unanimously.

Kabeiseman said staff would have all the new information within 14 days, but the PC needed to set a date certain for the continuance. Staff recommended June 9th. **Hathaway** said he would be out of state at that time but since there would only be deliberations and no further testimony, he would agree with that date.

When told that the next available date would be June 23rd, the applicant said they would prefer June 9th. This was acceptable to the PC.

Chair Carter returned to the comments she wanted to say at the beginning of the evening. Specifically, she wanted to say that the City and County Planning Commissions are set out by the State of Oregon to do the job of land use planning and economic development. She said those serving on the PC are a volunteer group of human beings who, in this particular case, have been given the horrendous task of hearing and reviewing an exorbitant amount of information to come to a decision that is in the best interest of the City of Oregon City and its citizens. She said she truly believes there is no other PC in the State of Oregon that is more sincere and more honest in their efforts to be absolutely as clean, as concise, and as well read as this group. She said they are not attorneys and specifically not land use attorneys. They are volunteers who are picked by the Mayor to sit on the PC to try and do a job for the City.

She said their integrity has been attacked, and she believes they are experiencing what she would call "reverse bias" where the applicant seems to be coming with an attitude that neither the PC nor the staff are giving them a fair shake, and she simply can't agree. She said they do, to the utmost of their ability, what they think they can do about this work, and she said she is very upset about the way these proceedings have gone.

She said Hathaway says the public process is not being dutifully followed. In her opinion, public process, when being dutifully followed, allows everything to be cleanly laid out for all to see. She said the Commissioners

have given all benefit of the doubt to the applicant, including tonight's proceedings, so they can have the fairness the PC has to offer.

Chair Carter said she wants the community to understand (1) how hard a job this is, and (2) that each of the commissioners takes their job very seriously. Furthermore, she believes that staff has, under no circumstances, tried to do anything other than what was requested of them in providing staff reports to help explain and understand all the information that has been presented. She reiterated that they are not land use attorneys—they are citizens and business people in the community.

She said now this has become even more confusing and difficult to come up with a clean, fair, and accurate decision. When the public process works properly, there are five individual citizens who have come to the table to do the work of the City and, when allowed to do that work in a fair and above-board and un-prejudicial way, they are able to render a fair decision. Again, she said they are trying to make a decision that is in the best interests of the City, to think long-term, and to think of the entire city. Finally, she pledged that as long as she serves on this Planning Commission, that is what they will do.

With no additional comments from the other Commissioners, **Chair Carter** adjourned this portion of the meeting at 6:55 p.m.

Chair Carter reopened the Planning Commission meeting at 7:00 p.m. for those regular items listed on the agenda, noting that they are all quasi-judicial in nature.

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

None.

3. APPROVAL OF MINUTES: April 28, 2003

Powell moved to approve the minutes of April 28, 2003 as submitted. **Mengelberg** seconded the motion, and it passed unanimously.

4. HEARINGS:

PD 03-01 (Quasi-Judicial Planned Unit Development Hearing), Paul Reeder/Tom Sisul; Request for a continuance to the June 9, 2003 Planning Commission Hearing date for the proposed Planned Unit Development on the properties identified as Map 3S-1B-1CD, Tax Lot 300 and 3S-1E-1A, Tax Lot 1700.

WR 03-01 (Quasi-Judicial Water Resource Hearing), Paul Reeder/Tom Sisul, Request for a continuance to the June 9, 2003 Planning Commission Hearing date for the Water Resource determination on the properties identified as Map 3S-1B-1CD, Tax Lot 300 and 3S-1E-1A, Tax Lot 1700.

VR 03-11 (Quasi-Judicial Variance Hearing), Paul Reeder/Tom Sisul, Request for a continuance to the June 9, 2003 Planning Commission Hearing date for proposed Variance to the pedestrian lighting standards within the Planned Unit Development on the properties identified as Map 3S-1B-1CD, Tax Lot 300 and 3S-1E-1A, Tax Lot 1700.

Tony Konkol said the applicant, Paul Reeder, was requesting a continuance to June 9, 2003 for a Planned Unit Development (03-01), Water Resource (03-01), and a variance (03-11). **Konkol** said there is also a Site Plan running concurrently with this application, and he noted that the applicant has agreed to extend the 120-day requirement from July 24, 2003 to August 7, 2003 for all the files associated with this proposal.

Orzen moved to continue these related applications (PUD 03-01, WR 03-01, and VR 03-11) to a date certain of June 9, 2003. **Mengelberg** seconded the motion.

Lajoie asked when we might not grant a continuance. **Kabeiseman** said one instance might be if the commissioners could tell from reading the staff report that there would be no way the application could ever meet the criteria, even with a continuance. Typically, because of the tight timelines within the 120day process, he said it makes sense to allow the applicant more time to bring forward a request that could be accepted, particularly if things have come to light during the initial process that still need to be resolved. He added that he didn't think staff would recommend a continuance unless they felt it was appropriate.

The motion passed unanimously.

VR 03-08 (Quasi-Judicial Variance Hearing), Rick Sieverson, Request for a Variance to reduce the required R-10 Single-Family lot width requirement from 75 feet to 65 feet in order to complete a two-lot partition of the property located at 13798 Holcomb Boulevard and identified as Map 2S-2E-29DA, Tax Lot 2800.

Konkol said this is a Type III land use application, wherein Mr. and Mrs. Sieverson of 13798 Holcomb Boulevard are requesting a variance to reduce the R-10 lot width requirement from 75 feet to 65 feet in order to complete a two-lot partition of the property.

(Note: Full copies of the application, the staff report, and all related documents are available for review in the public record.)

As a matter of background, **Konkol** said the original site went through a partition (Planning File MP 95-12) that was approved on March 8, 1996. The initial partition of the property had the intention of partitioning this subject site into two parcels once again. In 1996 when that partition occurred, the required lot width for an R-10 lot was 60 feet, which was what was anticipated as being needed for future partitioning of that property. Since the date of that decision, the R-10 standard has been increased to a 75-foot lot width for 10,000 square foot lots.

The property is currently zoned R-10 and it has a Comprehensive Plan designation of Low Density Residential. Directly north of the site is Holcomb Blvd., and north of Holcomb Blvd. is a property zoned R-10 and a property zoned R-8, Single-Family. Directly south of the subject site is a property zoned R-10 which was part of the original partition. West of the site is approximately a 1.04 acre site that is zoned R-10 and developed with a single-family home, and east of the site are two flag lots, which were part of the original partition totaling approximately 20 feet, which provide access to the two parcels behind the subject site.

Proper noticing was done to neighbors within 300 feet and through the *Clackamas County Review*, and the property was posted. The CICC and the neighborhood association were identified.

Specifically, the applicant is requesting a variance to Section 17.08.040, Sub B, of the Oregon City Municipal Code. The variance procedures spelled out in 17.60.020, and part A indicate that the literal application of the provision would deprive the applicant of rights commonly enjoyed by properties in the surrounding area or that extraordinary circumstances apply. The applicant said that the extraordinary circumstance is that the original partition in 1996 was designed to allow future division of the property at the existing zoning designation. The requirements were changed in 1998, requiring an increase to a 75-foot lot width, which cannot be accommodated on this site.

Criteria B is that this will not cause substantial damage to neighboring properties, including reducing light, air, and safe access. As stated, there is a 20-foot easement on the east side of the property, which would allow a significant buffer between this parcel and the property to the east. To the west of the site, there is an existing

home, and the existing house is on the west side of the property so there will not be another home put in there. In conclusion, the existing situation will remain and the setbacks in the rear will be maintained, so there should not be any impacts on the parcels surrounding this site.

The applicant's circumstances are not self-imposed. The applicant purchased the property in August of 1998, at which time the 60-foot lot width of the R-10 designation was in place. In October, 1998, the requirement was increased to 75 feet. The applicant did not get a partition submitted prior to the change in the lot dimensions. He maintains that this was not self-imposed and he had intentions of using that 60-foot lot width.

No practical alternative has been identified. Staff has worked with the applicant to try and utilize flag lots or a different design. There is no alternative that would allow frontage onto Holcomb and meet the 75-foot lot width.

The variance requested is the minimum. The applicant has applied for a second Type II decision of variance to reduce the lot size. The Oregon City Transportation System Plan (TSP) was updated requiring a larger right-of-way dedication than was initially given in 1996, and these parcels were proposed to be exactly 10,000 square feet under the old zoning designation. A combination of the increase lot width and additional right-of-way dedication on Holcomb has impacted this parcel.

The variance conforms to the Comprehensive Plan. The property is designated Low-Density Residential, and it would be developed as Low-Density Residential. It currently exceeds the maximum density allowed. This would permit the applicant to partition that piece into two R-10 Single-family parcels.

Chair Carter asked if the easement on the east side is a driveway easement for properties behind, and **Konkol** said yes.

Based on the staff report and findings, staff recommends approval of the variance for the lot width.

Powell started to ask if there was any response from the neighborhood association, but he saw it in the packet and was satisfied.

The applicant had nothing to add to staff's report.

There was no public testimony in favor, against, or neutral to this application.

Chair Carter closed the public hearing at 7:15 p.m.

Orzen moved to approve VR 03-08 for a reduction in the lot width from 75 feet to 65 feet. **Powell** seconded the motion, and it passed unanimously.

ZC 03-01 (Quasi-Judicial Zone Change Hearing), Brett Eells/Matt Wellner; Request for a Zone Change for 4.97 acres zoned R-10 Single-Family to R-8 Single-Family for the property located at 19605 Meyers Road and identified as Map 3S-2E-8CA, Tax Lot 4501.

VR 03-06 (Quasi-Judicial Variance Hearing), Brett Eells/Matt Wellner; Request for a Variance to increase the maximum allowed cul-de-sac length of 350 feet per Section 16.12.100 of the Oregon City Municipal Code to approximately 520 feet for the property located at 19605 Meyers Road and identified as Map 3S-2E-8CA, Tax Lot 4501.

Konkol gave the staff report, explaining that the applicant, Oregon City Excavation and Development, is requesting a zone change from R-10 Single-family to R-8 Single-family. The applicant is concurrently

requesting a subdivision review and a Water Resource Review (Type II decisions) for the property, as well as a variance to increase the maximum cul-de-sac length on the property.

(Note: Full copies of the applications, the staff reports, and all related documents are available for review in the public record.)

The property is approximately 4.97 acres and has a Comprehensive Plan designation of Low-density Residential. It is currently zoned R-10 Single-family, which requires 10,000 square foot minimum lot sizes. The applicant is requesting a change to R-8, Single-family, 8,000 square foot minimum lot size, which is allowed under the Low-density Residential Comprehensive Plan designation.

Konkol put up an overhead of the Oregon City Zoning Map, which he entered into the record as Exhibit A for ZC 03-01. He then explained the location of the site as follows: Directly north of the site is Meyers Road (identified as a minor arterial in the TSP). North of Meyers Road is the Deer Meadows subdivision, which is developed as R-8 Single-family. (He said it received a zone change from R-10 to R-8 in 1996.) Directly south of the subject site is outside of Oregon City city limits and outside the Urban Growth Boundary (UGB), and it is zoned under County jurisdiction. (He said it does not show, but there is a creek running north to south across the parcel under County jurisdiction.) Directly west of the site is a water resource zone and a PGE easement. East of the site is the Millennium Park subdivision, which is zoned R-8 Single-family. (This property received a zone change from R-10 to R-8 in 1994.)

Konkol said comments were received (1) from David Evans & Associates, which does consulting work for the City regarding traffic impact studies, and (2) from the Police Dept., which indicated that increased densities in population would adversely impact their response time. A letter was also received from Charles Hoffman of 13159 Century Drive, who was concerned that the proposed zone change would overload the infrastructure and add to the already too-densely populated area, and add traffic to Meyers Road, which is already overloaded. Mr. Hoffman also indicated that the property was annexed into the City because of a failing septic system and that as of the date of his letter, the subject site had not been hooked up to the City sewer system.

Concerning existing systems that are required for development, **Konkol** said there is an existing 16-inch water main at Meyers Road that is adequate to serve the site, and it does not need to be upsized (after initial review by Public Works and the City Engineering Department). There is an existing 8-inch sanitary sewer in Meyers Road as well as in Andrea Street (north of the site and across Meyers Road) that are adequate if this site is developed as R-8 Single-family. The applicant would be required to manage stormwater on-site if it were developed into any type of subdivision at some point. The release would most likely empty into Mud Creek, a tributary of Beaver Creek (located to the west and south of the subject site). This would be determined at Subdivision review by staff.

Regarding transportation, David Evans & Associates did a traffic study and indicated that the Warner/Parrott, Warner/Milne, Leland/Linn intersection is reaching failing and will fail by 2003 with or without the proposed zone change. They indicated that the modest increase of density from R-10 to R-8 is not expected to substantially affect the plan in the 20-year transportation system identified in the City's TSP. Based on this minimal impact, additional future analysis of this zone change was not required of the applicant by staff. In summary, **Konkol** said there is no reason to deny the zone change based on traffic impacts.

The incremental impacts from additional units should be captured under SDC assessments at site development, and at the time the property is annexed into the City a non-remonstrance with the City was signed for the property.

Transmittals were sent to affected agencies, including the Oregon City School District, and there was no response from the School District. The applicant indicates in their application that they expect minimal impacts to the school.

Regarding fire and police, as stated earlier, the Police Department indicated that this would adversely impact a police department already strained to respond to the demand for services. Staff acknowledges that increased development and increased population does affect their ability to respond. Staff asked that the PC consider as well that appropriate planning can also alleviate some of those stresses.

The subject site is located on a minor arterial. It is in relatively close proximity to commercial opportunities for shopping and to Clackamas Community College, which is a major hub for Tri-Met bus service. Meyers Road is also anticipated for a future Oregon City bus service down that route (should it ever be implemented), and staff would propose that the surrounding land use is R-8 Single-family and that denying this request ultimately leads to increasing densities in other locations. This seems to be an appropriate location for the requested zone change at the requested density, as opposed to delaying it or perhaps putting it further out away from a minor arterial or collector that could serve the transportation needs associated with this site.

Regarding the Comprehensive Plan, Konkol said proper noticing was done as required, and that the zone change would result in an increase from 16 lots to approximately 19 lots. This would provide for flexible and affordable housing opportunities consistent with the Comprehensive Plan.

There are no natural resource overlays identified in the Comp Plan or on any Comp Plan maps for this site. It is in a wet soils high water table, which would be addressed during Site Design for a subdivision through the use of a geo-technical review.

The property is within a water resource overlay district for the tributary to Beaver Creek. For development of the site, the applicant would be required to comply with 17.49 of the Oregon City Municipal Code, which would protect the natural resource.

Regarding growth and urbanization, **Konkol** noted on the map that there is quite an array of zoning designations in this neighborhood from Commercial to Multi-family to Two-family to all three Single-family zones, as well as Limited Office. It is a diverse neighborhood with several housing types, and this would only contribute to additional housing types and opportunities for a diverse neighborhood.

The Parks and Recreation Master Plan discourages the development of mini-parks on properties unless the developer is going to maintain them. The property is located within a half-mile of the existing Hillendale Park and the newly created Wesley Linn Park. It is also within a mile of Clackamas Community College.

Based on the findings, staff recommends approval of the requested zone change (03-01) from R-10 Single-family to R-8 Single-family.

Before moving to the applicant's testimony, **Dan Kearns**, attorney for the applicant, asked if the two hearings could be consolidated, and **Chair Carter** granted the request.

Konkol then gave the staff report for the variance request (03-06) in which the applicant is requesting to increase the maximum allowed cul-de-sac length of 350 feet, per section 16.12.100 of the Oregon City Municipal Code, to approximately 520 feet.

Konkol said **Charles Hoffman** had submitted comments for the variance as well, indicating that the proposed variance would add more housing to the area, which would add to an already too-densely populated area, and that the applicant's only motivation is to make more money. **Hoffman** also indicated, as stated earlier, that the

property was brought in on an emergency annexation due to a failing sewer septic system and that at the date of his letter, the subject site had not been hooked up to City sewer.

Under the variance criteria of 17.60.020, Sub A, that the literal application of the provision would deprive the applicant or that extraordinary circumstances apply to the site, **Konkol** said the applicant contends that the maximum length of the cul-de-sac (350 feet) does not allow for the complete development of this site since it is 630 feet long. There is no ability to gain access from Millennium Park to the east/southeast nor the PGE easement wetland area to the west/northwest, and to the south is the UGB.

Konkol said staff and the applicant strongly considered the possibility of putting a road through the UGB, but the road would come out in the only buildable portion of the property to the south, due to the creek and the steep slopes on the back side of the parcel in the County. They considered stubbing to the existing Millennium Parkway to the middle of the lot and eventually the City would buy the house and extend the road through. However, that didn't seem like a viable option. They also considered doing a 350-foot cul-de-sac and running flag lots off it, but they didn't see that as a very sound development pattern, which the City is trying to achieve. The City discourages the use of cul-de-sacs and if there is any way to avoid them, we will not do them, he said. The other alternative would be that the back third of the property would not be developed, which would result in large lots with frontage on the cul-de-sac that would be extremely long and deep. It might be dividable under the City's partition rules, but it is not a fluid street design or subdivision design.

In conclusion, there did not appear to be any reasonable alternative.

Regarding Criteria B that the variance would not likely cause substantial damage to neighbors, **Konkol** said if the road were extended through, as a normal subdivision would be, the impacts would be the same as this cul-de-sac being extended to the properties to the east and southeast and Millennium Park. Staff doesn't see any impacts associated with the neighbors that would be depriving them of any air or safe access. Rear yard setbacks and lot sizes will be maintained the same.

Regarding Criteria C, that the applicant's circumstances are not self-imposed, Millennium Park did not provide a stub to the property and there is no alternative way to enter or leave the site other than from Meyers Rd. **Konkol** reiterated that neither staff nor the applicant could find a practical alternative to alleviate the design of this property.

This is the minimum variance that could alleviate the situation. The cul-de-sacs are not discussed in the Comprehensive Plan specifically, although pedestrian connectivity and automobile connectivity are discussed. He said if those could be provided on this property, they would be. The original recommendation from staff was to extend the road to the UGB, but after looking at the parcel directly to the south/southwest of the subject site in the County, it was determined that there is no alternative to put a road across that property and still develop on it.

Therefore, based on these findings, **Konkol** said staff would recommend approval of the increase in length of the cul-de-sac.

Chair Carter asked Kabeiseman about a recent cul-de-sac variance that was for an additional 50 feet for which there was an alternative of a connection to South End Road. **Kabeiseman** said that the City Commission affirmed the PC's recommendation at the last City Commission meeting.

Chair Carter said she was concerned that the PC might be perceived as being inconsistent, so it needs to be very clear why this application would meet the variance criteria and why the other one didn't. She then asked **Konkol** to summarize again the reasons for this recommendation for approval.

Konkol said on the previous request to increase the cul-de-sac length to 400 feet from the 350-foot requirement, staff looked at the lack of local street connection to South End Road in that situation and that there was an alternative to the cul-de-sac thereby connecting that street, which would serve for pedestrian and automobile connectivity. He said if there were someplace to connect from this parcel, we would be trying to do it. Staff did not feel it was appropriate to stub a street into the back of an existing home in an existing subdivision that was created just a few years ago. Next, staff investigated putting a road down the middle to the UGB although we don't usually like to run services to the UGB. The conclusion was that this was the only alternative in order for this road since there is nowhere to connect to in the future.

He said if a connection is desired in 15 or 20 years, there is a road stubbed in Millennium Park, which is stubbed to the UGB but not to the property next to it inside the City. The parcel directly south (outside the city limits) has a water resource going right down the middle of it in a north/south direction, it has steep slopes, and if it does need access, it can get it from the existing stub out of Millennium Park. He added that the applicant has proposed in the subdivision to provide an access to that rear parcel out of the cul-de-sac. But to put road in there, even a constrained road at 48 feet, would leave nothing to develop.

Konkol said a part of Code (Chapter 16 – Subdivisions) encompasses a site layout that is appropriate for the intended use. Since the City tries to discourage the use of flag lots, staff didn't feel this was appropriate.

Another alternative is to allow a 350-foot cul-de-sac with extremely large lots coming off it. **Konkol** said the Comp Plan tries to maximize existing vacant land within the UGB that has access to urban services.

In an effort to clarify things, **Chair Carter** said there are some situations with variances due to extenuating circumstances and those can differ from one application to another.

Lajoie asked, if they were to run the street clear to the end, would it be limited by steep slopes as well as being at the edge of the UGB? **Konkol** said that is correct. It would take a very big financial investment to span the existing water resource (the tributary to Beaver Creek) and the steep slopes. He said you could potentially come onto the site from the east right along the existing UGB line, but you would lose a substantial portion of the property—the only flat part that is developable for a house.

Chair Carter asked if that part is not developed at all at this point, and **Konkol** said that is correct.

Daniel Kearns of Reeve, Kearns, PC., spoke on behalf of Brett Eells, the owner and applicant. He noted that Paul Sedoruk, a land use planner, was also in attendance to explain some of the details.

Kearns said they agree with the staff report.

He then elaborated on some of the high points, as follows:

- Regarding the cul-de-sac length variance, he said this was not their idea, but the land constrains the options. The problem is that Millennium Park doesn't have a connection. The result is a long, skinny piece of property. He said before it was even annexed, it was like a "missing tooth" in the City's boundary. Now it forms a more logical boundary but it took so long that all the surrounding parcels developed out, leaving this odd-shaped parcel with no connectivity. So, he said, it is a rather long cul-de-sac, but this is the best of the options. He asked that the PC approve the variance regardless of the zone change because no matter what the zoning might be, this is the best configuration for this property.
- The water resource issues come into play in the little bump-out that accommodates the buffer for the wetland.

- Regarding the subdivision rezone, a subdivision application has been submitted which requests approval for 19 lots. He said, in considering the zone change request, the difference between R-8 and R-10 is three lots, given the small size of this property. He said he thought that was what really dominated the discussion at David Evans and Associates in their analysis of the actual traffic impact of R-8 versus R-10. Considering that the intersection that is a problem is about half a mile away, the difference between R-8 and R-10 is about one or two vehicle trips in the a.m. peak hour. He noted that it is already slated for upgrade on the City's TSP. In fact, he said, staff indicated that it might be possible to move it forward in terms of priority, so if the PC were inclined to approve this zone change, he suggested that they might encourage the City Commission to move it up on the priority list.
- Regarding surrounding zoning, he noted that all the light brown areas on the map are zoned as R-8 subdivisions. He said it is important to note that there are so many already zoned as R-8, making it a pretty dense area, but it is also important to note that all of these surrounding properties were rezoned within the last few years from R-10 to R-8.
- He reiterated that sewer, water, and storm water are not issues because those facilities are already available to the property.
- Regarding Metro's density targets for Oregon City, this is still not as dense as they would like to see, but he thinks this strikes a good balance between the existing rural land coming in and Metro's goals.

In summary, he said, given the small size of the property and small amount of the property that is developable, the impact of changing from R-10 to R-8 is negligible, and the staff report confirms that.

Brett Eells, 16770 S. Thayer Road, introduced himself as the developer, saying he is a local builder/developer looking to build homes in a price point of about the \$230-235,000 range, which is probably considered (through market analysis) the next step up from starter homes.

He said he thinks the cul-de-sac length would provide a nice backdrop for a family environment. Without the requested cul-de-sac length being applied, the hard surface areas of the property would be exceptionally large areas, which would in turn affect run-off, stormwater drainage, etc. Increasing the cul-de-sac length would improve water quality.

Eells said if the zoning is kept at R-10, the price point to make the whole project work would be about \$280,000, which might be a more acceptable market value in Oregon City in a year or so, but they were aiming for more affordable pricing, which is probably only possible in an R-8 zoning.

Eells submitted a detailed map, which staff entered into the record as Exhibit B.

Chair Carter asked if the PGE easement and the lower open space would remain unbuildable open space, the applicant said yes.

Chair Carter then said, from a price point, as a developer you could build three less houses and charge more, or build three more houses and charge less. Either way, the developer's dollar value is the same. **Eells** said there is a maximum number to make it work so they don't lose their home equity line of credit, which they need to get the project started. The necessary goal to accomplish this will have to be a certain price point, which works with the R-8 request.

Chair Carter said she was actually more concerned about the transmittal from the Police Department in which the Police Chief has expressed concern about not being able to provide adequate police protection. She said three less houses would be three less for the Police Department to worry about protecting if it doesn't make a difference to the development potential.

Paul Sedoruk, 4185 Monroe Ave NE., Salem, Oregon 97201, said he is a planner for Land Tech, Inc. He said he thought staff did an excellent job explaining the reasons for the variance. He noted that the map shows that the site is surrounded by existing development, an easement, a wetland area, and another development on the other side of the wetland area. They are also approaching a 15-20% slope on the undeveloped areas of the site toward the County portion of the site.

Regarding the criteria of exceptional circumstances or rights enjoyed by others, **Sedoruk** observed that other development took place with no regard to providing additional street stubs to this property. This, he thinks, is rather extraordinary. If Millennium Park had provided a street stub, they wouldn't be asking for a variance. Furthermore, they can't go through the protected wetland area and staff said it is not desirable to go outside the UGB. Therefore, common rights are provided to nearby property owners that are not accorded to the applicant because connectivity was not provided for in earlier development situations.

Sedoruk said another limitation is the shape of the site, which is very long and skinny. The site geometry limits the development potential to a single street down the middle.

He said it is also important that they are matching the adjacent intersection, which limits the options. There are access spacing standards along the road and even if they had a second road, they would probably have to ask for a variation to the access spacing standards because they would be too close.

Therefore, this appears to be the only logical solution.

Regarding impact on adjacent properties, **Sedoruk** said the only developed adjacent property is Millennium Park, which is zoned R-8. He said the applicant's street side setbacks and rear yard setbacks will be similar to theirs (the same, actually). The only impact is really internal to this subdivision. Visually from the street it will look like any other subdivision in the neighborhood, so the only impact is that the street is longer than what Code permits for a cul-de-sac.

Regarding whether the variance is self-imposed, **Sedoruk** said the property shape hasn't changed in a long time. It is a long, skinny piece of property and they had no control over the approval for Millennium Park; they had no control over the placement of the UGB; and they have no control of the easement along the creek. Therefore, this is not self-imposed.

Regarding practical alternatives, he said they considered all sensible alternatives with staff, and there is no practical solution to the problem. The property doesn't lend itself to development with two roads for the reasons already discussed. Stub streets in this case are moot points, and flag lots are frowned upon.

Regarding whether this is the minimum length necessary, the applicant would say yes because if they were to do R-10 lots, the lots would be a little wider and the length would stay the same to get the maximum amount of lots proposed for the property. He reiterated that if the request is denied, only about two-thirds of the property can be developed at this time.

Regarding conformation to the Comp Plan, **Sedoruk** said the property is zoned as Low-density on the Comp Plan and R-8 is a Low-density housing designation.

Regarding connectivity, he reiterated that they have no control over that because there is no opportunity for connectivity due to surrounding site conditions and features.

In conclusion, **Sedoruk** said the Comp Plan also encourages maximum use of existing City facilities and City's lands for development, and he thinks they meet all the criteria for a variance.

Regarding the zone change standards, **Sedoruk** said:

- There are utilities and services to the site, according to Exhibit 3-C.
- Regarding the intersection concern, David Evans & Associates says there will not be a substantial effect on the planned transportation system (Exhibit 3-B) and that the proposed intersection of concern is designated on the TSP as a capital improvement project.
- Regarding whether they are in compliance with the State planning goals, he said yes because the City's Comprehensive Plan has been approved by the State agencies.
- Regarding whether this plan is consistent with the Comp Plan, he said the zoning map shows that this is a diverse neighborhood with a diversity of housing types. The subject site is just a little sliver infill surrounded either by the UGB or by existing R-8 development. So he would say yes.
- Regarding density, he said moving from R-10 to R-8 would help the City achieve Metro goals.
- Regarding the question of whether they would impact or protect natural resources, he said just a small portion of the existing wetland would be protected by a 50-foot buffer. The remainder of that wetland is more than 50 feet from the proposed subdivision.
- It is consistent with the urbanization goals and growth of the Comp Plan, and it is really close to commercial and retail that has been developed within the last ten years or recent history of the City. This provides opportunity to put a higher density of people closer to places they would normally drive to.
- It provides mass transit opportunities. It is close to Clackamas Community College, which is a transit hub, and the City's transportation plan shows a future bus line going down Meyers.

Regarding the concern about the police issue, **Kearns** said he is aware of the staff cuts and he said he thinks everyone hopes this is a short-term situation. He noted, though, that the Police Chief doesn't say they can't cover it, just that they are spread thin and getting spread thinner with budget cuts and staff reductions.

Kearns said the efficient way to provide urban services (whether transportation, police, or fire) is to concentrate urban development in urban areas. This area is already pretty densely developed and it is densely zoned. It is in an area with park areas, major transportation hubs, the community college, and the high school. So, he said, it doesn't make sense to keep this as R-10 with the thought that it would reduce a burden on the police because it is already developed at R-8 levels and they are already covering this area. He noted staff's comment that if this were to be denied here, it might simply push out density in another area that might be lower in density rather than concentrating in one area where police can efficiently serve.

Kearns said the Chief's comment would justify denial in an area that was not already committed to this kind of development at this level, but this is only a difference of three houses, and he would suggest that this would make no difference to their burden in covering this area, particularly considering that most calls are medical-related and the police wouldn't necessarily have the first-call response.

There were no further questions for the applicant.

Kathy Hogan, 19721 S. Central Point Road, thanked the staff for their diligence in consideration of the appropriateness of cul-de-sacs. She said the one they did recently was in her neighborhood, and she knows there will probably be a couple more coming in soon. In particular, from the standpoint of accessibility of fire trucks, she appreciates staff giving this the appropriate attention, especially since it apparently should have been considered more thoroughly before.

With that said, **Hogan** said she would encourage approval of this request because there appears to be no other alternative and she thinks the applicant is trying hard to make a good subdivision.

There was no further public testimony about this application nor were there further questions for the applicant. **Chair Carter** closed the public hearing at 8:10 p.m.

Powell asked about the reference to "Noble Wood Avenue" on this evening's handout and "Subject Site" on the overhead, and asked if they are the same. He said it appears to be a cul-de-sac, but he asked if it is stubbed off. **Konkol** said they are the same, and it is a cul-de-sac with homes built around it. **Powell** said he could see that it connects to Leland, which might have been an interesting option, but this answered his question.

Lajoie said the drawing infers that the connection to the main street is directly across from Deer Meadows. **Konkol** said it lines up with Andrea Street.

Lajoie asked if it is within the PC's jurisdiction to say they would like that to happen, or if that is part of Subdivision review? **Konkol** said under existing City Code, the center lines of streets intersecting may be a maximum of 10 feet off (the maximum separation). In this case, staff would look at this in the Design Review of the subdivision.

Powell said he appreciated staff's looking at cul-de-sacs, but he also wanted the public to understand that putting more people into an already crowded area is a difficult decision, even though he knows the City is already looking at fixing this problem area (Meyers Road). It is also very important to put as many people as possible into the space we have within the UGB without making it uncomfortable for people. We all enjoy the types of living we have here and the types of open space, but without making this R-8, we might not be able to do that. So, he said, those are considerations the PC has to include in these discussions, and he wants people to understand that we don't just create subdivision for any old reason. In this case, it is important to consider the traffic impacts on Meyers Road and to consider that intersection, which he hopes gets fixed quickly.

Chair Carter agreed that this project is clean-cut and simple to understand, it is the only alternative, it lines up with Andrea Street and comes out onto a main road, and she doesn't see any problems with approving these requests.

Powell moved to approve ZC 03-01 for a zone change from R-10 to R-8 and VR 03-06 for variance of the length of the cul-de-sac from 350 feet to approximately 520 feet. **Lajoie** seconded the motion, and it passed unanimously.

5. NEW BUSINESS

Konkol said staff has been talking again with Clackamas Community College about their master plans and that Mr. Erdman had extended an invitation to the Commission to come and see the new buildings that have been constructed since the last Master Plan approval. Staff proposed Wednesday, June 11th, from 5:00 to 6:30 p.m., which is a regularly scheduled work session night anyway. The PC agreed and **Chair Carter** suggested meeting there.

Chair Carter said she had some concern about the agenda for the upcoming work session with the City Commission on May 21st. **Konkol** said staff was working on that schedule and that an agenda would go out shortly.

Konkol said all staff reports, agendas, and minutes are now on the Oregon City web page. Also, the notice that is mailed to residents within 300 feet of a land use application is on the web site. **Chair Carter** said we have

come a long way in the last year regarding making good use of the web site as a community tool with the community and commended staff for their efforts.

Mengelberg asked what else people could see on the site, and **Konkol** said there is a link to e-mail addresses for the City Commissioners and Planning Commissioners as well as things like street tree lists, nuisance and native species lists, things relating to the Historic Review Board, land use applications, etc.

Lajoie asked if staff anticipates adding the Comp Plan to the site. **Konkol** said the Plan itself is a pretty big document, but the proposed map changes are there and there is some discussion about putting up the recommendations from C-TAC.

Kabeiseman said again that the recent appeal for the variance of a cul-de-sac was approved at the City Commission's last meeting and that the final decision would be made at their next meeting.

Powell said twice this week he was approached by citizens about the lack of volume on the TV broadcasts and he asked if there is any plan to resolve this problem. **Konkol** said staff can discuss this with the audio/visual folks and with Willamette Falls Cable, but this was the first he was aware of it. **Powell** said it has been brought up before with the City Commission and it is not a new problem. **Chair Carter** noted that everyone needs to speak closely to the microphones.

Orzen said she attended a seminar put on by Glazier about pervious concrete and that there was so much good information, she thought it might be advantageous to have them make a presentation at a future work session. **Chair Carter** said it might be good to invite some of the developers who work in the local area as well.

6. ADJOURN

With no other business at hand, the meeting was adjourned at 8:25 p.m.

Linda Carter, Planning Commission
Chairperson

Tony Konkol, Associate Planner

**CITY OF OREGON CITY
WORK SESSION
PLANNING COMMISSION
May 21, 2003**

PLANNING COMMISSIONERS PRESENT

Chairperson Linda Carter
Commissioner Dan Lajoie
Commissioner Mengelberg
Commissioner Tim Powell

STAFF PRESENT

Dan Drentlaw, Planning Director
Tony Konkol, Associate Planner
Pat Johnson, Recording Secretary

PLANNING COMMISSIONERS ABSENT

Commissioner Lynda Orzen

CALL TO ORDER

Chair Carter called the meeting to order at 5:32 p.m.

PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA

None.

WORKSESSION:

1. Role of Planning Commission

Drentlaw said staff had prepared the agenda based on some of the topics that have been raised over a period of time to perhaps allow for a time of informal discussion and/or answer some of the questions. Some of the topics included:

- The role of the Planning Commission (PC), including interaction with City Commission, staff, and the public; developing and implementing City policy; and quasi-judicial hearings.
- The Comprehensive Plan/Map, including the status and implementing ordinances.
- Future Growth, including the ability of the City to provide services, and annexations and Urban Growth Boundary (UGB) expansion.
- Economic Development Strategy.

Powell suggested they prioritize the list because there were several weighty matters and they probably wouldn't cover them all this evening. In particular, he said he wanted to talk about the Comp Plan because he thinks we are driven by that and getting it done could solve a lot of the problems.

Mengelberg said she would like to get as far through the list as possible, and asked if **Drentlaw** had anything in particular in mind about the role of the PC. **Drentlaw** said he wanted to address Chair Carter's concerns about her role as chairperson, and he said there have been questions about how involved the PC should get beyond the normal land use policy and quasi-judicial hearings—i.e., whether the PC should be looking at a broader picture.

Powell asked how the Charter defines the role of the PC. **Drentlaw** said the traditional definition is that the PC is comprised of appointed citizens who represent different viewpoints and different professions for a wide variety of representation of the city. It focuses on land use policy, comprehensive plans, and neighborhood plans. But then there are the gray areas because Comp Plans involve things such as capital improvements, economic development strategies, etc.

Chair Carter said the State ordinance says clearly that planning commissions are to have the charge of economic development, which is something we've never done. For example, the City is having a lot of trouble because it doesn't have enough commercial and industrial economic development to provide it with a viable budget. She said in her opinion there are two reasons: (1) The Planning Dept. is continually understaffed, and (2) a 13-year past due Comp Plan update. Therefore, everything that comes to the City now is working off a 1982 Comp Plan, which is totally irrelevant because it is actually 21 years old. Also, no economic development is really ever being done proactively on the part of the City. So if the State says the PC should be doing at least some of it, we are getting hit twice because we are never working toward goals and solutions.

Powell said he thinks we should be a part of the economic development picture, but from a land use perspective only, and he thinks completion of the Comp Plan will help drive that. He agrees that we can't do anything about it if we don't have a Comp Plan we can work with. He said eight years ago, the City Commission gave direction to the Planning Dept. to work on the changes, but they have simply not had enough staff.

Lajoie suggested that we purpose to keep working at it, meeting twice a month for work sessions if necessary.

Drentlaw said that just the day before, in fact, staff received a draft of the additional scope of work from DEA and said staff has found some more money through the help of Public Works to help fund some more work. He said a lot of the text has already been reviewed by the PC, so we have a good start but we haven't had public hearings yet and there is still some work to do on the draft. For example, he suggested that we reorganize the draft so the chapters match the Statewide planning goals to make it easier to read through.

Chair Carter said the PC had identified where it might be good to do multi-family housing, but we didn't identify where additional residential add-ons might abut the existing Commercial corridor, which should probably be rezoned Commercial. For instance, along Molalla Avenue there is the retirement facility, then her car wash and hair salon, then three lots next to her, of which A-A is on the front lot, a residence is on the second lot, and an empty lot comprises the third lot, all of which equal the size of her property. She said the two residential lots should actually be zoned commercial.

Mengelberg agreed that all of the lots from 7th Street to Beavercreek should be Mixed Use Commercial.

Drentlaw said he would have drafts of the three new zone districts (the Corridor Mixed Use, the new Downtown Mixed Use, and a Mixed Use Employment) for the June work session. He will also provide copies of a report by consultant Steve Ferini, who specializes in downtown market research, in which they consider reasonable maximum and minimum FAR's and densities for downtown.

Lajoie asked about the Comp Plan to date. Specifically, when we say we are going to change from one zone to another, how much of that is based on impenetrable data, or is it more intuitive? In other words, how do we know we've rezoned things for the right balance?

Drentlaw said Title I in Metro functional plans gives targets for cities and counties to meet regarding population by the year 2017. Oregon City had a number of units to meet to fulfill that requirement, so when we looked at upzoning some of the residential areas to higher density and multi-family, the consultants did a calculation of how many units/people that would equate to. In Commercial, Metro didn't do that, so it is a little more intuitive. But the two big policy questions relating to Commercial are:

1. The need for some neighborhood commercial, particularly in South End, so people don't have to drive so far to get groceries and things. He noted that this is already somewhat controversial.

2. The Molalla corridor, which is where we are trying to encourage mixed uses that are transit-friendly and built closer to the sidewalk, and the street for a more aesthetic value than the typical big box or shopping center. The problem on Molalla is that the lots are small and many have structures that are marginal, so it is not very easy to find a buyer who is willing to buy the property and demolish the structure, only to rebuild and still not have much space. The question then becomes whether to force people to invest in that area by limiting commercial in other parts of the city. This is a policy question, which leans to the economic factors as well.

Chair Carter said she would prefer to see another urban renewal district along Molalla to facilitate putting these properties together, and **Mengelberg** agreed.

Lajoie asked what the average depth of lots is along Molalla, and **Konkol** said they are traditionally 50 x 100 feet, and 150 feet deep at the most. **Powell** said he is not looking for big lots, rather more for neighborhood commercial.

Chair Carter said the problem is that there is no parking because there is no on-street parking along that corridor so the parking would have to go in the back of the lots. She said that's why she asked about the possibility of rezoning some of these properties that abut between residential and commercial in order to get deeper lots and accesses.

Mengelberg said in a few cases topography becomes an issue, but generally it seems like there would be room to go deeper.

Lajoie said it seems like the Molalla Avenue pedestrian and bike plan is helping, and he asked where that extends. **Powell** said it is the whole strip from downtown up Singer Hill to the college.

Chair Carter said the Molalla Avenue and 7th Street Corridor Plans are definite acknowledgments of the fact that we are a small, constrained city, and we can't have five-lane boulevards, so we must design to condense everything but still include such amenities as bike lanes and pedestrian-friendly areas, which the Comp Plan doesn't support right now.

Drentlaw said we need incentives, not just zoning, and **Mengelberg** said we need someone who has the resources and the authority to consolidate lots. **Powell** said we also need to acknowledge that any construction will probably be upward and that there will most likely not be street parking along Molalla, although that is being included in the plans for 7th Street.

Mengelberg said her concern about thinking that there will be an ever-increasing market demand for Molalla Avenue is that the land uses around there are already established, leaving only limited opportunities to increase density. So, will a developer look at Molalla Avenue or will he look further south toward the community college where the new development is occurring?

Drentlaw noted that he had had a meeting with a developer who wants to rezone the parcel at the corner of 213 and Molalla from Industrial to General Commercial and when Drentlaw asked if he had considered Molalla, he said, "Nothing pencils there" because the lot he is looking at is vacant, there would be no demolition costs, and there would be much better visibility to draw the public.

Powell said on Molalla he thinks people would move into existing buildings and create small, walkable shops. He said we will more likely get some infill or some small offices with lofts and apartments above. And even

though it is on the hill, the bus lines and pedestrian-friendly atmosphere will likely draw more of that type of business once it begins.

Lajoie asked if there are any CDC's (Community Development Corporations) based in Oregon City, and **Powell** said no, although that has been discussed.

Chair Carter said it all relates to the Comp Plan, and asked where that is in relation to getting a public hearing for it. **Drentlaw** said he would like to work through some of the implementing Code issues in a work session before going to a public hearing because when we take it to a hearing he would like to do the Plan itself, the Plan map, and some Code amendments, all of which will combine into a huge package. He said they are trying to do this at the staff level, but they have been buried in work with the high school, Wal-Mart, and the community college.

Chair Carter said she could ask the Budget Committee for funds to proceed with the Comp Plan in order to move toward the goal of resolving the economic situation, but **Mengelberg** said it really takes a person or a concerted effort. It is a sales job for someone who can promote it both within the City government and within the community, and she said there are vacant parcels now and it isn't just selling a plan for the future. **Powell** agreed, but he said people also want to see a plan for the future. He said we can still do economic development work today, even before completion of the Comp Plan.

Chair Carter noted that we have a line item within the budget for economic development, which has been accumulating for two years, and there was discussion about how to use that money. She said Mayor Norris mentioned knowing a waterfront development person who might like to be the economic development person for Clackamette Cove, which might be a way to get some economic development started.

Drentlaw said Mayor Norris and the City Manager have also met with Dave Leland, a consultant who has done a lot of work on downtown planning, and he thinks the City Commission is trying to decide whether to hire an individual or a firm, or a combination of the two.

Powell thinks hiring a big firm would be a mistake because there is not enough involvement with the community or a good understanding of what the community wants because they simply work from the plans. He said the City of Chehalis hired a full-time consultant who was very knowledgeable and who had done a lot of research. **Powell** said we need someone like that—someone who will become involved in the community to get their ideas and work those into the plans. Otherwise, he thinks we will lose a lot of our communication with the local businesses if we hire a big firm, and without them we will not have a viable economic program.

Mengelberg said she feels that business is face to face and it is relationships, and that confidentiality is really important with business deals. She said that is not necessarily there when you hire a firm, and we need one person working for Oregon City, not a lot of people working on a lot of different projects.

Drentlaw noted that there can sometimes be political problems if a particular staff person doesn't want to promote a lot more business within the City, although he wasn't suggesting that to be the case here, but his point was that there needs to be a lot of support behind whoever is charged with promoting this type of work.

Powell said he isn't sure it should be a staff person and, frankly, he thinks perhaps it should be a consultant who would report to the City Commission and also to the business community, or perhaps to a group of five or six business owners, which is one way to get out of the political arena and get the business involvement.

Chair Carter noted that originally the idea was that the Chamber would do this, but at this point she isn't sure it is fair to put that burden on them. **Powell** agreed, saying the Chamber could certainly give some input but they don't need to take on the responsibility of it, and he reiterated that he thinks someone other than staff should do it.

Drentlaw reminded the PC that the area off Beavercreek was brought in with the UGB expansion and Metro has identified that as a major employment area in their Title IV work. He said the Commission has talked about the City doing a concept plan that would really look at that as an economic development piece of land for employment, which is required by Metro before land can be annexed.

As a side note from a land use perspective, he said staff has met with Kent Ziegler, who owns the property to the northeast of the city (at Holcomb and Redland), and he thinks they have convinced Ziegler that he needs to come up with his own concept plan for the mix of uses that he thinks he could do from a marketing standpoint but that would still meet goals of the City before he starts any annexation process.

Drentlaw said it is good that the PC gets to see the parcels as they come in and can plan toward the future. He also said there is still a lot of activity in South End and along Holcomb. He said he recently saw an old TSP that showed a connection down the hill from South End to 99E, and **Powell** said that property is still available.

Lajoie asked if most of the residents in the new subdivisions in that area are working in Oregon City, and **Chair Carter** said probably not. They are probably going into Portland Metro, which is yet another good reason for needing more Commercial and Industrial.

2. Future Growth

Chair Carter said she is concerned about having some discussion with the City Commission about our ability to provide police services and at what point do we say we are failing to provide them. She said Comm. Neeley told her that the budget is allowing for reinstatement of five officers, but the ratio continues to go down since we keep adding more and more residential. If Chief Harris is concerned enough to comment on applications, she said we need to take this very seriously. She noted that this affects both annexations and residential development.

Mengelberg said that with annexations comes assessed value to offset city services through the payment of new taxes, but **Lajoie** said apparently they are not helping enough, although they might be keeping par at best. **Drentlaw** said industrial usage usually contributes the most.

Chair Carter said we have a lot of growth but it nets us very little revenue, and she understands that this is the most expensive kind of growth because all the infrastructure needs are very expensive. She said Gladstone is a good example of a city that is fairly well built out and is not building much any more. She said Mayor Norris said we have enough property for 14,000 more residents within our UGB. **Drentlaw** concurred that we have enough room for 4,500 more units, or about 12,000 people.

Regarding the police services issue, **Mengelberg** said she is torn because the citizens say they are willing to pay for a certain level of services, and if they find that the level of service they are receiving is acceptable to them, she is not sure it is our place to say, "No more growth." She said when they are convinced there is a crime issue and when the Police Dept. makes a convincing case, they will find the money to pay for more police services. In the meantime, she doesn't want to hold the City's growth hostage based on this issue.

Powell said we must also remember that only 20% of the people vote and we must still consider the issue of school districts. For instance, South End has a big problem at their school because there is simply not enough room at John McLoughlin School. He said fire service is another issue and although we may not be under-served today, but we will be with 4,500 more units.

Drentlaw said development of single-family residential is our main source of SDC's and building permit funds. **Powell** said part of the problem there is that SDC's are so limited in use, and **Drentlaw** noted that we can no longer use building funds for planning, so we must depend on land use fees.

Chair Carter said she thinks the police service issue that is important enough to warrant further discussion because the citizens are not aware of the problem until they need help and there is no one available. Therefore, she thinks the PC needs to include this consideration in discussions before it becomes a crisis.

Drentlaw said it can be a complicated issue because if we use this as a way to stop growth, then we get into the moratorium mode, which he doesn't think we really want to do, and **Lajoie** cited such situations in California that reached such proportions that people simply don't want to live there anymore. However, **Mengelberg** reiterated that when citizens know there is a need, they will support, which was just proven by the passing of the Multnomah County school tax levy.

Powell agreed that further discussion is warranted so people will understand the situation, and **Chair Carter** said moratoriums are not necessarily an evil thing. For instance, she cited the example of the City of Wilsonville, where they halted growth until they could resolve their water problem.

Powell said growth should help pay its own way, but we should look at management of how many permits to allow every year and tie it to some kind of program to resolve these problems.

Mengelberg asked if it is possible to raise fees, water rates, etc., to help offset some of the infrastructure costs, and **Lajoie** asked if the new industrial land area would take care of the problem if such development ever took off. **Drentlaw** said it is a big key because property tax is the single most important revenue source to the City.

Chair Carter said in hindsight Red Soils is a good example of what could have been done better because they are all single-story buildings but they would have been better if they were three-stories.

She said we obviously don't have the answers tonight, but it is good that to get these issues on the table again. She then asked how proactive the PC needs to be in order to start working our way out of these issues since we have a history of not going anywhere. She said we must begin to fix the budgetary problems for the Planning Dept. and get our work done so it is there to facilitate the many issues related to economic development, growth, and expansion. She said we need to do bigger land use planning rather than the little bits and pieces of development, which will only continue to produce mediocre results unless we can work our way out of it.

Lajoie asked if there are other planning commission models to look at. **Drentlaw** said he agrees with **Powell's** earlier comment that it all relates back to the Comp Plan and the policies on growth and development, location, timing, and financing (SDC's and the Urban Renewal District), which are all recommendations that could come out of the Comp Plan.

Drentlaw said he would like to bring some of the Code changes to the PC and also to discuss further some of these issues with David Evans that were missed earlier.

Chair Carter said she has been thinking about a lot of this for a long time because in the four years she has served on the PC, it has mostly been hearing quasi-judicial hearings and there has been very little strategic planning. She said she is not sure how better to make their voice heard as a group, but if they are supposed to be a team, then they should work as a team with one united voice to address those issues they deem to be important.

Mengelberg said she has sometimes been concerned personally because Chair Carter has occasionally expressed a personal opinion that has come across as a PC opinion. She (Mengelberg) said she thought it would be good if they could discuss their various points of view and determine a general consensus so everyone can stand behind a "group" statement. **Chair Carter** said she tries to honor and respect that and has often said that the PC is comprised of individual people with individual opinions, and she noted that it is a challenge to be the chair.

Powell said it is tough to be a team when there is no goal. He said this is the first opportunity we have had to meet outside Chambers and simply talk about some of these things, and he thinks it would be good to do more of this. He agreed that we need a list of goals to work toward as a team and when we work toward those goals, then we are working as a team.

Lajoie said he agrees that it would be good to be united on the broadest subjects, but on quasi-judicial issues, but he thinks it is healthy to express their individuality.

Chair Carter said she hasn't, as a team leader, been pushing staff on things like goals because they are already so overwhelmed that they can't get the Comp Plan done. However, she said it is a fact that their burden does affect the ability of the PC to function.

Powell said this kind of meeting has been very helpful to him and he would even like to have some completely informal meetings without minutes. He thinks the biggest challenge is the Comp Plan and the fact that we have been told we can't communicate. He feels like if there is not a quorum, or even if there is but the meeting is advertised as a work session to include some general discussion, those times are important. He said he thinks we need to tie our future as a PC into the Comp Plan. For instance, he knows Mengelberg doesn't want to slow down economic development whereas Powell is tired of so much traffic on 7th Street, so they really need to discuss the issues and understand each other. But he definitely thinks more informal work sessions like this would be good, and the sooner the better.

Lajoie added that he thinks the next part is linking that with economic development so everyone is on the same page.

Powell said one thing that continues to be missing is good communications between organizations. He said about the time they might get it going well, we either have staff changes or new elections and we have to start over again.

Chair Carter said that is her point, and **Mengelberg** said that is why we need some continuity in the PC in order to move the community forward. **Chair Carter** said she is inclined to keep going and do something really good if we can get some of these problems worked out, and **Powell** said we need to have this kind of discussion with the City Commission as well. They need to understand that the PC will work hard but we must have a goal and we must work together, and that can't happen without understanding each other's problems.

Mengelberg said we need to go to the City Commission with a position of strength in which we can say, This is how the PC can help you further those goals, and it was agreed that the PC needs to meet again, perhaps several

times, to establish their goals before meeting with the City Commission. **Chair Carter** said she thinks the overall vision and goals are pretty clear, especially with the Molalla Avenue and 7th Street Plans, and she thinks we have a great opportunity to become a unique city if we stick to who and what we are and not try to become what we are not.

Drentlaw asked when they would like to meet again. **Mengelberg** suggested alternate Wednesdays but not on the same weeks as the regular hearing meetings. **Drentlaw** said that would put them on the same Wednesdays as the City Commission meets but they could begin at 5:30 p.m., which he would personally prefer since staff is already here.

Konkol asked if they would keep the same work session schedule and add two more meetings, but **Chair Carter** suggested just switching to the alternate Wednesdays, which **Mengelberg** noted would total four nights a month (two for regular hearings and two for work sessions). Everyone seemed to think that would be okay.

Mengelberg said she found the field trips last year to be really helpful, and **Konkol** reminded them of the June 11th field trip at the community college from 5:00 – 6:30 p.m. He said if they were to implement this new plan now, that would mean work sessions on June 4th, June 11th, and June 18th. **Chair Carter** said she thought this schedule could be more functional because staff is still here and everyone would get home earlier.

Regarding the agenda for June 4th, **Mengelberg** said she would like to work on a plan to present to the City Commissioners, possibly establishing priorities for the next two years. **Powell** suggested it might be helpful to get a copy of the City Commission's goals as well, which staff will e-mail in the meantime.

Mengelberg asked, since it is a work session, if they always have to meet at City Hall or if they might meet in a more informal setting, such as a restaurant where they could eat at the same time, at least occasionally. **Drentlaw** said work sessions are open to the public, but they could simply be noticed as such, including the different location(s), and **Powell** said the City Commission used to meet at the Rivershore for breakfast. However, it was decided that the June 4th meeting will be held in this same location (the City Hall lunch room, not Council chambers.)

Mengelberg asked if meeting just before the City Commission meetings would be an issue for Orzen, who also serves at or on some of the other committee meetings. Staff said they didn't think it would be a problem but they would check with her.

Chair Carter encouraged that people call her or each other if they wanted to just chat about things in general, although they couldn't get into quasi-judicial issues outside a public forum.

3. Adjourn

With no other business, the meeting was adjourned at 6:45 p.m.

Linda Carter, Planning Commission
Chairperson

Dan Drentlaw, Planning Director



CITY OF OREGON CITY

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MEMORANDUM

TO: Planning Commission
CC:
FROM: Christina Robertson-Gardiner, Associate Planner
DATE: June 2, 2003
SUBJECT: Supplemental Information: PZ 02-01, PZ 02-02, ZC 02-01, ZC 02-02

Dear Commissioners:

Enclosed you will find three additional exhibits to be entered into the record at the June 9, 2003 Planning Commission meeting for PZ 02-01, PZ 02-02, ZC 02-01, ZC 02-02. At the Applicant's request, the Planning Commission allowed for additional comments to be entered into the record following the May 12, 2003 meeting. It is anticipated that the Planning Commission will deliberate and vote on the above applications.

Exhibits

- A. Updated Closing Arguments for Proposed Wal-Mart Store, Greg Hathaway, May 27, 2003
- B. May 19, 2003 Letter from Miller Nash
 - i. Video Tape and Transcript of the May 12, 2003 Planning Commission Meeting (on-file)
- C. May 19, 2003 Letter from Deborah and Hank Noble

UPDATED
CLOSING ARGUMENT FOR PROPOSED
WAL-MART STORE
COMPREHENSIVE PLAN MAP
AND
ZONE CHANGE AMENDMENTS

Submitted to:

**Planning Commission
City of Oregon City**

May 27, 2003

Prepared and Submitted by:

**Gregory S. Hathaway
Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2300
Portland, OR 97201
(503) 241-2300**

Oregon City Planning Commission
Hearing Date: June 9, 2003
Case File: PZ 02-01, PZ 02-02 ZC 02-01 ZC 02-02
Exhibit: A

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May 27, 2003

Linda Carter, Chairperson
Lynda Orzen, Vice Chair
Daniel Lajoie, Commissioner
Renate Mengelberg, Commissioner
Tim Powell, Commissioner
PLANNING COMMISSION
CITY OF OREGON CITY
City Hall
320 Warner Milne Road
Oregon City, OR 97045

VIA HAND DELIVERY

Re: **Updated Written Closing Argument for Proposed Wal-Mart Store
Comprehensive Plan Map and Zone Change Amendments**

Dear Chair Carter and Members of the Commission:

This Updated Written Closing Argument regarding the above-entitled matter is in response to the Updated Staff Report, dated May 12, 2003. The Updated Staff Report contained new evidence which the Applicant rebutted in its May 19, 2003 submittal.

RESPONSE TO STAFF UPDATED FINDINGS OF NON-COMPLIANCE

1. Does the proposed land use change conform with Statewide Planning Goals and local goals and policies?

6. Staff's Updated Finding: Staff concludes that this standard is not satisfied because the proposal is not consistent with certain goals and policies of the City's Comprehensive Plan as noted in the Staff Report dated May 12, 2003.

6. Applicant's Updated Finding: The proposal to change the planning and zoning designation of the 1.96 acre parcel to enable the development of the proposed Wal-Mart store is consistent



with the certain goals and policies of the City's Comprehensive Plan as hereinafter noted in this Updated Written Closing Argument.

2. *Is there a public need to be fulfilled by the change?*

7. Staff's Updated Finding: Staff concludes that the public need standard has not been satisfied because no specific data has been provided that identifies the need for additional "valuable goods and services" which would be accommodated by changing the land use designation of the 1.96 acre parcel to commercial to enable the development of the proposed Wal-Mart Store.

It is Staff's position that "public need" can only be demonstrated by statistically quantifying the need for additional retail goods and services and dismisses the evidence provided by members of the Oregon City Community who testified there was a public need for a Wal-Mart store in Oregon City for a variety of reasons.

Staff does acknowledge there is a lack of larger commercial sites within the City to accommodate a Wal-Mart store, but that the applicant has not demonstrated that "the commercial need outweighs the need for housing stock at the price points that are affected by the proposed change."

7. Applicant's Updated Finding: The Staff's updated finding regarding "public need" is inconsistent with its February 24, 2003 Staff Report ("First Staff Report") regarding public need. In the First Staff Report, Staff clearly stated that "if the applicant can demonstrate that there is sufficient affordable housing stock in the City . . . , the public need criterion would be met. The Staff explained how the applicant could demonstrate whether there was sufficient affordable housing stock to accommodate the displaced residents located on the 1.96 are parcel. Staff stated: "Adequate affordable housing may be addressed, in part, by demonstrating an adequate vacancy rate in the affordable price ranges that are equivalent to those that will be displaced. As the applicant has not addressed this, a positive finding [regarding public need] cannot be made."

In fact, the Applicant specifically addressed this issue raised by Staff through the Replacement Housing Report prepared by Hobson Ferrarini and Associates, dated March 10, 2003. This report was presented to the Planning Commission at its March 10, 2003 hearing. The Staff in its updated finding for public need acknowledges that the Hobson Ferrarini Report demonstrates that there is sufficient similar housing for renters in the area.

At the March 10, 2003 Planning Commission hearing, representatives of the Applicant testified that David Evans and Associates had represented to these representatives that if the applicant



could demonstrate that there was sufficient similar housing for displaced residents, the public need criteria would be met. Representatives of David Evans and Associates present at the March 10, 2003 hearing did not dispute that representation, presumably because the Staff took the position in the First Staff Report that if the applicant could demonstrate there was sufficient and similar housing stock, the public need criterion would be met.

In the Staff's updated finding, Staff changes its opinion as to how the Applicant can demonstrate compliance with the public need criterion. Now, Staff states that the only manner in demonstrating public need for the proposed Wal-Mart store is if there is evidence in the record which statistically or quantifiably demonstrates the need for additional retail goods and services.

This new position by Staff is not supported by the language of the City's Comprehensive Plan. Nowhere in the City's plan does it prescribe how an applicant satisfies the public need criterion. It certainly does not prescribe that the only method of demonstrating there is a public need is through a statistical analysis.

The evidence in the record demonstrates there is a public need for the proposed Wal-Mart store. The Applicant has provided the necessary housing evidence consistent with the City's First Staff Report, which the Staff said would meet the public need criterion. Members of the community have testified that there is a public need in Oregon City for a Wal-Mart store for a variety of reasons. See Written Closing Argument, dated April 22, 2003. This is valid and relevant substantial evidence regarding the issue of public need. The Staff cannot simply dismiss it.

The Staff acknowledges there is a lack of larger commercial sites within the City to accommodate the proposed Wal-Mart store.

The Planning Commission has the authority, based on the evidence in the record, to find that there is a greater public need to support the change in land use designation to enable the construction of the proposed Wal-Mart store, as opposed to not allowing it.

3. *Is the public need best satisfied by the particular change being proposed?*

8. Staff's Updated Finding: The updated Staff finding on this criterion is identical to the updated finding in Finding No. 7 regarding "is there a public need for the proposed change?"

8. Applicant's Updated Finding: In the First Staff Report, Staff stated that "If the applicant can demonstrate the 'public need' for smaller or larger scale retail facilities, the need for affordable housing could be balanced by demonstrating adequacy of housing in the area, similar



to that being displaced. This statement was made by Staff prior to the applicant submitting the Replacement Housing Report by Hobson Ferrarini and Associates on March 10, 2003. As a result, it was Staff's position at that time that the only way the applicant could meet the public need criterion was to "weigh the need for new retail services in Oregon City versus the need to maintain in-fill multi-family and single-family housing."

With the Hobson Ferrarini and Associates Report demonstrating sufficient similar housing for displaced residents in the area, the weighing of public need changed in favor of changing the land use designation of the 1.96 acres parcel to commercial to enable the construction of the proposed Wal-Mart store.

Staff's criticism that the Applicant does not address the 1982 Comprehensive Plan's information that there is a surplus of 85 acres of commercially designated land warrants no consideration by the Planning Commission in light of Staff's acknowledgement in these proceedings that information in the 1982 Plan is outdated and should not be relied upon. The Staff has acknowledged there is a lack of large commercial sites within the City to accommodate the proposed Wal-Mart store.

The Planning Commission has the authority to find that the public need is best satisfied by the proposed store, based on the evidence in the record, because there is a sufficient supply of comparable and available housing for displaced residents, there is a lack of larger commercial sites within the City and the testimony by members of the Oregon City community and the Applicant that there is a public need for a Wal-Mart store in Oregon City for a variety of reasons.

4. *Will the change adversely affect the public health, safety and welfare?*

9. Staff's Updated Finding: The updated Staff finding continues to assert that the Applicant has not satisfied this legal criterion because of potential transportation impacts. However, the updated finding does state that "most of the traffic-related impacts can be accommodated through site plan and design review conditions of approval" and that "the affect on transportation facilities could be mitigated. Staff also acknowledges that the Planning Commission has the authority to conditionally approve the Comprehensive Plan and Zone Change requests.

9. Applicant's Updated Finding: The Applicant has proposed throughout these proceedings that the Planning Commission should conditionally approve the Comprehensive Plan and Zone Change requests for the proposed Wal-Mart store as set forth in the Site Plan and Design Review application and subject to the conditions recommended by Staff, including traffic mitigation conditions. Staff has determined in its Staff Report for the Site Plan and Design Review application that all of the applicable design requirements of the City are satisfied and all potential



impacts caused by the proposed store are mitigated through the recommended conditions.

The Staff in its First Staff Report stated that the Planning Commission did not have the authority to conditionally approve these requests. In the Applicant's Written Closing Argument, dated April 22, 2003, the Applicant established that the Planning Commission not only has the authority to conditionally approve these requests, but the City has done so in prior cases. In its updated Staff Report, the Staff acknowledges the Planning Commission's authority to condition these requests, and that the imposition of the conditions recommended in the Site Plan and Design Review Staff Report will mitigate traffic related impacts caused by the proposed Wal-Mart store.

5. *Does the factual information base in the Comprehensive Plan support the change?*

11. Staff's Updated Finding: Staff asserts that the 1982 Comprehensive Plan indicates there is a surplus of 85 acres of commercially designated land.

11. Applicant's Updated Finding: Staff has acknowledged in these proceedings that information contained in the 1982 Comprehensive Plan is outdated and cannot be relied upon. The Staff has also acknowledged that there is a lack of large commercial sites within the City to accommodate the proposed Wal-Mart store.

6. *The following policies shall govern the location, siting and design of new commercial areas:*

(a) *Commercial Districts should offer good visibility and access and should be located along major arterials and transit lines.*

15. Staff's Updated Finding: The Staff asserts that the Applicant did not address the previous concern that the change in land use designation for the 1.96 acre parcel could create eight stand-alone commercial properties with poor visibility from Molalla Boulevard, a transit street. The Staff, however, does acknowledge that if the 1.96 acre parcel was part of a larger development with the property to the south, there would be adequate visibility.



15. Applicant's Updated Finding: The Applicant did address this City policy by requesting in its Written Closing Argument, dated April 22, 2003, that the Planning Commission condition the approval of the Comprehensive Plan Map and Zone Change applications, subject to the specific use proposed for Site Plan and Design Review for the proposed Wal-Mart store. The proposal includes the consolidation of the 1.96 acre parcel with the larger parcel to the south as recommended by Staff in its Updated Finding.

(b) Commercial Districts that result in numerous small lots with individual street access points shall be discouraged.

16. Staff's Updated Finding: Staff acknowledges that this City policy could be satisfied if the Planning Commission conditionally approves the Comprehensive Plan and Zone Change application, subject to the proposed Wal-Mart store and requires the merger of the 1.96 acre parcel with the larger parcel to the south.

16. Applicant's Updated Finding: The Applicant requests the Planning Commission to condition the approval, subject to the proposed Wal-Mart store as proposed in the Site Plan and Design Review application, which consolidates the 1.96 acre parcel with the larger parcel to the south. See Applicant's Written Closing Argument, dated April 22, 2003. Staff has recommended approval with conditions regarding the Applicant's Site Plan and Design Review application for the proposed Wal-Mart store.

(c) Uses in Commercial Districts shall be designed to protect surrounding residential properties. Commercial Districts that result in numerous small lots with individual street access points shall be discouraged.

17. Staff's Updated Finding: Staff acknowledges that potential traffic impacts to the surrounding neighborhood can be mitigated if the Planning Commission conditionally approves the change in land use designation for the 1.96 acre parcel to a specific use which can also limit the number of individual street access points.

17. Applicant's Updated Finding: The Applicant requests the Planning Commission to conditionally approve the land use change, subject to the proposed Wal-Mart Store as set forth in the Site Plan and Design Review application and as recommended with conditions by the Staff. These recommended conditions will mitigate potential traffic impacts within the surrounding



residential neighborhood and limits street access points. See Applicant's Written Closing Argument, dated April 22, 2003.

(d) Serve the health, safety, education, welfare and recreational needs of all Oregon City residents through the planning and provision of adequate community facilities.

18. Staff's Updated Finding: The Staff asserts that there are health, safety and welfare related issues with the proposed plan and zone change regarding adding street traffic to a number of streets and intersections.

18. Applicant's Updated Finding: The Staff acknowledges in its Updated Finding No. 9 that the traffic creates small impacts on the transportation system as a whole. Staff also acknowledges that the affect on transportation facilities can be mitigated.

(e) The extension or improvement of any major urban facility and service to an area will be designed to complement the provision of other urban facilities and services at uniform levels.

19. Staff's Updated Finding: Staff asserts that based on the reasonable worst-case commercial land use scenario for the 1.96 acre parcel, there is a concern regarding street capacity on Hill Top Avenue and increased traffic on Fox Avenue.

19. Applicant's Updated Finding: This finding by Staff relates to a reasonable worst-case scenario for the 1.96 acre parcel as opposed to the proposed Wal-Mart store and the consolidation of the 1.96 acre parcel with the larger parcel to the south. In Staff's Updated Finding No. 9, the Staff states that the traffic-related impacts can be mitigated through site plan and design review conditions of approval. The Staff also states that mitigation conditions would be needed as part of a conditional Comprehensive Plan and Zone Change approval.

Neither the original scoping information reviewed and approved by City Staff and their consultants, nor any subsequent correspondence has required the Applicant to provide traffic counts on Fox Avenue.

The Applicant requests the Planning Commission to conditionally approve these requests,



subject to the recommended conditions set forth in the Site Plan and Design Review Staff Report, dated February 14, 2003, for the proposed Wal-Mart store.

(f) Transportation Goal. Improve the systems for movement of people and products in accordance with land use planning, energy conservation, neighborhood groups and appropriate public and private agencies.

20. Staff's Updated Finding: Staff asserts that the application still leaves a number of questions with regard to adequacy of transportation in accordance with land use planning and public agencies.

20. Applicant's Updated Finding: Notwithstanding the Staff's assertion in Staff's Updated Finding No. 20, the First Staff Report at Finding No. 20 clearly states that "the opening day traffic contribution of the proposed Wal-Mart store can be accommodated through a number of conditions of approval. Those conditions will be applied with site plan and design review. The Staff has recommended approval with conditions of the Site Plan and Design Review application of the proposed project. The Applicant requests the Planning Commission to approve the Comprehensive Plan and Zone Change requests, subject to the Site Plan and Design Review Staff Report, dated February 14, 2003.

7. Transportation System Plan (TSP) and the Molalla Boulevard and Bikeway Improvements Plan (MBBIP).

21. Staff's Updated Finding: Staff raises the question how the proposal supports the mixed use/high density policies of the TSP to reduce auto demand/dependency? The Staff asserts that the proposed Wal-Mart store does not qualify as a community business pursuant to the MBBIP. And, lastly, the Staff asserts there is no evidence in the record that demonstrate what the effect of a regional generating commercial land use has on the traffic models used when preparing the MBBIP.

21. Applicant's Updated Finding: The proposed store does support the TSP policy reducing auto demand/dependency. The evidence in the record demonstrates that the proposed Wal-Mart store will serve those residents and other commercial users in the Hill Top area through the use of bike and pedestrian connectors to the store. The Site Plan and Design Review Staff Report, dated February 14, 2003, states that the Applicant has provided adequate provision for pedestrian



and bike access and meets the City's design standards for pedestrian and bike connectivity and circulation, subject to recommended conditions of approval.

The Staff's continued assertion that the proposed store does not comply with the Molalla Boulevard Plan (MBBIP) is not legally correct. The Staff has misconstrued an aspirational statement in the MBBIP requiring the physical and operational characteristics of Molalla Boulevard to enhance multi-modal travel and developing a livable main street environment with mixed use, transit oriented, and community business land use. This statement appears under the category of "Roadway Capacity" to determine the type of improvements necessary to Molalla Boulevard over time to achieve these aspirations. This language does not provide a legal standard to evaluate whether a specifically proposed use meets these aspirations. Instead, the City must rely on its underlying zoning and design standards to carry out the use vision for the Molalla corridor.

The proposed Wal-Mart store does meet the aspirational visions set forth in the MBBIP. It promotes multi-modal travel due to its proximity to a transit line and bike and pedestrian connectivity. It is consistent with a livable main street environment and is transit oriented due to its location near the transit oriented street as required by the City's design standards. It is a community business land use regardless of Staff's conclusionary statement that a Wal-Mart store cannot be a community business within the Hill Top area. To the contrary, the evidence in the record demonstrates that it will be a community business and will be used by members of the Oregon City community.

The Staff asserts for the first time in its Updated Staff Report that the Applicant needed to demonstrate that a change in the 1.96 acre parcel to enable the construction of the proposed Wal-Mart store, complied with the MBBIP traffic model. At no time during these proceedings has Staff ever asserted that the MBBIP traffic model either existed or was a legal criterion.

The Applicant has performed a traffic impact analysis based upon the traffic models and scoping identified by Staff to show compliance with the TPR, TSP and other relevant criteria. The end result is that Staff has concluded that the transportation impacts caused by the proposed Wal-Mart can be mitigated. *See Updated Finding Nos. 9 and 17. See Site Plan and Design Review Staff Report, dated February 14, 2003.*

22. Staff's Updated Finding: The Staff asserts that there is a question whether uses within a Commercial Zoning District encourage multi-modal/transportation use.

22. Applicant's Updated Finding: The Staff in its updated finding acknowledges that "a regional generation of traffic can support multi-modal transportation and a conditional approval could assure that would take place." The evidence in the record demonstrates that the proposed



Wal-Mart store will support multi-modal transportation due to its compliance with the City's design standards.

23. Staff's Updated Finding: Staff asserts that the proposed Wal-Mart store will not have the effect of reducing local trip making citing a statement in the TSP.

23. Applicant's Updated Finding: The Staff has misconstrued this statement in the TSP to refer to new land uses as opposed to existing land uses. The statement clearly provides that "existing land uses will continue to integrate effectively with the neighborhood they serve, while reducing vehicular demand for local trip making." (emphasis added). The TSP does provide that the City should encourage multi-modal use, preserve historic characteristics and local community needs, and improve economic viability. Although Staff disagrees, the evidence in the record demonstrates that the proposed Wal-Mart store meets these aspirations. It encourages multi-modal use through the implementation of the City's design standards. It preserves local community needs as evidenced by the testimony of those in support of the proposed store. It improves economic viability in Oregon City and the Hill Top area by providing new employment opportunities in a depressed economy.

7. Proposed amendments to the Comprehensive Plan will follow City Administrative procedures for a change of Zoning District.

24. Staff's Updated Finding: Staff asserts that the Applicant has not meet all of the required criteria for a plan map amendment as set forth in its Updated Staff Findings of non-compliance.

24. Applicant's Updated Finding: The Applicant has demonstrated compliance with all of the applicable legal criterion for a plan map amendment as set forth in its Updated Findings of compliance.



8. *That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to issuing a certificate of occupancy.*

25. Staff's Updated Finding: Staff asserts that transportation is the only public facility or service that has not been demonstrated to be supported by the uses allowed within the zone. Staff relies on Updated Finding No. 26 to support this criterion.

25. Applicant's Updated Finding: Transportation facilities serving the proposed Wal-Mart store will be capable of supporting the use, subject to the conditions of approval recommended by the Site Plan and Design Review Staff Report, dated February 14, 2003. Staff has acknowledged that the proposed Wal-Mart store meets the City's transportation plan, subject to conditions of approval Nos. 29-38 of the Site Plan and Design Review Staff Report, dated February 14, 2003.

9. *The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.*

26. Staff's Updated Finding: Staff asserts that without the proposed project, the current transportation system at 213/Beavercreek Road and 213/Molalla Avenue intersection will have opening day level of service F condition. The Staff states that replanning the 1.96 acre parcel to commercial will incrementally affect this system. Lastly, the Staff asserts that the Applicant's traffic impact analysis used the Synchro model, which does not account for the effects of congestion.

26. Applicant's Updated Finding: Staff has incorrectly stated the current condition of the transportation system. Neither the January 2003 TIA nor the March 17, 2003 TPR Rezone Traffic Analysis letter, which represents the current traffic analysis documents of record for the site plan review and rezone applications, respectively, indicates that either of these intersections operate at LOS F under existing conditions. Rather, the Highway 213/Beavercreek Road intersection is reported to operate at LOS E using Synchro and F using SimTraffic, and the Highway 213/Molalla Avenue intersection is reported to operate at levels B, C, and D worst-case using Synchro and SimTraffic during both the weekday AM and PM peak hours.

The May 12 Staff Report also indicates that, "all intersections in the project area except Molalla Avenue/Hilltop Avenue" will reach LOS F within the 20-year planning window. Again, neither



the January 2003 TIA nor the March 17, 2003 TPR Traffic Analysis letter support this statement. Instead, the most recent TPR Traffic Analysis letter (March 17, 2003), which addresses the traffic-related impacts of the proposed rezone indicates that only one of the eight study intersections will be at LOS F in the 10 year horizon. Furthermore, the analysis assumptions related to signal timing parameter assumptions on ODOT facilities received preliminary approval as indicated in the email dated Monday April 14, 2003 from Kate Freitage at ODOT (previously submitted into record).

Notwithstanding the Staff's assertions in Updated Finding No. 26, the Staff has concluded that the proposed Wal-Mart store complies with the City's Transportation Plan. *See Site Plan and Design Review Staff Report*, dated February 14, 2003, p. 20. The proposal also satisfies the Transportation Planning Rule either under a worst-case scenario or as a conditional approval, subject to the Site Plan and Design Review Staff report. The Staff has acknowledged in its First Staff Report and in its Updated Findings that the "traffic transportation are small impacts on a transportation system as a whole," and that the effect on transportation facilities can be mitigated. *See Updated Finding No. 9.*

The Staff assertion that the Syncho model does not account for the effects of congestion is not correct based on the evidence in the record. Although there may be a dispute between the Applicant and Staff regarding what traffic model is the most effective, that dispute does not change the conclusion that the traffic impacts associated with the proposed store can be mitigated.

Although some members of the Planning Commission have been frustrated by the procedural requests by the Applicant in these proceedings, all of our requests have been made in good faith and in keeping with ensuring fairness in the land use process. The Planning Commission's willingness to reopen the record to allow parties to respond to new information contained in the Updated Staff Report was legally required and appreciated. The Updated Staff Report contained new information regarding the Molalla Boulevard Plan and Fox Avenue. It was important to the Applicant to have the opportunity to respond especially since any review by the City Council is on the record.

We also appreciate the willingness of the Planning Commission to enable the Applicant to respond to the Updated Findings in the Staff Report dated May 12, 2003 and to honor the process previously defined by the City. As your City Attorney noted at your May 12, 2003 hearing, the Updated Staff Report went beyond what the City had previously represented.

Lastly, statements were made at the May 12, 2003 Planning Commission meeting that the Applicant's representative were questioning the integrity of the Planning Commission and the City's land use process. By requesting the opportunity to examine certain Planning Commission members regarding a potential conflict of interest or bias, or requesting that the record be left open, are procedural matters that all parties to the land use process are afforded.



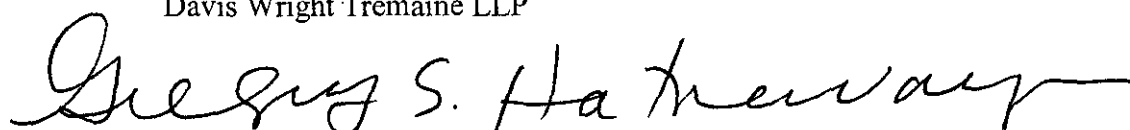
We have attempted to exercise our rights in a professional and respectful manner. At no time have we attacked or intended to question the integrity of any Planning Commissioner who has participated in these proceedings.

We respectfully request the Planning Commission to adopt the Applicant's Updated Findings and recommend to the City Council approval with conditions as previously requested.

Thank you for your consideration.

Very truly yours,

Davis Wright Tremaine LLP



Gregory S. Hathaway

GSH:lkt

cc: William K. Kabeiseman, City Attorney
Scott Franklin, PacLand
Tom Spencer, PacLand
Kelly S. Hossaini, Miller Nash
Phillip E. Grillo, Miller Nash

2003 MAY 19 PM 3:29
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May 19, 2003

HAND-DELIVERED

Oregon City Planning Commission
City Hall of Oregon City
320 Warner Milne Road
Post Office Box 3040
Oregon City, Oregon 97045

Subject: Reopening of the Record in PZ 02-01, PZ 02-02, ZC 02-01,
and ZC 02-02

Dear Commissioners:

At the May 12 hearing, Mr. Greg Hathaway requested that the record be reopened to allow the applicant to rebut what was alleged to be "new evidence" in the May 2003 staff report. At the hearing, Mr. Hathaway was unable to point to any specific new evidence contained within the staff report. The Planning Commission, the City Attorney, and staff did not believe there was any new evidence in the staff report. Nonetheless, in order to be as careful as possible, and expressing much frustration with Mr. Hathaway, the Commission voted to reopen the record.

We have reviewed the May 2003 staff report, and agree with staff, the City Attorney, and the Planning Commission, that there is no new evidence in the staff report. The only potential piece of "new evidence" is the April 17, 2003, letter from ODOT. This document was received by staff after the record closed. Staff did not refer to that letter in its staff report, and as far as we know, the ODOT letter was not placed before the Commission. The April 17, 2003, ODOT letter is therefore not in the record.

Mr. Hathaway also objected to the post-rebuttal staff report, accusing staff of the sin of commenting on the evidence in the record and offering their professional opinion of whether or not that evidence met the criteria. We do not believe that such action is wrong, nor do we believe that this post-rebuttal staff report violates ORS 197.763. Staff's job is to support the Planning Commission as it makes decisions on applications. Its job does not end after the applicant's final rebuttal. It is neither unusual nor illegal for staff to provide post-rebuttal advice and opinion to a decision-making body, whether that advice is in oral or written form.

Oregon City Planning Commission
Hearing Date: June 9, 2003
Case File: PZ 02-01, PZ 02-02 ZC 02-01 ZC 02-02
Exhibit: B

Oregon City Planning Commission

- 2 -

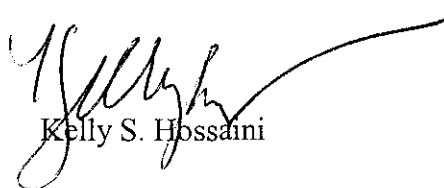
May 19, 2003

The applicant is obviously frustrated at not being able to respond to this post-rebuttal analysis and advice offered by staff to the Planning Commission. We understand the applicant's frustration. It is always frustrating not to be able to respond to staff's post-rebuttal advice to the decision-maker. But this frustration does not rise to the level of a legal problem. It merely reflects the reality of the land use process in Oregon — namely, that at a point in the process, the parties' testimony ends, the record is closed, the applicant provides final written rebuttal, and the deliberation process begins. The deliberation process typically includes the advice and assistance of staff, particularly when the decision-making body is comprised of volunteer decision-maker citizens, like the Planning Commission. Rest assured that there is nothing illegal about accepting written or oral advice from your staff, even if that advice and assistance occurs after the applicant's final written rebuttal.

In closing, we would request that the Planning Commission place little or no weight on the testimony and evidence it may receive from the applicant during this period, when the record is reopened. Our request is particularly important if the applicant fills the record with last-minute rebuttal evidence. We hereby reserve our right under ORS 197.763(7) to rebut any rebuttal evidence submitted by any party during this period when the record is reopened. If the applicant's rebuttal is limited to argument, we would ask that you carefully consider whether this is merely a last-minute attempt by the applicant to re-argue what has already been said, whether it is an attempt to argue what the applicant should have argued during the applicant's first "final" rebuttal, or whether it is truly rebuttal to new evidence in the record. It is not necessary for you to allow the applicant to rebut the advice of staff.

We are enclosing the videotape of your May 12, 2003, Planning Commission hearing, along with a written transcript of that hearing. We would like the record to reflect how and why this record was reopened. The tape and the transcript speak for themselves.

Very truly yours,



Kelly S. Hossaini

cc: Ms. Carol Suzuki
Mr. Craig Danielson
Ms. Christina Robertson-Gardiner
Mr. Greg Hathaway

03 MAY 19 PM 4: 58

RECEIVED
CITY OF OREGON CITY

May 19, 2003

City of Oregon City
Planning Commission
320 Warner Milne Road
Oregon City, Oregon 97045

RE: PZ 02-01 and PZ 02-02; Wal-Mart Application for Change to Comprehensive Plan

To Whom It May Concern:

First of all, I would like to congratulate all of you on your composure during the last hearing on the above-referenced application. Well done! I, on the other hand was dumb-founded that I had wasted gas money and babysitting money for what seemed to be another attempt by Wal-Mart to hoodwink Oregon City.

We have now attended three public hearings on the above-referenced application. I rushed home to read the staff report in question thinking I would find all kinds of new and salient information that poor Mr. Hathaway was not aware of until that very moment. Color me stupid, but I have now read the thing three times and have only succeeded in finding the same questions that I have heard and seen brought up throughout this process. Perhaps it was that Mr. Hathaway just became aware that you were serious about the applicant actually complying with the criteria required for the approval of the zone change application.

I would continue to urge you to deny PacLand/Wal-Mart's application. It is clear to me (and I have less experience in these matters than you) that Wal-Mart has fallen far short of satisfying its burden of proof on several of the criteria required for the zone change. First, assuming that they had been able to adequately support their theory that the deletion of the housing was not an issues, that by no means establishes that the public needs any more commercial space. I drove around town this weekend to confirm that the large number of retail vacancies in Oregon City and environs still exists. It does. In addition, it seems that during the UGB process, quite a bit of commercial retail space was available for development in the future. I saw no proof that any additional commercial space is needed. If additional proof is presented, as a member of the public, I would like to have the opportunity to comment on it.

Secondly, it does not seem to me that the testimony of a group of citizens (most of whom admit to being related to the person who stands to make a large sum of money if his property is sold to Wal-Mart) that they want a Wal-Mart on that very spot to shop at is any evidence of a public need. What exactly do they have to offer that no one else does?

Thirdly, the traffic issues...Frankly, I cannot even tell where Wal-Mart is going with this stuff, but I am sure the City has spent a bundle on DEA time going over this stuff in the piecemeal approach that it seems to have been offered to the City by Wal-Mart. My gut reaction is that the traffic situation will be a mess particularly for those living behind

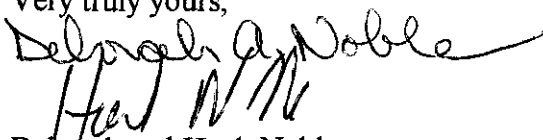
Oregon City Planning Commission
Hearing Date: June 9, 2003
Case File: PZ 02-01, PZ 02-02 ZC 02-01 ZC 02-02
Exhibit: C

Bank of the West and for those trying to get across Highway 213 up the hill to the hilltop area. What happens when the County Campus goes in?

Fourthly, I have not liked what seems to be an attitude on Wal-Mart's part that Oregon City and a good deal of its citizens are the enemy. What will happen if, God forbid, this actually gets underway and there is a problem. I can't imagine Wal-Mart lifting one finger to help us out if something is required that may have not been foreseen when conditions of approval are drafted.

Thank you for all the time and energy you have put into this. It is evident to us that you care about Oregon City's long term future not just the short run.

Very truly yours,

 , 5/19/03

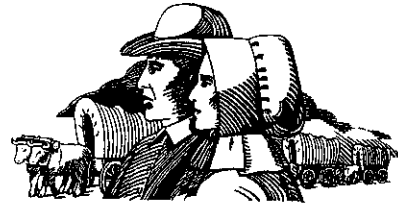
Deborah and Hank Noble
16095 S. Camellia Court
Oregon City, OR 97045

CITY OF OREGON CITY

PLANNING COMMISSION

320 WARNER MILNE ROAD
TEL 657-0891

OREGON CITY, OREGON 97045
FAX 657-7892



STAFF REPORT

Date: June 2, 2003

FILE NO.: CU 03-02

FILE TYPE: Quasi-Judicial

HEARING DATE: June 9, 2003
7:00 p.m., City Hall
320 Warner Milne Road
Oregon City, OR 97045

**APPLICANT/
OWNER:** Dan Erwert, Chris Jaeger and Craig Jaeger
601 McLoughlin Blvd.
Oregon City, OR 97045

REQUEST: Conditional Use to allow for a Contractor's office in the HC
Historic Commercial District.

LOCATION: 601S. McLoughlin Blvd.
Map 2S-1E-36DD, Tax Lots 2600, Clackamas County.

REVIEWER: Christina Robertson-Gardiner, Associate Planner
Bob Cullison, Engineering Manager

RECOMMENDATION: Staff recommends approval of CU 03-02 with conditions of approval

CRITERIA:

Municipal Code:

Section 17.26 HC Historic Commercial District

Section 17.50 Administration and Procedures

Section 17.56 Conditional Uses

BASIC FACTS:

1. The site is located at 601 S. McLoughlin Blvd. and is legally described as Map 2S-2E-36DD, Tax Lot 2600, Clackamas County. The property is located in the Canemah National Register District and is described as the Lake A. May House
2. The subject property is zoned HC Historic Commercial and has a Comprehensive Plan Designation of Commercial.
3. Oregon City's Transportation System Plan calls for a minimum of 2.7 parking spaces per 1,000 square feet of leaseable area. The applicant is using 900 square feet of the house for office purposes. As a result, two off street parking spaces are required. The applicant is using the existing garage and will be installing an additional gravel parking space directly abutting the garage with access off of Jerome Street. Site Plan and Design Review will not be required for the additional parking space.
4. No exterior alterations beyond the extra parking space are currently being proposed. Therefore, Site Plan Review will not be required by either the Historic Review Board or Staff.
5. The applicant is requesting a Conditional Use approval for a contractor's office in a former single-family residence.
6. Surrounding land uses are as follows:

East:	The properties across the highway are zoned Historic Commercial, and function as a used car sales lot and garage. Both structures are heavily altered historic houses.
North:	The property across Jerome Street are zoned R-6 and Historic Commercial, all are used as a single-family residences.

- West: The properties located behind the May house are zoned R-6 single family residential and function as single-family residences.
- South: The properties south of the May House are zoned R-6 and Historic Commercial and function as single-family residences.

7. Transmittals on the proposal were sent to various City departments, affected agencies, property owners within 300 feet and the Canemah Neighborhood Association. No comments were received from the neighborhood association. Other comments are incorporated into this analysis.

ANALYSIS AND FINDINGS:

I. 17.56 Conditional Uses

1. Criterion (1): The use is listed as a conditional use in the underlying district.

Tax lot 2600 is zoned Historic Commercial (HC). The HC district lists as conditional uses all uses that are permitted in the C General Commercial District, LC Limited Commercial District, LO Limited Office District or NC Neighborhood Commercial District. Both the C and LC districts allow for professional offices.

Therefore, staff finds that this criterion is satisfied.

2. Criterion (2): The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.

The size of the parcel (4,356 square feet) would allow the use of the existing historic home as a contractor's office. The parcel is rectangular and has street frontage on two sides, allowing for adequate access to the proposed parking area. All required public improvements are available to serve this site and there are no natural features, which would limit the development of the parcel.

Therefore, staff finds that this criteria is satisfied.

3. Criterion (3): The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

The site has good access to transportation systems, since tax lot 2600 fronts McLoughlin Boulevard (Highway 99E) and Jerome Street. The Oregon Dept. of Transportation has jurisdiction over McLoughlin Boulevard and classifies it as a Regional Urban Highway. The McLoughlin frontage is fully improved with curb, gutter and sidewalk. Vehicular access to the proposed parking area will be via Jerome Street, classified as a local street

by the City. The City's contract traffic engineer determined that no traffic study would be required for the change in use and confirmed that the existing streets can adequately serve this proposed use. Existing City sanitary sewer, storm sewer and water facilities are available to the property in Jerome Street and/or McLoughlin Boulevard.

Therefore, staff finds that this criterion is satisfied.

4. Criterion (4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district.

The character of the surrounding area includes a mixture of commercial and residential uses. Please see a more specific description of the surrounding uses under "Basic Facts, #4, surrounding uses." Other commercial uses located along McLoughlin Boulevard near the subject site include a used car sales lot and service garage and a large diving and salvage business. In addition, a vacant bed and breakfast is located across Miller Street in a historic house. Most of the surrounding uses are single-family residential located in historic homes. The proposed contractor's office would be a less intense commercial use than others in the area. By occupying an existing historic house, the applicant would be keeping in character with the surrounding area. In addition, the applicant would not limit, impair or preclude the use of surrounding properties for their primary uses, whether they are zoned commercially or residentially.

Therefore, staff finds that this criterion is satisfied.

5. Criterion (5): The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.

The Oregon City Comprehensive Plan contains the following applicable goals and policies:

"Encourage citizen participation in all functions of government and land-use planning."
(Citizen Involvement Goals and Policies, Policy 4)

The public hearing was advertised and noticed as prescribed by law to be heard by the Planning Commission on June 9, 2003. The public hearing will provide an opportunity for comment and testimony from interested parties.

"Encourage the preservation and rehabilitation of homes and other buildings of historical and architectural significance." (Historic Preservation Goal, page E-59).

Granting this Conditional Use will allow a contractor's office to occupy the currently vacant Lake A. May House and will assure that the historic structure is maintained properly.

Therefore, staff finds that this criterion is satisfied in that this proposal satisfies applicable goals and policies of the Oregon City Comprehensive Plan.

CONCLUSION AND RECOMMENDATION:

Based on the analysis and findings as described above, staff concludes that the proposed occupancy of the historic Lake A May House for a contractor's office satisfies the requirements as described in the Oregon City Municipal Code for Conditional Use Permits (Chapter 17.56). Therefore, staff recommends that the Planning Commission approve file CU 03-02.

CONDITIONS OF APPROVAL

1. No heavy equipment shall be stored on site.
2. The Applicant is responsible for this project's compliance to Engineering Policy 00-01 (attached). The policies pertain to any land use decision requiring the applicant to provide any public improvements.
3. The Applicant shall sign a Non-Remonstrance Agreement (NRA) for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement.

EXHIBITS:

1. Vicinity Map
2. Applicant Submittal
3. Agency Comments
3a. City Engineering
4. Inventory Form for Lake A. May House



1ST AVE.

MILLER

106

516

JEROME

APPERSON

BLANCHARD

PACIFIC

HWY.

Subject Property

ST

ST

ST

ST

99E

PAQUET ST.

AVE

3RD

3RD

APPERSON

JEROME

4TH

BLAN

Exhibit

GANEMAH PARK
815

Conditional Use Narrative

1. The use is listed as a conditional use in the underlying district;

Response: Currently the house is a residence. It is zoned Historic Commercial. We would like to conform to the conditional use allowing office space.

2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;

Response: The site is suitable for our needs. We have (4) employees who would use the building. We will have a small demand on utilities. There are no plans to alter the site or the structure.

3. The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;

Response: This site is centrally located for our staff & will improve our commuting time & distance. We have nice access to the freeway, restaurants, auto service, etc.

4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;

Response: The character of the surrounding area will not be affected or impaired by our proposed office usage.

5. The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.

Response: We believe this is the best use of this property in securing the goals of the historic district. This property is no longer appealing as a residence.

Exhibit 2

February 27, 2003

EXISTING USE: Residence

LOCATION: 601 S. McLoughlin Blvd., Oregon City

LEGAL DESCRIPTION: 02S 01E 36 16SE SE
Tax ID # 00416482

ZONING DESIGNATION: Historic Commercial

NARRATIVE

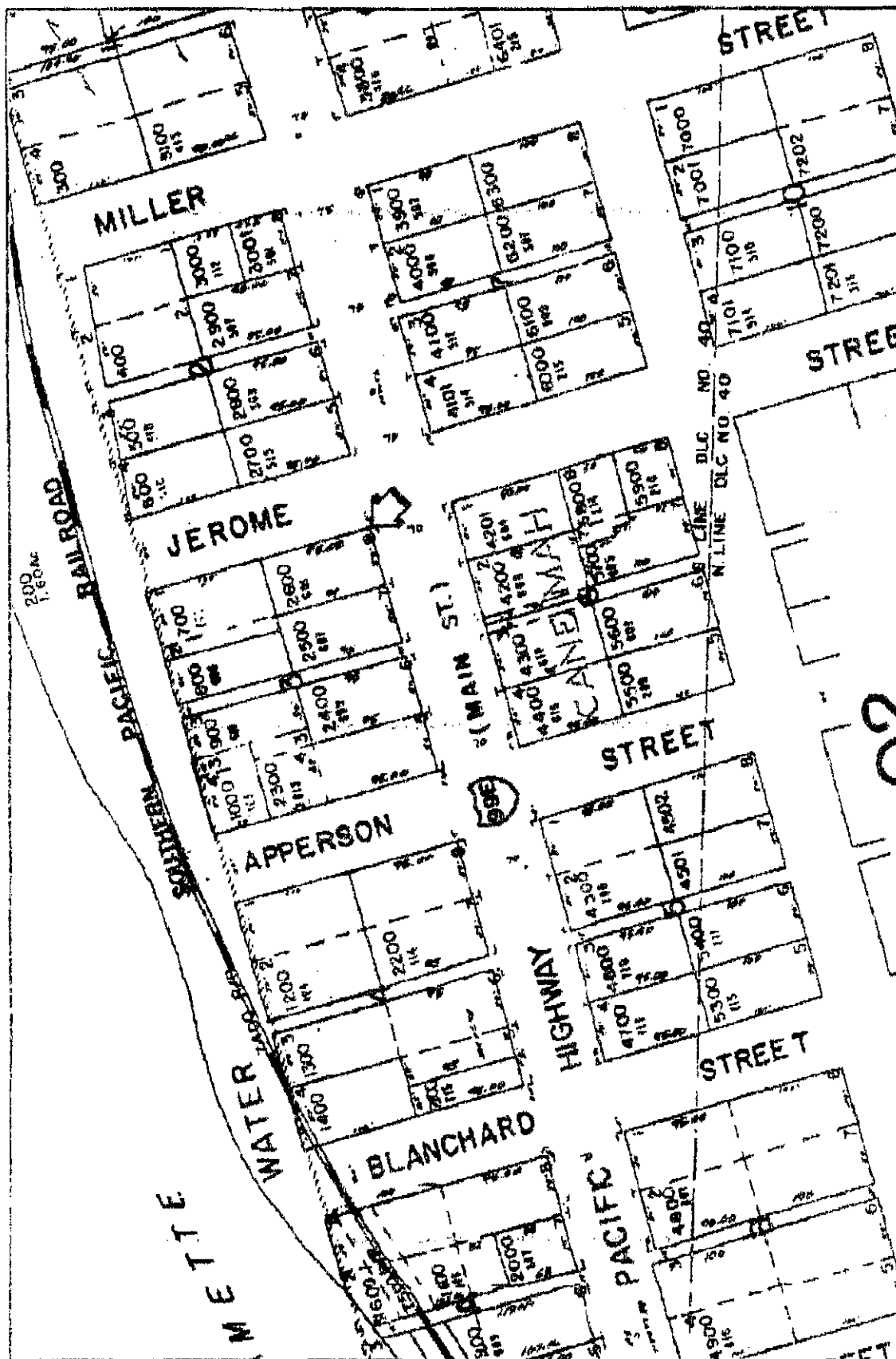
We propose to occupy and operate a small business in the house located at 601 McLoughlin Blvd, (Hwy 99) in the Canemah Historic District, South Oregon City. We understand it is zoned historic commercial and plan to conform to the conditional use allowing office space in a historic district.

We intend to preserve the character of the house and the integrity of the historic district by locating our small company offices' in the structure. We are a general building / planning, and administrative company with (4) employees. We do not operate or store equipment and will use the space for office functions only. We do not plan on any alterations to the structure. We do intend to paint and perform routine maintenance on the house as weather permits.

The house has been occupied for the last 47 years as a residence and is adaptable to our uses without alterations. We believe this is the highest and best use of the property and meets the criteria and the goal of the historic district. The proposed occupancy will add beauty and value to the district and preserve the historic flavor of the neighborhood. It will provide jobs and economic development in the south side of the city, while having minimal impact on the neighborhood. It is an ideal use of a property that is no longer viable for a residence. It enables the house to be preserved as a structure thereby maintaining the integrity of the district, while making it economically viable for years to come.

Respectfully,

Dan Erwert, Chris Jaeger, and Craig Jaeger

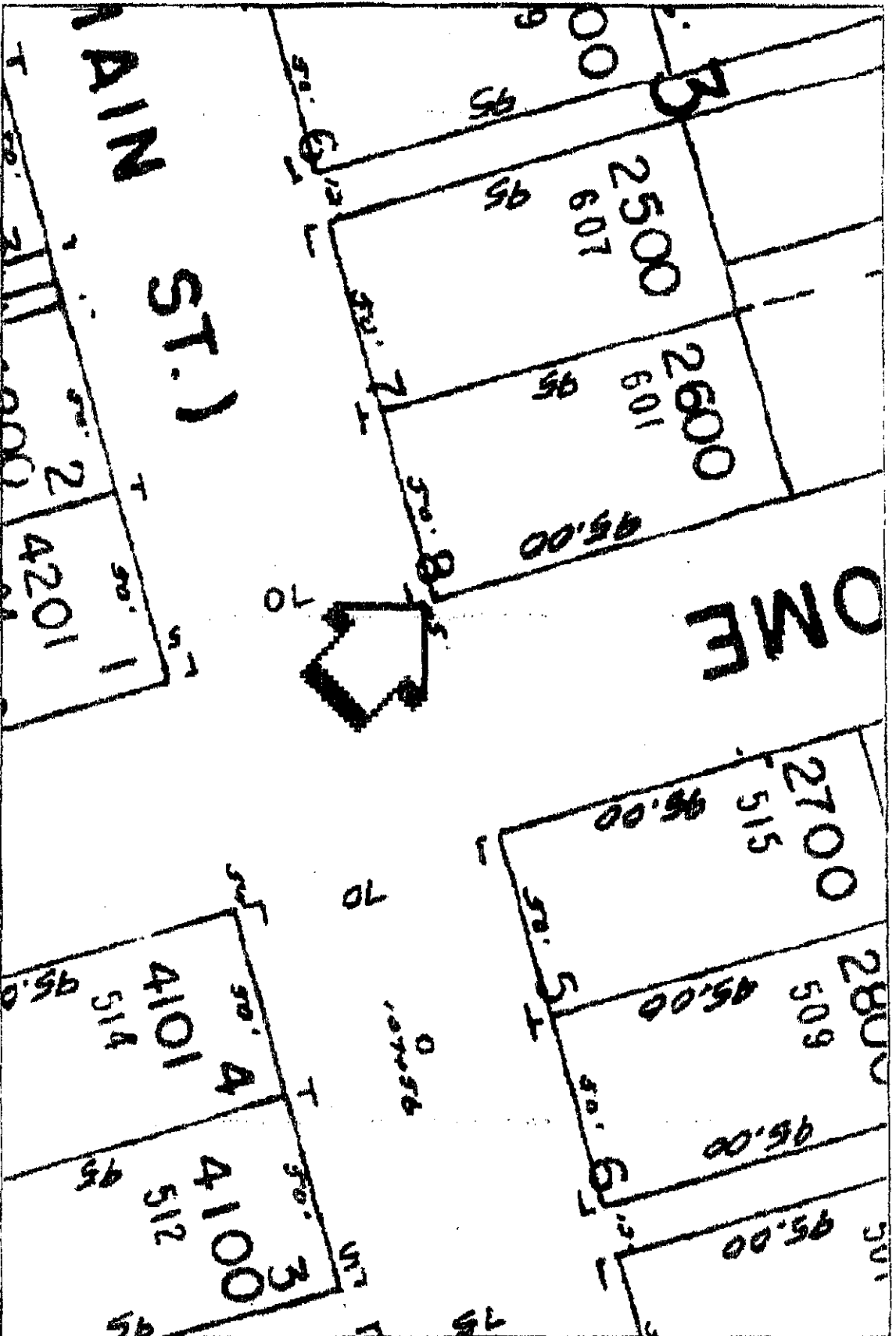


THIS MAP IS FURNISHED AS A CONVENIENCE BY PACIFIC NORTHWEST TITLE

This map is not a survey and does not show the location of any improvements.

The company assumes no liability for errors therein.

MAP # 21E-34DD02560



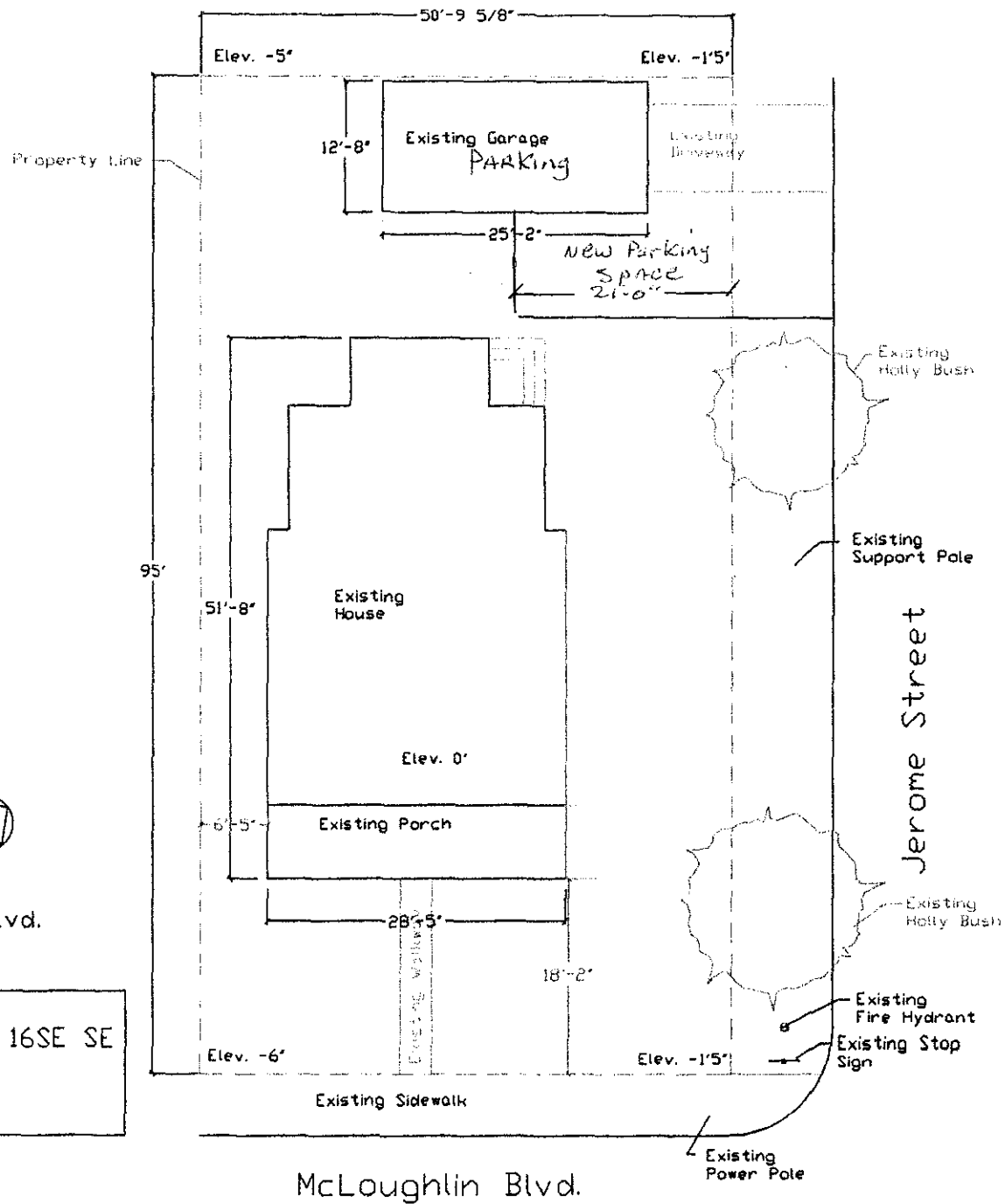
THIS MAP IS FURNISHED AS A CONVENIENCE BY PACIFIC NORTHWEST TITLE
 This map is not a survey and does not show the location of any improvements.
 The company assumes no liability for errors therein.
 MAP # 21E360D62600

Scale: 1"=16'-0"



601 S. McLoughlin Blvd.

LOT DESCRIPTION
Section: 02S 01E 36 16SE SE
Tax Lot: 2600
Tax ID #: 00416482



ANALYSIS AND FINDINGS

The applicant proposes to use an existing single family residence for office use in the Canemah Historic Commercial Zone. The property is currently zoned Historic Commercial and is surrounded by other SFR zoning and uses.

The proposed site is large enough for the existing home and the proposed additional parking space.

The shape is conducive to the placement and functioning of the proposed use.

The existing use of this site for this type of use blends with other uses in the area.

No additional water service is required and therefore the existing waterline meets their requirements.

No additional sanitary service is required and therefore the existing sanitary line meets their requirements.

No additional stormwater service is required and therefore the existing stormwater line meets their requirements.

Hwy 99E/McLoughlin Blvd is classified as a Major Arterial in the Oregon City Transportation System Plan (TSP). No improvements are required at this time. Jerome Street is classified as a Local Street in the TSP. The Historic Review Board will assess Jerome Street improvements.

Conditions:

1. The Applicant is responsible for this project's compliance to Engineering Policy 00-01 (attached). The policies pertain to any land use decision requiring the applicant to provide any public improvements.
2. The Applicant shall sign a Non-Remonstrance Agreement (NRA) for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement.

OREGON INVENTORY OF HISTORIC PROPERTIES
HISTORIC RESOURCE INVENTORY FORM

HISTORIC NAME: Lake A. May Residence
COMMON NAME: _____
ADDRESS: 601 S. McLoughlin Boulevard
OWNER: Mr. and Mrs. Haskel Grisham, 601 S.
McLoughlin Boulevard
T/R/S: 2-1E-36DD TAX LOT: 2600
ADDITION: Plat of Canemah
LOT: 8 BLOCK: 3 QUAD: Oregon City

DATE OF CONSTRUCTION: 1907
ORIGINAL USE: Residence
PRESENT USE: Residence
ARCH./BLDR.: Unknown
STYLE: Vernacular
BLDG. STRUC. DIST. SITE OBJ. (CIRCLE)
THEME: Architecture, 20th Century

PLAN TYPE/SHAPE: Rectangular NO. OF STORIES: 2
FOUNDATION MATERIAL: Concrete BASEMENT (Y/N): No
ROOF FORM & MATERIALS: Steeply-pitched gable. Shed-roof front dormer. Composition.
WALL CONSTRUCTION: Wood STRUCTURAL FRAME: Stud
PRIMARY WINDOW TYPE: Mostly one-over-one double-hung. Set of four in front dormer.
SURFACING MATERIALS: Shiplap siding in dormer. Shingles on rest of house.
DECORATIVE FEATURES: Front porch has four square columns with simple capitals.
OTHER: Full-length porch with return gable end. Central chimney.
CONDITION: EXCELLENT _____ GOOD _____ FAIR X DETERIORATED _____ MOVED _____ (date)
SUPERIOR ALTERATIONS/ADDITIONS (dated): Siding altered, n.d. Front window altered in
1920's.
NOTEWORTHY LANDSCAPE FEATURES: None.
ASSOCIATED STRUCTURES: Shed.
KNOWN ARCHAEOLOGICAL FEATURES: None.
GEOGRAPHIC SETTING: Located on South McLoughlin Boulevard, a heavily-traveled State
highway. An area of mixed commercial and residential uses.

STATEMENT OF SIGNIFICANCE: (Historical and/or architectural importance, dates, events, persons, contexts): Lake A. May was a supervisor or foreman for the transportation of logs
along the river for the Crown-Willamette Paper Company. He was born in Canemah in 1877.
He was associated with the N.R. Lang steamer and the Crown-Willamette Company. He was
the son of Narcissa Bowers (May) and W.B. May (607 S. McLoughlin). In the early 1930's,
the Mays sold the house to Alfred and Lucille Klemsen. Alfred worked for Crown Zellerbach
as a logger, and later became a licensed plumber. This is a typical cottage for the
period and neighborhood.

SOURCES: Sanborn Insurance Map, 1900, 1911, 1925. Pioneer National Title Company Records,
Oregon City. Clackamas County Tax Rolls, 1901, 1905, 1910, 1915. Federal Census, 1880.
Interviews with Howard Klemsen and Crystal Linn, by Pat Erigero, 1983.

NEGATIVE NO: IV-E-12, 13
DE NO: _____

RECORDED BY: Patricia Erigero
DATE: 1983

INVENTORY NO.: _____

Exhibit 4

OREGON INVENTORY OF HISTORIC PROPERTIES
HISTORIC RESOURCE INVENTORY FORM - TWO

NAME: Lake A. May Residence

T/R/S: 2-1E-36DD TAX LOT 2600

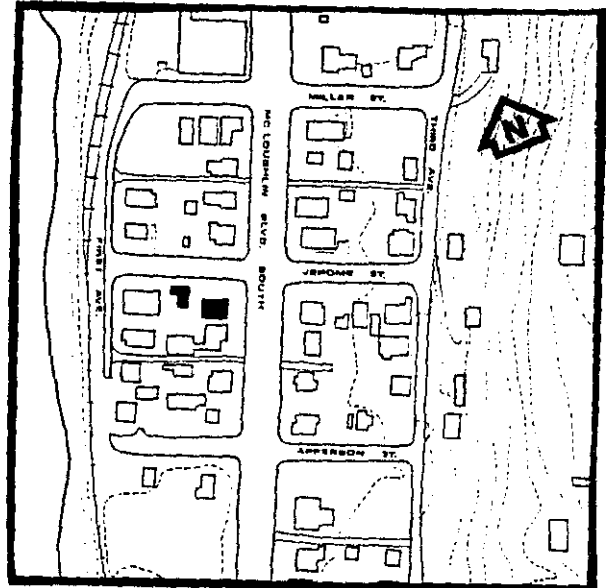
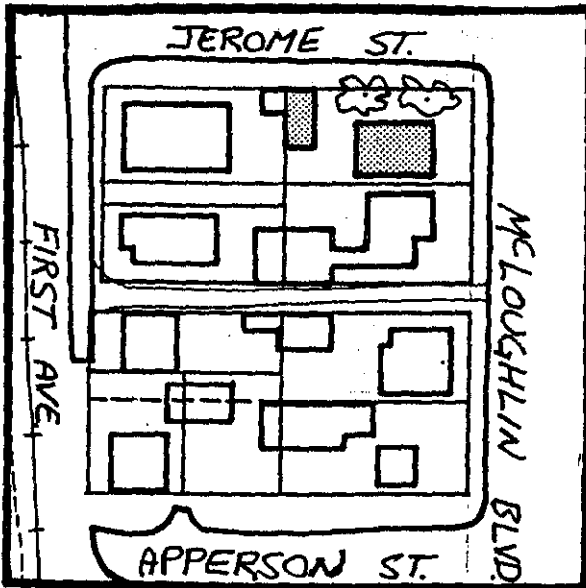
ADDRESS: 601 S. McLoughlin Boulevard

QUADRANGLE: Oregon City



NEGATIVE NO. IV-E-12, 13

SLIDE NO. _____



GRAPHIC AND PHOTO SOURCES: Base Map of Canemah. Oregon City Planning Department
Photograph, 1988.

SHPO INVENTORY NO.: _____

CITY OF OREGON CITY

PLANNING COMMISSION

320 WARNER-MILNE ROAD
TEL (503) 657.0891

OREGON CITY, OREGON 97045
FAX (503) 722.3880



TO: Planning Commission

FROM: Tony Konkol, Associate Planner

DATE: May 30, 2003

SUBJECT: Cancellation of the noticed Code Interpretation Public Hearing (File CD 03-01)

The applicant, Oregon City School District, at the direction of City staff, requested a Code Interpretation before the Planning Commission to determine if a sign with static LED text is considered a prohibited sign under the Sign section of the Oregon City Municipal Code (OCMC). Staff noticed all property owners with 300 feet of the site, had the applicant post the property, and advertised the hearing in the Clackamas Review. Staff received no comments concerning the application.

After further review of Chapter 15.28 – Signs it was determined that the issue did not need to be brought before the Planning Commission for a determination. Section 15.283.020 – Definitions defines the Sign Official as follows:

The person designated by the City Manager to enforce the provisions of this chapter, including the review of permit applications, the interpretation of the provisions of this chapter, and the issuance of permits.

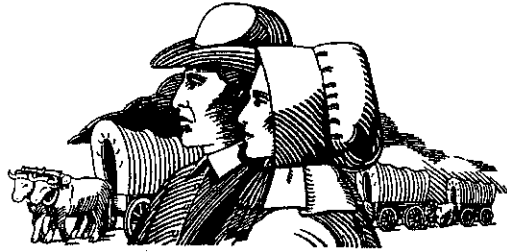
It was determined that the proposed sign with the static LED text is not a prohibited sign provided the message is not changed more than once a day. If the variance is approved and the applicant makes an application with the City that is approved, Section 15.28.030.C – Appeals provides any person aggrieved by the decision of the sign official to appeal the decision to the Planning Commission. Any such appeal shall be in writing and be received by the city recorder no later than ten days after the date the challenged is final and shall comply with the appeal requirements and procedures as established in the code.

CITY OF OREGON CITY

Planning Commission

320 WARNER MILNE ROAD
TEL (503) 657-0891

OREGON CITY, OREGON 97045
FAX (503) 722-3880



FILE NO.: VR 03-09

Complete: April 2, 2003
120-Day: July 31, 2003

APPLICATION TYPE: Type III

HEARING DATE: June 9, 2003
7:00 p.m., City Hall
320 Warner Milne Road
Oregon City, OR 97045

APPLICANT: Oregon City School District #62
Ken Rezac
PO Box 2110
Oregon City, Oregon 97045

REPRESENTATIVE: Eldon Edwards
10121 SE Sunnyside Road, Ste. 335
Clackamas, Oregon 97015

Soderstrom Architects, P.C.
Marc Bevens
1200 NW Naito Parkway, Ste. 410
Portland, Oregon 97209

REQUEST: The applicant is requesting a Variance to increase the permitted sign face sign allowed in a residential zone from 20 square feet per sign face to 50 square feet per sign face and increase the permitted sign height allowed in the residential zone from 5 feet to a maximum of 30 feet.

LOCATION: 19771 Beavercreek Road, Clackamas County Map 3S-2E-9D, Tax Lot 1300.

REVIEWER: Tony Konkol, Associate Planner

RECOMMENDATION: Approval

PROCESS: Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations and those rezonings upon annexation under Section 17.06.050 for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

DECISION CRITERIA:	<i>Chapter 15.28</i>	<i>SIGNS</i>
	<i>Chapter 17.10</i>	<i>R-8 SINGLE-FAMILY DWELLING DISTRICT</i>
	<i>Chapter 17.50</i>	<i>ADMINISTRATION AND PROCEDURES</i>

I. BACKGROUND

The applicant is requesting a Variance to the maximum sign height and the maximum area per sign face allowed in a residential zone. The Oregon City High School – Moss Campus is located on several separate tax lots with zoning designations of R-8 Single-Family, R-10 Single-Family, and Campus Industrial (Exhibit 1). The Planning Commission approved a Conditional Use Permit for the development of the new High School on the site on June 11, 2001 (File CU 01-01). The applicant has proposed to place up to a maximum 30-foot tall sign with approximately 50 square feet of area per sign face on a tax lot near the intersection of Beavercreek Road and Meyers Road that is zoned R-8 Single-Family (Exhibit 2). The applicant has indicated that the 30-foot tall maximum allowed in a non-residentially zoned property with frontage in excess of 200 feet is being requested in order to ensure that the recently planted street trees along Beavercreek Road do not block the sign out. The applicant is requesting a variance from the following standards of the Oregon City Municipal Code (OCMC) Section 15.28.070: Signs in Residential Zones:

- 1) Maximum twenty square feet per sign face; and
- 2) Five feet maximum height above grade.

The tax lot that the applicant is proposing to place the sign on has approximately 195 feet of frontage on Beavercreek Road, while the total site frontage on Beavercreek Road is approximately 1,114 feet. The Oregon City Municipal Code allows a sign on a property zoned "CI" Campus Industrial with a frontage length in excess of 200 feet to have a sign with a maximum area of 150 square feet per sign face and a maximum height of 30 feet. The applicant has proposed to place a sign with 50 square feet per sign face and a maximum height of 30 feet, which; as stated above, is permitted in non-residentially zoned properties with a similar frontage length.

The requested variance is to the standards for locating a sign in a residential zone. Should the Planning Commission approve the requested variance, the applicant is still responsible for obtaining a sign permit from the City and meeting all applicable building code requirements associated with the construction of the sign.

II. BASIC FACTS

A. Location and Current Use

The property is located at 19771 Beavercreek Road and identified as Clackamas County Map 3S-2E-9D, Tax Lot 1300. The tax lot, in conjunction with surrounding tax lots, is being used as a high school, which was approved by the Planning Commission as an approved Conditional Use on the site.

B. Surrounding Land Uses

North: FU-10 (County)-Low Density Residential Use, R-10 Single-Family Residential, Light Industrial;
 East: R-6 and R-10 Single-Family Residential, Rural County Zoning;
 South: R-6/MH and R-6 Single-Family Residential; and
 West: FU-10 (County) and R-10 (Clackamas Community College)

C. Public Comment

Notice of the proposal was mailed to property owners within 300 feet on April 11, 2003, advertised in the Clackamas Review on April 23, 2003, and the property was posted on April 23, 2003. The notice indicated that any interested party may testify at the public hearing on June 9, 2003 or submit written comments at or prior to the hearing.

Comments were received from the Oregon City Engineering Department, indicating that the proposal does not conflict with their interests (Exhibit 3). Comments were also received from the Oregon City Building Department, indicating that a building permit with engineering would be required for the sign (Exhibit 4). The comments have been incorporated into this report.

III. DECISION-MAKING CRITERIA AND ANALYSIS

15.28.040 Variances

A. Grounds for Variance. Upon application by an applicant, the Planning Commission may grant a specific variance from provisions of this chapter provided all of the following circumstances exist.

1. *Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same area or vicinity. Such conditions may be the result of an unusual location or orientation of the applicant's building, topography, vegetation, or other circumstance over which the applicant has no control;*

Analysis: The applicant indicates that extraordinary circumstances apply to the property that do not apply to other properties in the surrounding area, but are unique to the applicant's site. The extraordinary circumstances are that the school use has been on the site for 30 years and part of the site being used for a school is in an R-8 zone. The size and location criteria for signs in a residential zone are appropriate for residential uses, but are not appropriate for a high school that was approved for the site through the conditional use permit process.

The height of the sign is determined by the topography of the location and the street trees planted along Beaver Creek Road. The base of the sign is 5 feet below the Beaver Creek Street grade and adequate vision clearance must be maintained below the sign for the intersection of Beaver Creek Road and Meyers Road.

Staff finds that this criterion has been met.

2. *The variance is necessary for the preservation of a right of the applicant substantially the same as is possessed by the owners of other property in the area or vicinity;*

Analysis: As stated above, a school use has been operating on this site for 30 years and other schools in the City have requested and gained approval for larger signs. The subject site is comprised of two tax lots that are zoned "CI" Campus Industrial. One is located directly to the north of the subject tax lot and one is to the west of the tax lot where the sign is proposed. If the proposed sign was located on one of these "CI" zoned tax lots it would be allowed without a variance. Locating the sign on the existing "CI" zoned tax lot to the west would not allow the sign to be seen from Beaver Creek Road, which is where the front of the building is orientated, and placing the sign on the tax lot to the north compromises the visibility of the sign due to existing vegetation along the northern property line of the school property.

Staff finds that this criterion has been met.

3. *The authorization of the requested variance will not be materially detrimental to, or conflict with, the purpose of this chapter or be injurious to the use and enjoyment of other property in the area or vicinity, or the public way, in which the property is located; and*

Analysis: The proposed increase in sign face area and sign height will not be detrimental to, or conflict with, the purpose of this chapter, which includes the allowance of signs compatible with the character and uses allowed in the zoning district in which they are located. The proposed sign will not reduce the light, air, or safe access to adjacent properties. The properties to the north are either zoned, or have a Comprehensive Plan Land Use designation for non-residential uses, which would allow the proposed

sign without a variance. Directly east of the site is Beaver Creek Road, a Major Arterial in the Oregon City Transportation System Plan. The sign would be located approximately 140 feet north of the residentially zoned properties to the south of the site. The applicant has indicated that the text of the LED reader board will be designed with low intensity lighting that will be changed once per day, minimizing the impacts to the surrounding properties and vision of vehicles traveling on Beaver Creek Road (Exhibit 5).

Staff finds that this criterion has been met.

4. The variance requested is the minimum variance necessary to alleviate the identified hardship.

Analysis: As stated earlier, the size of the sign is determined by the ability to read the text in a moving vehicle traveling at the speed limit along Beaver Creek Road. The height is determined by the topography of the location and the street trees planted along Beaver Creek Road. The base of the sign is 5 feet below the street grade and adequate vision clearance must be maintained below the sign for the intersection of Beaver Creek Road and Meyers Road.

Staff finds that this criterion has been met.

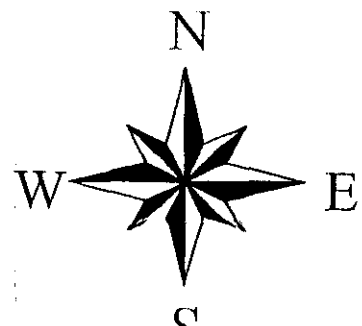
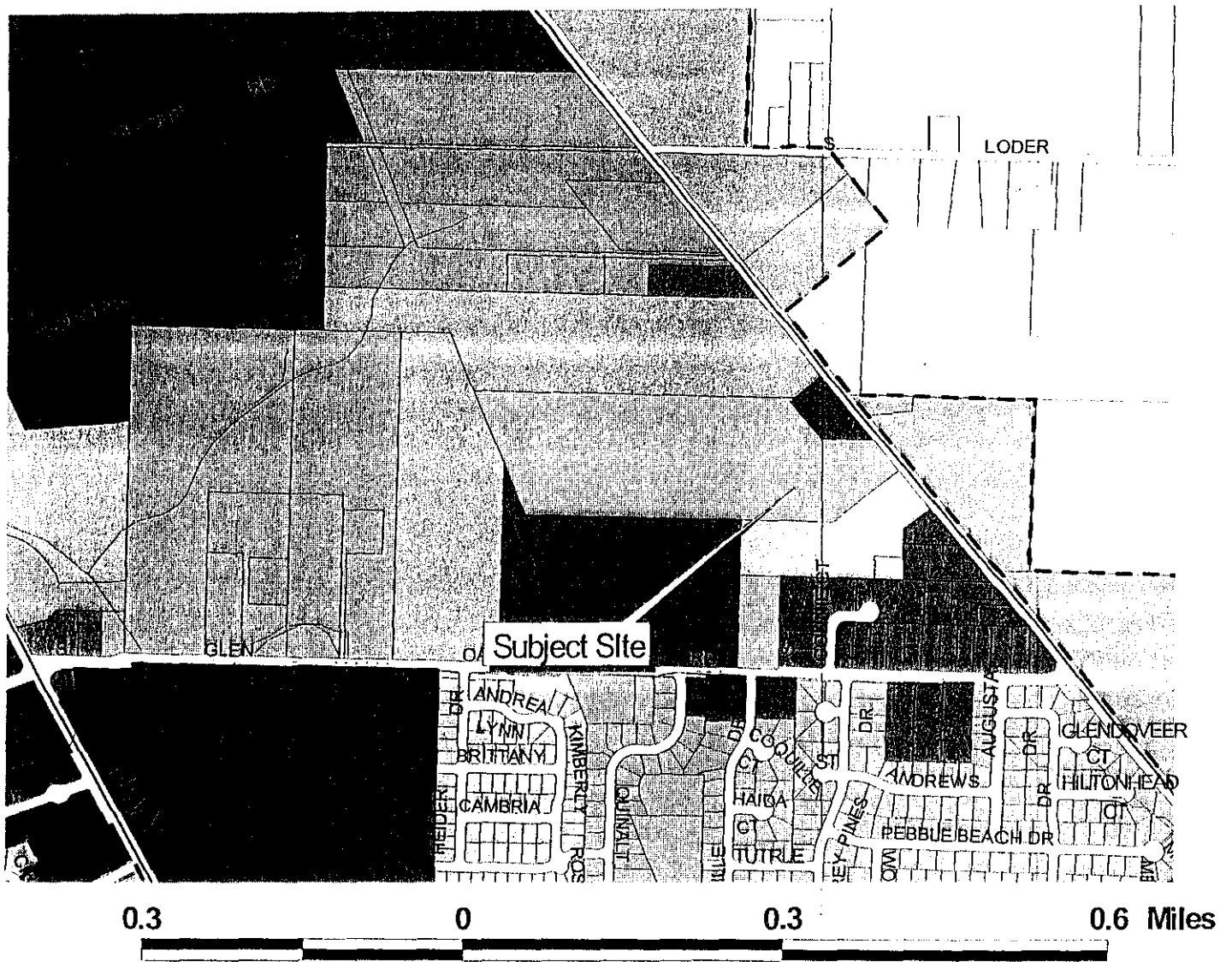
IV. CONCLUSION AND DECISION

Based on the analysis and findings as described above, staff concludes that the request variance to OCMC 15.28.070.B.2 and OCMC 15.28.070.B.4 meets the requirements of OCMC 15.28.040 – Variances. Therefore, staff recommends that the Planning Commission approve Planning File VR 03-09 for the property located at 19771 Beaver Creek Road and identified as Clackamas County Map 3S-2E-9D, Tax Lot 1300.

V. EXHIBITS

1. Site Map
2. Applicant's narrative
3. Oregon City Engineering Department Comments
4. Oregon City Building Department Comments
5. City of Oregon City / Oregon City School District No. 62 Letter of Agreement

Planning Files VR 03-09 and CD 03-01 Moss Campus High School



Variances

The variances requested are for:

1. Sign face size is proposed to be 10'x5' or 50 square feet.
The R-8 zone allows 20 square feet per face.
2. Sign height is proposed to be a maximum of 30 feet.
The R-8 zone allows 5 feet maximum above grade.

15.28.040 Variances

- A. Grounds for Variance. Upon application by an applicant, the Planning Commission may grant a specific variance from provisions of this chapter provided all of the following circumstances exist.

1. *Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same area or vicinity. Such conditions may be the result of an unusual location or orientation of the applicant's building, topography, vegetation, or other circumstance over which the applicant has no control;*

Extraordinary circumstances apply to the property that do not apply to other properties in the surrounding area, but are unique to the applicant's site. The extraordinary circumstances are that part of the site being used for a school is in an R-8 zone. The size and location criteria for signs in a residential zone are appropriate for residential use, but not too useful for a high school. The school uses have been conditional uses in most city zones since zoning was adopted. This school use has occupied the site for 30 years. Ideally a public or institutional designation would provide criteria workable for a public use.

The difficulty is driven by the fact that placing the sign at a location where the zoning allows the larger sign would compromise the sign visibility. The size of the sign is determined by the ability to read the text in a moving vehicle traveling at the speed limit along Beavercreek Road. The height is determined by the topography of the location and the location of street trees along Beavercreek Road. The base of the sign is 5' below the street grade and adequate vision clearance must be maintained below the sign.

2. *The variance is necessary for the preservation of a right of the applicant substantially the same as is possessed by the owners of other property in the area or vicinity;*

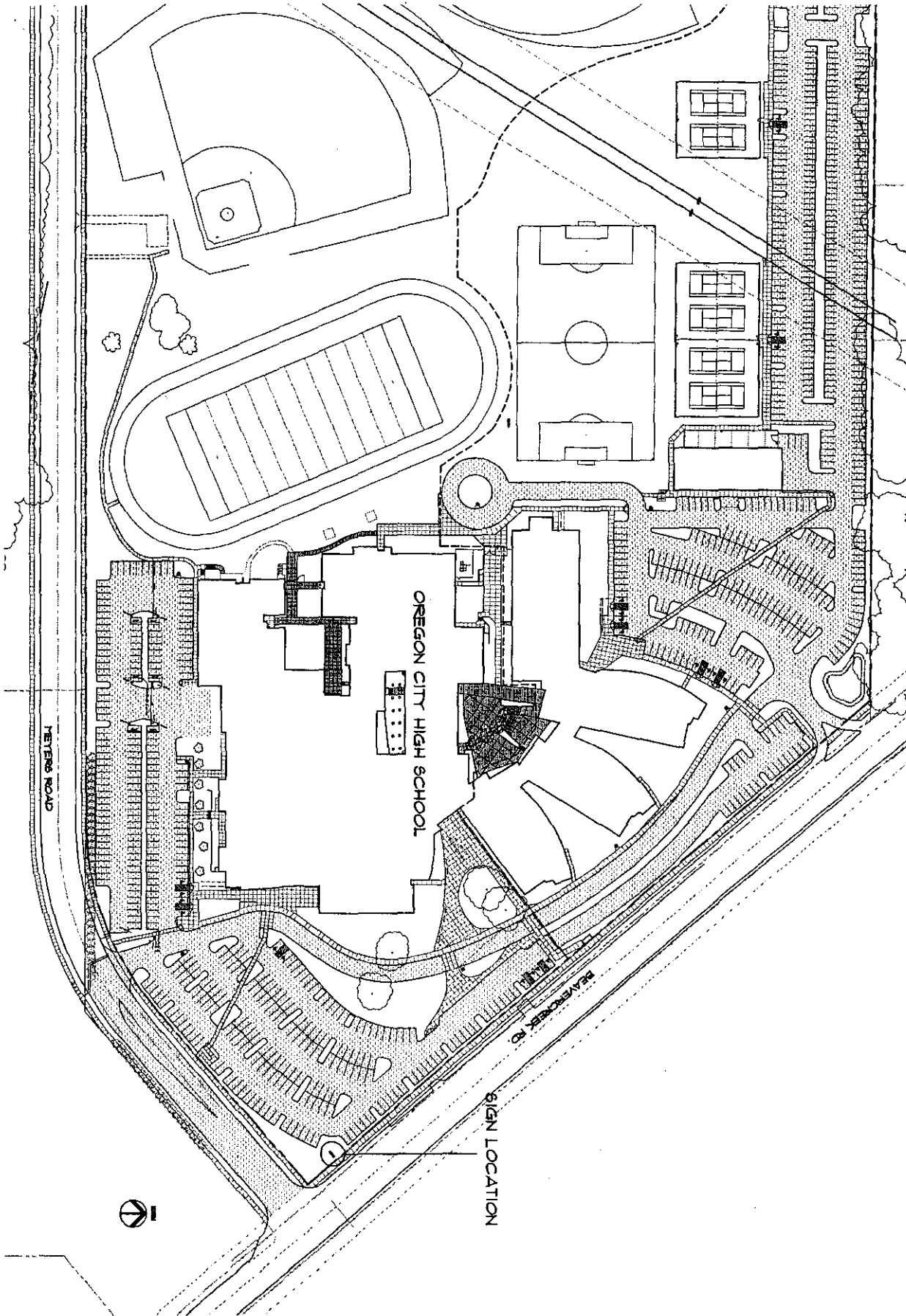
A school use has been operating on the site for 30 years and other schools in the City have requested and gained approval for larger signs. The subject site is comprised of two tax lots that are zoned "CI" Campus Industrial. One is located directly to the north of the subject tax lot and one is to the west of the tax lot where the sign is proposed. If the proposed sign were located on one of these "CI" zoned tax lots it would be allowed without a variance. Locating the sign on the existing "CI" zoned tax lot to the west would not allow the sign to be seen from Beavercreek Road, which is where the front of the building is orientated, and placing the sign on the tax lot to the north compromises the visibility of the sign due to existing vegetation along the northern property line of the school property.

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OREGON CITY HIGH SCHOOL

PETERS ROAD

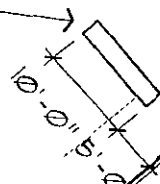
ROADWAY TO

SIGN LOCATION



MEYERS ROAD

SIGN LOCATION



BEAVER CREEK RD.



1" = 20'-0"

CITY OF OREGON CITY - PLANNING DIVISION
PO Box 3040 - 320 Warner Milne Road - Oregon City, OR 97045-0304
Phone: (503) 657-0891 Fax: (503) 722-3880

TRANSMITTAL

April 11, 2003

IN-HOUSE DISTRIBUTION

- ☒ BUILDING OFFICIAL
- ☒ ENGINEERING MANAGER
- ☐ FIRE CHIEF
- ☒ PUBLIC WORKS- OPERATIONS
- ☐ CITY ENGINEER/PUBLIC WORKS DIRECTOR
- ☐ TECHNICAL SERVICES (GIS)
- ☐ PARKS MANAGER
- ☐ ADDRESSING
- ☐ POLICE
- TRAFFIC ENGINEER**
- ☐ Mike Baker @ DEA

MAIL-OUT DISTRIBUTION

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- ☒ NEIGHBORHOOD ASSOCIATION (N.A.) CHAIR
- ☒ N.A. LAND USE CHAIR (2) *Canfield*
- ☐ CLACKAMAS COUNTY - Joe Merek
- ☐ CLACKAMAS COUNTY - Bill Spears
- ☐ ODOT - Sonya Kazen
- ☐ ODOT - Gary Hunt
- ☐ SCHOOL DIST 62
- ☐ TRI-MET
- ☐ METRO - Brenda Bernards
- ☐ OREGON CITY POSTMASTER
- ☐ DLCD

RETURN COMMENTS TO:

Tony Konkol
Planning Division

COMMENTS DUE BY: May 23rd, 2003

HEARING DATE: **June 9, 2003** (Type III)
HEARING BODY: Staff Review: ___ PC: XX CC: ___

IN REFERENCE TO

FILE # & TYPE:

PLANNER:
APPLICANT:
REQUEST:
LOCATION:

- 1) VR 03-09: Increase the maximum sign face allowed in a residential zone from 20 to 50 feet per sign face and increase the sign height from 5 to 15 feet.
 - 2) CD 03-01: Code interpretation that the LED lighting proposed in the sign is not a prohibited sign.
- Tony Konkol, Associate Planner
Oregon City School District: Moss Campus
Variance and Code Interpretation
Map # 3S-2E-9D, Tax Lot 1300.

This application material is referred to you for your information, study and official comments. If extra copies are required, please contact the Planning Department. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return the attached copy of this form to facilitate the processing of this application and will insure prompt consideration of your recommendations. Please check the appropriate spaces below.

 /

The proposal does not
conflict with our interests.

_____ The proposal conflicts with our interests for
the reasons stated below.

_____ The proposal would not conflict our
interests if the changes noted below
are included.

_____ The following items are missing and are
needed for review:

Signed
Title

Robert C. ...
ENG MGR

PLEASE RETURN YOUR COPY OF THE APPLICATION AND MAT

Exhibit

3

CITY OF OREGON CITY - PLANNING DIVISION
PO Box 3040 - 320 Warner Milne Road - Oregon City, OR 97045-0304
Phone: (503) 657-0891 Fax: (503) 722-3880

TRANSMITTAL

April 11, 2003

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RETURN COMMENTS TO:

COMMENTS DUE BY: May 23rd, 2003

Tony Konkol
Planning Division

HEARING DATE: **June 9, 2003** (Type III)
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REQUEST:
LOCATION:

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conflict with our interests.

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the reasons stated below.

 X The proposal would not conflict our
interests if the changes noted below
are included.

_____ The following items are missing and are
needed for review:

Bldg. Permit w/ Engineering Reg'd on sign

Signed _____
Title BO

PLEASE RETURN YOUR COPY OF THE APPLICATION AND M

Exhibit 4

MEMORANDUM

SODERSTROM ARCHITECTS, P. C.

architecture § planning § exterior restoration § interior design

DATE May 29, 2003

Tony Konkell, Oregon City Planning Division

TO

FROM Marc Bevens

PROJECT / NO. OCHS/00100

FILE NUMBER Document2

DISTRIBUTION

Removal of Reader Board Code Interpretation " CD

SUBJECT 03-01" via letter of agreement

REMARKS

The following letter of agreement between the City of Oregon City and The Oregon City School District No. 62 will withdraw the Code Interpretation request and refund the applicants filing fee.

The proposed sign on the Beavercreek Frontage of the Oregon City School District-Moss Campus does not have any flashing lights or revolving lights, rotating or moving lights and the sign does not move or have any moving parts as defined in the Oregon City Municipal code.

The proposed sign is a static LED text only, changed once a day at maximum.

In the future, should the District want to change the static LED text more than once a day, the District will take the request before the Planning Commission.

Ken Rezac
Business Manager
Oregon City School District No. 62

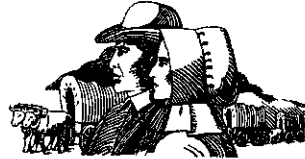
Dan Drentlaw
Community Development Director
City of Oregon City

CITY OF OREGON CITY

PLANNING COMMISSION

320 WARNER-MILNE ROAD
TEL (503) 657.0891

OREGON CITY, OREGON 97045
FAX (503) 722.3880



TO: Planning Commission

FROM: Tony Konkol, Associate Planner

DATE: May 30, 2003

SUBJECT: Planning Files PD 03-01, WR 03-01, and VR 03-11 (Paul Reeder: Planned Unit Development, Water Resource Determination, and Pedestrian Lighting Variance)

The applicant has requested that the Planning Commission continue the hearing for the above referenced files to June 32, 2003 (Exhibit 1). The reason for this request is so that the applicant, Sisul Engineering, and the City may further discuss the design options and alternatives for the project site concerning the proposed Planned Unit Development and Water Resource Determination.

As part of the continuance, the applicant has granted the City an additional 14 days for a decision beyond the 120-day requirement, extending the date from August 7, 2003 to August 21, 2003.

Staff recommends a continuance of the public hearings for the Planned Unit Development (PD 03-01), Water Resource Determination (WR 03-01), and Pedestrian Lighting Variance request (VR 03-11) to the date certain of June 23, 2003.

SISUL ENGINEERING

A Division of Sisul Enterprises, Inc.

375 PORTLAND AVENUE, GLADSTONE, OREGON 97027

(503) 657-0188

FAX (503) 657-5779

May 30, 2003

City of Oregon City
PO Box 3040
Oregon City, OR 97045

ATTN: Tony Konkol

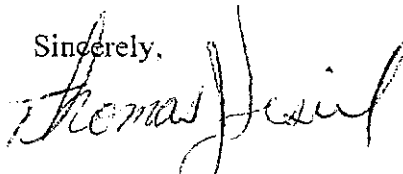
RE: Rose Vista; J.O. SGL00-107
City file #PD03-01, WR03-01, VR03-11, & SP03-07

Dear Mr. Konkol:

Per your request the applicant will grant a continuance of the Planning Commission Hearing for this development until the June 23, 2003, Planning Commission meeting. As part of this request for continuance we grant the City an additional 14 days to the 120-day time limit.

Should you have any questions, please feel free to give me a call.

Sincerely,



Thomas J. Sisul, P.E.

TJS/lae
pc: Paul Reeder

Exhibit 1