

**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 7<sup>th</sup> Street to Beaver creek 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 imperial 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 7<sup>th</sup> 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 7<sup>th</sup> 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 Beaver Creek 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 Huiras 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 7<sup>th</sup> 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 7<sup>th</sup> 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 11<sup>th</sup> 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 4<sup>th</sup>, June 11<sup>th</sup>, and June 18<sup>th</sup>. **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 4<sup>th</sup>, **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 4<sup>th</sup> 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.

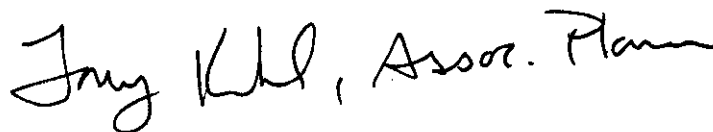
**Chair Carter** encouraged that people call her or each other if they wanted to just chat about things in general, although they couldn't get into quasi-judicial issues outside a public forum.

### 3. Adjourn

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

  
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Linda Carter, Planning Commission  
Chairperson

\_\_\_\_\_  
Dan Drentlaw, Planning Director

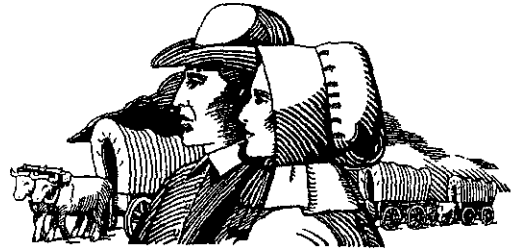
  
Jany Kohl, Assoc. Planner

# CITY OF OREGON CITY

## PLANNING COMMISSION

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## AGENDA

City Commission Chambers - City Hall  
May 12, 2003 at 6:00 P.M.

**\*\*PLEASE NOTE THE CHANGE IN START TIME TO 6 PM\*\***

The 2003 Planning Commission Agendas, including Staff Reports and Minutes, are available on the Oregon City Web Page ([www.oregoncity.org](http://www.oregoncity.org)) under PLANNING.

### PLANNING COMMISSION MEETING

- 6:00 p.m. 1. **CALL TO ORDER**
- 6:01 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 6:02 p.m. 3. **APPROVAL OF MINUTES: April 28, 2003.** (Minutes are available on the Oregon City Web Page [[www.oregoncity.org](http://www.oregoncity.org)] under PLANNING)
- 6:05 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

7:00 p.m. 5. **HEARINGS (Not to begin before 7pm):**

**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-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 9, 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 9, 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.

**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.

**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.

8:25 p.m. 6. **NEW BUSINESS:**

8:30 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.

**CITY OF OREGON CITY  
PLANNING COMMISSION MINUTES  
April 28, 2003**

**COMMISSIONERS PRESENT**

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

**STAFF PRESENT**

William Kabeiseman, City Attorney  
Christina Robertson-Gardiner, Associate Planner  
Pat Johnson, Recording Secretary

**COMMISSIONERS ABSENT**

None

**1. CALL TO ORDER**

**Chair Carter** called the meeting to order at 7:02 p.m.

**2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**

None.

**3. APPROVAL OF MINUTES: February 24, 2003; March 10, 2003; March 24, 2003; April 8, 2003; and April 14, 2003.** **Chair Carter** noted that Bob Cullison had submitted an e-mail dated 4/24/03 with some minor corrections to the 2/24/03 and 3/10/03 minutes involving the spelling correction from “Beene” to “Bean” throughout; clarification of the words “auto direction” to “out of direction” (2/24—page 8, paragraph 6, and 3/10—page 2, paragraph 2); and a note regarding punctuation on page 8.

**Chair Carter** also noted that there were two pages numbered “page 5” in the minutes of 4/8/03, so the second one should be corrected to “page 6.”

**Powell** said that the reference to “Lajoie” should be “Powell” in the minutes of 2/24/03, page 3, paragraph 3, which reads, “Lajoie asked what the condition of the man-made pond is...”. **Lajoie** concurred.

**Powell** moved to approve all the minutes submitted at this meeting with the amendments as stated above. **Orzen** seconded the motion, and it passed unanimously.

**4. HEARINGS:**

**Chair Carter** explained that all three of the hearings on the public hearing agenda were quasi-judicial in nature, explaining that there was a request for a sign variance at John McLoughlin School, and two applications by The Church of Jesus Christ of Latter Day Saints C/O Mark Cottle, the first being for a Conditional Use Permit (CUP) for a proposed high school seminary building and the second being a variance to reduce the number of parking spaces from 15 to 7.

She then gave the parameters and procedures for these hearings.

**VR 03-05 (Quasi-Judicial Sign Variance Hearing), John McLoughlin School PTSO C/O Candy Rayburn & Karen Craven; Request for a Variance to the height, size and material standard for a proposed sign at John McLoughlin School for the property identified as 3S-1E-12AC, Tax Lot 4500.**

**Chair Carter** opened the public hearing at 7:05 p.m. and asked if any of the commissioners had any conflicts of interest or bias with this application, and there were none.

**Christina Robertson-Gardiner** gave the staff report, using three overheads to show the location, the proposed sign, and a larger picture of the location. She explained that the applicant is requesting a variance to the height, size, and material standard for a proposed sign at John McLoughlin School. As proposed, the metal sign with vinyl lettering is five feet from the sidewalk on south End Road, 13-feet tall with a 4-foot by 8-foot sign face. There is an existing 8-foot tall wire fence between the proposed sign and the sidewalk. The standard requires that the proposed signs be made of natural materials, be a maximum of five feet above grade, and not exceed 20 square feet per sign face. The applicant is requesting the variance to allow for greater visibility from South End Road.

**Robertson-Gardiner** said the property is surrounded by a mix of R-10 and R-8 zoned single-family properties. She said transmittals on the proposal were sent to various City departments, affected agencies, property owners within 300 feet, and the South End Neighborhood Association. No comments were received.

Staff finds that:

- The height and width of the proposed non-illuminated sign will not impact other properties.
- The request for a variance is for safety and visibility reasons rather than a monetary hardship or inconvenience.
- No practical design alternatives were found by the applicant that would alleviate safety concerns without requiring a variance request.
- The proposed sign will allow a greater degree of communication between the school and the neighborhood for various after-school events.
- The variance requested is the minimum variance, which would alleviate the hardship.

Staff recommended that the Planning Commission (PC) approve the variance requested in file VR 03-05 subject to the Conditions of Approval (COA's) contained in report.

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

**Mengelberg** asked what materials were used for the sign that was recently approved for Mt. Pleasant School. **Robertson-Gardiner** said they were similar in that the sign was non-illuminated and metal, although that sign was slightly smaller. She said the main difference here is the variance for more height in order for this sign to be seen clearly over the existing fence.

**Carol Sanders**, the principal of John McLoughlin Elementary School, spoke on behalf of the applicant. She said they have been working on this project for two years, during which there has been a lot of discussion and input between the school and the community.

**Kathy Hogan**, 19721 S. Central Point Road, identified herself as being from Hazel Grove/Westling Farm Neighborhood Association and she had just confirmed with staff this evening that the school is actually located in their neighborhood. Therefore, they should have been noticed so they could have responded. She asked for confirmation that the new proposed sign would not block sighting as people access and leave the school. **Robertson-Gardiner** confirmed that the sign would be located behind the existing fence and noted that this was part of the reason behind the height request. **Hogan** was satisfied with that answer.

**Chair Carter** closed the public hearing at 7:12 p.m.

**Orzen** noted that this is the second request for sign variance from schools and she suggested that perhaps a review of the zoning codes might be in order to make allowances and/or streamline the process for schools, particularly since it is quite an involved process which costs the school district money they don't really have. **Robertson-Gardiner** said staff would pass the suggestion on to Dan Drentler, the Community Development Director, noting that this might be an appropriate time to consider it since a review of Code is currently in process.

**Powell** said he is not fond of the material because he doesn't think it fits in with the character of Oregon City but he appreciates the height and he understands the need. He said he was originally somewhat confused about the location and height as shown in the pictures in the packet, but now that he has seen it and it has been clarified that it will be behind the fence, he understands the need. He said he had no issue with this request but he would like to suggest that, long-term, they consider more closely the materials being proposed.

**Mengelberg** asked what colors have been proposed, and **Sanders** said the star would be blue and the rest of the sign (the face) would be white.

**Chair Carter** said, speaking from experience, that plastic signs are not necessarily the most beautiful but they are the most durable and part of the concern is getting the most for the money. **Powell** said he could appreciate and understand that.

**Mengelberg** asked if this is the only material that allows for adding and removing letters, or if there might be natural materials that could serve that function. **Robertson-Gardiner** said she doesn't have an extensive knowledge of the different types, but she said general observation of other school and city signs shows that the face needs to be plastic, although perhaps the supporting materials might be of more natural materials.

**Lajoie** said the reason for the use of signs is to attract attention, so he suggested that when the sign Code is reviewed, those involved should look at the qualitative aspect. For example, in this instance, he doesn't think the issue is so much that the materials are plastic and vinyl, but that perhaps something more could be done to improve the visual aspect of the base to provide unity (i.e., planting something to fill in at the base).

**Orzen** moved to approve VR 03-05 for a variance to the height, size and material standard for a proposed sign at John McLoughlin School with the Conditions of Approval as suggested by staff. **Lajoie** seconded the motion, and it passed unanimously.

**CU 03-01 (Quasi-Judicial Conditional Use Permit hearing), The Church of Jesus Christ of Latter Day Saints C/O Mark Cottle; Request for Conditional Use to allow a Proposed High School Seminary building for the property identified as Map 3S-2E-9D, Tax Lot 400.**

**VR 03-01 (Quasi-Judicial Parking Variance hearing), The Church of Jesus Christ of Latter Day Saints C/O Mark Cottle; Request for Variance to reduce the parking requirement from 15 spaces to 7 spaces for the property identified as Map 3S-2E-9D, Tax Lot 400.**

**Chair Carter** opened the public hearing at 7:18 p.m. **Kabeiseman** asked if any of the commissioners had any conflict of interest, bias, or other issues to declare. There were none.

**Robertson-Gardiner** asked if both the CUP and the variance could be combined into one presentation, to which **Chair Carter** agreed.

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

**Robertson-Gardiner** gave staff report for both applications using overheads to identify the location and explain the working relationship between the school and the proposed seminary. She said the property, located at 19675 Beaver Creek Road, is located directly north of the new Moss Campus High School and is zoned M-1 Light Industrial. The property originally had a single-family house on it, which is now vacant.

She noted that although this was not a Site Plan and Design Review hearing, she wanted to show an overhead to remind everyone of the proposed site plan and building with access off Beaver Creek Road. She also showed an elevation of the proposed building.

**Robertson-Gardiner** said the applicant is requesting to allow a seminary building to be built adjacent to Oregon City High School Moss Campus. The applicant has also applied for a Site Plan and Design Review of the new building (Type II) and a Planning Commission (PC) Parking Variance (Type III).

According to the applicant, the LDS Church is applying for permission to build a seminary building. Seminary is an instructional program offered by the LDS Church to its members who attend high school. The high school students will attend either prior to school commencing or while school is in session during a release time offered by the School District. A majority of the students will attend when the school is in session. The length of the class will be the same as the length of a class period offered by the school. However, some classes will be held in the evenings from 7:00 to 9:00 p.m. The high school students will access the seminary building by foot. There is no parking offered for students at the site. Approximately 100 - 150 students will utilize the facility. The instructional material will be based on the doctrine of the LDS church. Two full-time employees and a part-time staff person are proposed.

Along with the CUP, the applicant is requesting that a temporary trailer be allowed on site during construction of the building to allow the seminary to begin instruction when the 2003-2004 school year commences (prior to completion of the proposed building). The trailer would be removed prior to the issuance of a Certificate of Occupancy.

Regarding the applicable criteria, staff finds that:

- The site is a logical place for a seminary building. It is directly adjacent to Moss Campus and is sited to allow for easy pedestrian connection to the high school.
- The proposed site is large enough to adequately accommodate the proposed infrastructure and the shape is conducive to the placement and function of the proposed use.
- The site is directly abutting the Moss Campus property and will not preclude the development of adjacent industrially zoned properties.

Staff recommends approval of CU 03-01.

Robertson-Gardiner said the variance request VR 03-01 is a request to reduce the required parking for a religious or church property. Current Code (17.52 - Off-street Parking and Loading) requires one space per four seats or eight feet of bench space in an auditorium. The seminary proposed 30 chairs for each of the two classrooms. Under our Code, that would require 15 parking spaces. The applicant, however, is requesting a variance to seven spaces to accommodate two and a half employees and the occasional visitor.

Staff finds that:

- A reduction in the size of the parking lot does not adversely affect the neighboring properties.
- The requested variance will ensure adequate parking for the projected need of a specific conditional use.

- The variance request conforms to the goals and policies of the Comprehensive Plan by encouraging alternative modes of transportation, a reduction in impervious surfaces, and locating interdependent land uses together.

Together with CU 03-01, staff recommends approval of VR 03-01 for a reduction of parking spaces from 15 to 7.

**Mengelberg** said that this sounds like a school, not a church, and she was puzzled about how even 15 spaces might be considered enough, considering that this is a proposal for 150 high school students, many of whom drive. **Robertson-Gardiner** said the applicant is making the request because the students should be parking at the high school with approved parking passes because this is a release time program during school hours.

**Chair Carter** asked what will happen if they want to drive to the seminary. **Robertson-Gardiner** said the applicant is specifically requesting the reduction of spaces because they do not want students accessing the site other than by walking from the high school.

**Lajoie** asked if the student parking is on the same side, and **Robertson-Gardiner** said parking is between the north of the school building and south of the proposed seminary building.

**Chair Carter** asked why there would be a problem in building the Code-required 15 spaces, other than the cost of developing them, since the site is comprised of 1.8 acres and a 3,000 square foot building. **Robertson-Gardiner** said the applicant could build the parking spaces if required. They were requesting the variance to allow for parking to meet their specific needs and not increase impervious surface area and unused parking spaces.

**Chair Carter** asked about a handicap space, which **Robertson-Gardiner** said is included in the seven spaces.

**Chair Carter** said she didn't think it sounded like enough spaces for the proposed staff, guests, and 150 students, basing her concern on the fact that she is the only employee at her own business, which has nine spaces and a handicap space, and all are frequently filled.

**Mengelberg** asked if this is the only industrially zoned site, or if it is adjacent to others. **Robertson-Gardiner** referred to the overhead and said all the property shown all in yellow is zoned FU-10 (County). These also have a Comprehensive Plan designation of Industrial. This means that at the time they are annexed into the City, they can choose for a zone change of Light Industrial, Heavy Industrial, or Campus Industrial.

**Chair Carter** recalled that there was a note in the report that this site is too small by itself for industrial development but she asked if the site could potentially be developed if someone wanted to add it into the other industrial sites. **Robertson-Gardiner** deferred to the applicant for full comment, but she said there is a small tax site behind and to the west of the property that is owned by single-family residents who are not currently plan to move. She said the property owner representing the flag lots continuing behind the north property line of Moss Campus (about four tax lots) was in attendance, but she didn't know the viability of those lots.

**Mengelberg** said a two-acre site is not too small to accommodate industrial use.

**Chair Carter** referred to a letter from a resident expressing concern about the number of driveways directly accessing Bevergreen Court and suggested for one single driveway, and she asked if that had been addressed. **Robertson-Gardiner** said that would be addressed during Site Plan and Design Review but she noted that staff has been working on this with both the applicant and those residents. She said as of this evening it sounded like that issue will be resolved with a joint access to be shared by the seminary and the three tax lots directly behind the seminary.

**Mengelberg** asked the City Attorney if there were any "separation of church and state" issues associated with this application. **Kabeiseman** said nothing has been raised about this question, and it is a conditional use in the zone.



**Chair Carter** asked if there would be any kind of agreement about shared parking with the high school. **Robertson-Gardiner** said the applicant indicates it is not actually shared parking because the students are using that parking as their resource for getting to school and they are walking over during the permitted release time.

**Chair Carter** asked if that in and of itself raises the question of the separation of church and state because they are on the school parking lot while attending public school classes and then walking over to a privately-owned, church-run educational facility that is not part of the high school. **Robertson-Gardiner** said the release time program authorizes time for religious education during school hours.

**Lajoie** asked what the process is on the existing high school campus when a student leaves the building and walks to another building. Specifically, he asked if there would be a continuous sidewalk because the applicant's drawings only show a little access point through the fence. **Robertson-Gardiner** said that would be reviewed during the Site Plan and Design Review process, but the applicant will be making improvements for a continuous sidewalk along Beavercreek. However, City staff is trying to get the applicant and the school district to work on an internal pedestrian system as well.

Regarding safety issues, **Chair Carter** asked if high school students are allowed to go off campus, because this would technically be going off campus. **Robertson-Gardiner** deferred to the applicant.

**Mark Cottle**, 235 Sunset, Sherwood, Oregon, said he is a land use consultant for the LDS church and, rather than giving his normal presentation, he would address the issues raised to date and then be available to answer any further questions.

He said the release time program has been operating very successfully in Oregon City for about 15 years. He explained that about 15 years ago the LDS church bought an older home across the street from the old [high school] campus. About 10 years ago, they received a second CUP to build a new facility adjacent to the old campus. Each of those facilities had between two and four parking spaces.

**Cottle** explained that under the release time program, students are allowed to attend another facility (whether LDS or another religious facility or an additional educational facility—for instance, classes at Clackamas Community College) and then return to campus. He said their schedule would coincide with school classes with normal transitional times. The expectation is that students would only come over during one period per day, with 10-30 students per class, not all 150 students attending at once.

Regarding the parking issue, **Cottle** said this is one of the first times he has been asked to reduce the parking allowance. He said the reason they are spending so much time to locate next to the new high school is to make an easy transition from the high school so the students can walk over for the religious classes within five minutes. If they wanted to encourage them to drive, the church would keep the current facility, but for safety reasons, they don't want that to happen. Also, they only have a limited amount of time. Therefore, they discourage parking on-site. He explained that they have a seminary in West Linn, and they don't allow any students to park on-site for any reason at that facility either.

Regarding the question of a joint agreement with the school district for use of their parking lot, **Cottle** said that is not needed because the students are permitted by law to park on-site for school-related activities, which includes going to another facility for school-related activities. In this case, they are allowed to park in their permitted parking space, walk over to the seminary, and walk back to the high school to finish their regular classes.

He said if the PC were to require the 15 spaces, they could certainly do that but they would be wasted because they still will not allow students to park on-site since they are trying to cut traffic trips and reduce the amount of accesses onto Beavercreek Road by students.

Regarding pedestrian access, **Cottle** said one of the COA's (#2) requires the applicant to develop an internal plan with the school district to allow the students to pass safely internally. In addition, he noted that if the school district chose to not enter into some kind of agreement and the applicant chose not to build the fence, there would be nothing to stop students from simply walking across the property line.

**Cottle** said the question of the church and state issue may be a concern but it is not a legitimate legal issue because the City is only restricted from restricting or otherwise supporting a religious institution. In this case, the City is not paying for, assisting, or providing an unequal opportunity for the LDS church versus any other group that might want to build a meeting house or building next to the school (for example, the Boy Scouts or the Girl Scouts).

**Cottle** then spoke about the actual site, explaining that the site comes in at a 90-degree angle to satisfy access to both the County and the City accessing the road because the road runs not at 90 degrees, but the requirement is for all new construction to merge in at a 90-degree angle. He said they are working with the neighbor from tax lot 300, with whom they are working to develop a joint access between the LDS church site, #402, and tax lot 300. The City is strongly encouraging this because under the current protocol for this street, there are four accesses adjoining the street at inappropriate angles because of sight distance problems. Therefore, the applicant is trying to work with all three neighbors for one joint access point.

**Cottle** said the proposed seminary meets all the setback requirements and all utilities are available to it. He said the building will be about 3,000 square feet and that seven parking spaces will be more than enough. He said there were two spaces at the first site and there is room for four smaller cars at the current site and, to date, they have had no problems. He said he doubts they would ever have all seven spaces filled at once because they will not allow students to park on-site.

Summarizing the site, he said the property is relatively flat, and the house has been demolished so it is currently vacant. He noted that it will be ADA appropriate, and the plan will allow for a flow of traffic for the people in the back. If they are able to work out an agreement with the owner of tax lot 300, they will probably shift the angle upward so the access will be between the two parking lots for safety reasons.

**Cottle** said if they are not allowed to build the seminary, they will still continue with seminary school, which would only impact traffic negatively. The students would then be required to leave campus and attend classes at one of the LDS church locations (on Holly Lane or a new one on Beaver Creek Road) or attend the current seminary. He reiterated that this would simply be more of a traffic problem for City, and the applicant's goal is to diminish traffic impacts on Beaver Creek Road.

Regarding industrial development, **Cottle** said something else could probably be developed, although a person would likely need to buy out several adjoining properties. However, he noted that the community of Oregon City decided in their Master Plan that a church use of this nature is appropriate in this zone under certain conditions. He agreed that by allowing a conditional use, there would be some lessening of industrial use but, again, this is an approved use.

Chair Carter asked what they plan to do with the west side of property. **Cottle** said nothing right now, explaining that they have no long-term plans for it. Their criteria for buying this site was to provide a situation wherein a student could walk from school and be at the site and in the classroom in about five minutes.

**Mac McSwain**, of McSwain/Woods Architects, 4040 SE International Way E204, Milwaukie, Oregon, said part of this site is also used for a water quality treatment swale. There is also a utility easement going across to the sewers at the back. As a result, there is very little usable property left over.

**McSwain** gave a quick tour through the building. Facing Beavercreek Road, the front of the building has a main entrance centered, with restrooms, a secretarial area, and offices to the front and classrooms to the back, which allows the person in charge between classes to monitor all entrances. It also provides a buffer by security so there is a control of people who are not students to make sure they have business there.

The construction of the exterior is residential in character, including a brick façade, gable ends framed with hardy plank, and pane windows. There are exits along the side to exit and return to the high school.

**Powell** asked about the mention of other uses, particular evening uses, and asked what is planned. **Cottle** said they would be the same uses as those occurring during the day, noting specifically some older people or students from Clackamas Community College would be the attendees in the evening. He said there would be no congregational worship-type services per se there.

**Powell** asked about the lighting between the high school parking lot and the seminary. **McSwain** said there would be a fixture at the entrance (which is subject to change based on the final configuration of the roads) as well as the parking lot. The fixture will be an 18-foot pole with shields so it won't cast light on neighboring properties. There will also be 42-inch bollards along the walkway and, depending on final negotiations with the high school, they would like to light it out to the parking lot surface.

**Chair Carter** asked if the applicant plans on the evening activity using the high school lot as well. **Cottle** said they are not planning on a large amount of evening activity and the seven spaces at the seminary should be sufficient, but there might be some need to park at the high school.

**Chair Carter** said the gates are locked at night at the junior high schools and she didn't know but what that might also occur at the high school. She also said it doesn't make sense to expect to run evening classes of less than seven students, and she noted that at the old high school there is an open parking lot and street parking available. **Cottle** said he doesn't anticipate a parking problem, but if it should occur, they would need to work something out with the high school. He reiterated that this seminary is being built 99% for high school students, and, in fact, if this were to become a problem, the LDS church has two other facilities in close proximity which could be used for evening classes.

**Kabeiseman** noted that this is a CUP and the variance allows for conditions to be placed on it, which could require the applicant to come back later for review of how everything is working. **Chair Carter** said the PC tries to look ahead in order to avoid problems, and she suggested the applicant should get the conditions worked out ahead of time so there are not problems later.

**Cottle** said he has been involved at a different level in Sherwood for twelve years so he could appreciate her concerns, and although his response may not be satisfactory, he was trying to answer honestly in response to the question about "all possible uses." Again, he said the primary purpose would be for classes for high school students from about 6:30 a.m. to 4:00 p.m. If the building is available for use by college students in the evening, the church will use it, but if they don't have that capability for any reason, including parking, they won't.

**Chair Carter** said the problem was that answers weren't available to some of these questions, such as whether the high school locks its parking lot or whether there would be evening classes. **Cottle** said the PC can either make it a condition that the church cannot hold evening activities unless they have a joint parking agreement with the school district or, he thinks if they do lock off the parking lot, that means the seminary can't hold evening classes.

**Chair Carter** noted that the college students wouldn't be able to walk over from the college because it isn't lit, and **Cottle** agreed.

**Chair Carter** then said if they were to provide at least 15 spaces, they could at least accommodate 15 people in the evening on their own property. **Cottle** agreed, saying the PC could choose that as a required COA and that it would not be a problem if that were the decision.

**Powell** read from Exhibit 7, "We have recently learned that approximately two to three evening activities will be held each week at the seminary with up to 20 people in attendance." He noted that this doesn't fit the 1% usage that **Cottle** cited, which was probably behind the many questions from the commissioners. **Cottle** said they currently have another seminary building they probably won't need once this one is completed, although if they can't work out other issues, they may keep it for the current conditional use that allows for those uses. Again, he said that the primary purpose of this building is for the release time for the high school students, and they would be very comfortable with a COA stating that if they can't work out a parking agreement with the school district, either they cannot hold evening activities or they must provide 15 spaces on their site. He said it has been his experience over many years in Oregon that they don't need 15 spaces at the seminary.

**Chair Carter** said she was still having trouble understanding why they wouldn't just build a lot, even if it were gravel, for their own needs rather than being dependent on the high school. **Cottle** said, simply given human nature, if the parking spots were there, someone would use them. This in turn would require constant monitoring, which can turn into an entirely different problem.

**Chair Carter** asked about home-school children who don't go to the high school, and **Cottle** said they would be dropped off and picked up by their parents, again stating that the seminary would not allow students to park there, and he said at the present time there are no home-school children attending seminary classes.

**Chair Carter** said she still had some concerns about how to write up a COA, and **Cottle** said they have been doing this release time program for the students and he could understand if this were new to Oregon City, but they have a 15-year track record next to the old high school with no problems. However, the applicant would agree to the COA, as stated earlier, to either enter into an agreement with the school district for use of their parking lot or not hold evening activities, or to provide 15 spaces if they are so required.

**Powell** said he thinks the difference between the old site and the new proposed site is the use of street parking but it is hard to judge whether or not that is being used. He said he appreciated the applicant's consideration in trying to limit the impervious surface, especially with the nearby water resource. He said the applicant had also answered his concerns regarding lighting and an internal connection, and he applauded them for presenting alternative forms of transportation. However, he is still very concerned about the multiple accesses onto Beaver Creek.

**Cottle** said one property owner would testify this evening but they have yet to resolve the issue with the other owners. However, they are working on this issue.

Continuing with public testimony, **Henry Nutt**, 19681 Beaver Creek Road, said his is the middle entrance and that he has 7.2 acres. He said he was originally worried about access, but the applicant has agreed to share his road to the end of their property, which resolves his issue.

**Rene Hinneberg**, 2880 Cambridge St., West Linn, said he currently drops his son off at West Linn High School for classes at the seminary, which has two or three parking spaces. He said he wanted to confirm that the students do not use those spaces and that he has not seen more than two cars at any time in the allotted spaces. Further, he said there is a similar arrangement wherein the students walk across to the seminary. He explained that he drops his son off at the high school parking lot because the neighbors actually discouraged parents from dropping the students off at the seminary. He also said the students abide by the rules. Finally, he said that seminary very rarely uses the site in the evening.

**Gene Trone**, 16327 S. Hatton Road, identified himself as the ecclesiastical leader of eight congregations of the LDS church in the vicinity, four of them within the Oregon City School District boundaries. He affirmed that this facility will only be used when high school is in session, so there will be no daytime summer uses nor any other time during days when school is not in session. He said use of the building will begin at 7:00 a.m. on those school days and conclude not later than 2:30 p.m., and will more likely end one or two class periods before the end of the high school day. Currently at the existing seminary building just east of the high school, they hold one evening class per week that goes continuously throughout the school year (except Christmas holidays), and another evening class once a month in about two 10-week sessions per year. He said they hope to have some use of the new building, but in a very minor way, and he said there will literally be no use of this building except in very incidental ways other than for high school students during the day and for college students during the evening, with the exception of an occasional adult who might attend the evening classes as well.

**Trone** said the church has a really good relationship with the high school regarding the seminary classes. In fact, in the forecasting process, the high school actually forecasts for this as part of the process to allow these classes to fit into the variables with other classes. He also noted that the students do not receive any high school credits, so these students actually carry more burden than other students because they must still get their regular credits as well as figure out how to take these religious classes.

**Trone** said he serves on the Oregon City School Board so he has had conversations with the administration about the gating and the walkway and, for the reasons explained this evening, they would prefer that the students walk over.

Regarding dropping off students, **Powell** said he doesn't see a proposal for such an "in and out" access. **Trone** said he doesn't foresee that anyone would use the dropoff that way because the first driveway just beyond the proposed site will be a southbound right turn only, and the circulation from the north is to go through the parking lot to the new light that will be at the south side of the high school on Beaver Creek. That only seems like the most logical way for parents to safely drop off their students and get back out onto Beaver Creek. Otherwise, it would require a left turn across traffic on Beaver Creek Road.

**Cottle** said the applicant had nothing to rebut, but he was willing to answer any further questions.

**Chair Carter** closed the public hearing at 8:13 p.m.

**Orzen** said she likes the idea of shared parking because less impervious surface is always a good thing. She did ask if the swale would be of a natural composition for the water resource area.

**Chair Carter** reopened the public hearing at 8:14 p.m. to allow **Cottle** to answer. **Cottle** said they have to work on both quantity and quality. The current plan is for a 25-year flood plain with a bio-swale to clean out the water before it recycles.

**McSwain** introduced **Cole Presthus** of WFN Engineering, 6443 SW Beaverton-Hillsdale Highway, Portland, Oregon, who said a public 16-inch water main will be installed, but in Beaver Creek, so water is not provided. The existing sanitary sewer currently serves the adjacent Moss Campus High School and there is an existing sanitary sewer lateral that actually serves this property. Regarding the storm drain, current requirements state that the applicant must address both the amount of water that flows off the new development and treatment of that water so no pollutants are produced. He said it is a vegetated grassy swale (sometimes referred to as a bio-filtration swale because of the use of green plants). Those plants filter the water and, he noted, the plants are chosen for their ability to take up excess nutrients and heavy metals. In summary, it will be landscaped as well as all of the roof drains and the catch basin in the parking lot. Also, this portion of the public road will be routed through the water quality swale.

**Presthus** said they already know that the Engineering Dept. wants them to provide public improvements to Beaver Creek, so they have submitted storm drain calculations as part of their application. He noted that they are picking up some water which comes across the school property onto their property, where it is all taken care of through the water quality swale (including a portion of the new driveway).

The Engineering Dept. is also requesting storm drain detention so that water would not flow off this property any faster than it already does as an undeveloped site. To accomplish this, they would collect and hold the water in the storm drain detention system so it would be released slowly over time. He said this detention system is designed for the two-year, five-year, ten-year, and 25-year storms.

**Chair Carter** closed the public hearing at 8:20 p.m.

**Orzen** said that answered her question and her other questions had been answered as well, and she said she was in favor of this project.

**Powell** concurred with Orzen's comments, saying he was pleased with the applicant's consideration for the installation of minimal impervious surfaces. He also liked the proposed transition to and from school and the design, and said he would be very comfortable approving this with conditioning for an agreement with the school for on- and off-hour parking.

Regarding the parking issue, **Lajoie**, said he thinks the proposal is easily acceptable, particularly with some specific conditions defining the requirements. However, he still had some concern about the pedestrian access because he would prefer that students not to go out onto Beavercreek. Therefore, an internal sidewalk system would seem a good solution. Overall, he said he thinks this is a really good model (private land adjacent to public land) for our educational system with the public high school as a central point and a set of spiritual centers surrounding it to enable students the opportunity to incorporate such options into their education.

On a personal note, he said it is too bad they can't get credit for classes such as these.

**Mengelberg** said she was encouraged to hear that this approach has been successful at the Oregon City High School and that there haven't been problems. She was encouraged by the applicant's willingness to work with the School District and she encouraged them to work out any questions or issues to avoid problems in the future. She said normally she would be opposed to conversion of industrial land because she feels that Oregon City really needs employment sites, but with the Urban Growth Boundary expansion, there will significant industrial land across the road and it does look like we have an education hub between Moss Campus, the community college, and now this similar-type use. In summary, then, she said she would support this application.

**Chair Carter** said Mengelberg and Lajoie made a good point about the educational hub and the good relationship the seminary currently has with the high school. At the same time, she said their uses may increase over current anticipations, and she thought it very important to get some kind of legal agreement from the high school or the School District about shared usage of the parking lot and accessing their public property for the applicant's private enterprise. She then asked the City Attorney for some suggested language for an additional COA.

**Kabeiseman** asked for clarification of what the PC wanted, noting that he had heard the possibility of requiring either 15 spaces or an agreement with the school to allow after-hours use, and perhaps daytime use, and also the possibility of bringing this back for review. After brief discussion, **Chair Carter** granted a short break to allow time for the applicant and the attorney to discuss wording for the additional condition(s).

After the break, **Kabeiseman** said makes it seems to make more sense to separate the conditions into two conditions to cover daytime and nighttime use, as follows:

1. Applicant will provide confirmation from Oregon City School District that students using the seminary are authorized to park at Moss Campus for daytime use of the seminary.
2. Applicant must either provide confirmation from Oregon City School District that night parking at Moss Campus is allowable for seminary use or build an additional eight spaces.
3. Applicant must, after the first school year of operation, provide a report to staff to bring to the Planning Commission detailing any complaints regarding parking or traffic use of Moss Campus. After hearing the report, the Planning Commission may hold another public hearing to reconsider the conditions of approval.

The last condition would allow staff to look at the applicant's report and bring a report to the PC so that if there are no issues, time is not wasted by bringing in another full hearing.

**Kabeiseman** noted that these would be COA's 1, 2, and 3 in the variance request and 8, 9, and 10 in the CUP request.

**Powell** moved to approve CU 03-01 and VR 03-01 with the conditions in the staff report as well as the conditions just submitted by the City Attorney. **Lajoie** seconded the motion, and it passed unanimously.

## 5. NEW BUSINESS

**Robertson-Gardiner** gave a brief summary of the upcoming hearings, to include:

- May 12<sup>th</sup>: Deliberations and voting on the Wal-Mart application from 6:00 – 7:00 p.m., to be followed by previously scheduled Public Hearing.
- May 14<sup>th</sup>: A work session from 7:00 to 9:00 p.m. that may include the City Commission for a review of the McLoughlin Redevelopment Plan for improvements on McLoughlin from the Clackamas River Bridge to the railroad overpass at 5<sup>th</sup> Avenue, and improvements to the 7<sup>th</sup> Street Corridor Plan.
- May 21<sup>st</sup>: A City Commission work session from 5:30 to 6:30 p.m. to include the Planning Commission (agenda not yet set).

**Mengelberg** thanked Orzen for her leadership on the annual Oregon City clean-up project. **Orzen** said over 200 people volunteered their time and efforts, and they were able to do more enhancements than cleanup this year, which was very encouraging.

## 6. ADJOURN

With no other business at hand, the meeting was adjourned at 8:42 p.m.

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Leana Carter, Planning Commission

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Christina Robertson-Gardiner, Associate Planner



# CITY OF OREGON CITY

P.O. Box 3040  
320 Warner Milne Road  
Oregon City, OR 97045  
(503) 657-0891  
Fax (503) 657-7892

## MEMORANDUM

TO: Planning Commission  
CC:  
FROM: Christina Robertson-Gardiner, Associate Planner  
DATE: May 5, 2003  
SUBJECT: Supplemental Information: PZ 02-01, PZ 02-02, ZC 02-01, ZC 02-02

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Dear Commissioners:

As you recall, the Planning Commission met on April 8, 2003 to start the final written comment period process and pick a date for voting and final deliberations on the Wal-Mart Applications. Staff has updated its findings and recommendations (Exhibit A) to reflect the additional information submitted during the Public Hearing and final comment period process. On May 12, 2003, the Planning Commission will deliberate and vote on the Land Use files stated above.

### Exhibits

A. Revised Staff Comments and Recommendation, May 5, 2003

*7 Days for Applicant Rebuttal (April 16-22, 2003)*

B. Closing Arguments for Proposed Wal-Mart Store, Greg Hathaway, April 22, 2003

*7 Days to Comment On Information Already Submitted Into The Record (April 9-15, 2003)*

C. April 8, 2003 letter from Miller Nash

D. April 15, 2003 Transmittal Letter from Thomas Spencer, PACLAND

- i. Article from Fortune 500 Regarding Wal-Mart Stores
- ii. Staff Report for SP 02-09 dated February 24, 2003 (on file)
- iii. Letter regarding TPR rezone traffic analysis by Transpo Group, dated April 15, 2003
- iv. Findings for Comp Plan amendment PZ 99-04 and ZC 99-16 "As similar PZ/ZC request".

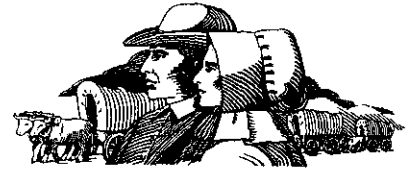


# CITY OF OREGON CITY

## PLANNING DIVISION

320 WARNER MILNE ROAD  
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OREGON CITY, OREGON 97045  
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## EXECUTIVE SUMMARY

### REVISED FINDINGS AND RECOMMENDATION

FILE NO.: PZ 02-01, PZ 02-02, ZC 02-01, ZC 02-02

Staff has reviewed the additional information submitted by the applicant and the public for the proposed Zone Change and Comprehensive Plan Amendment for the above project. A chart is located on Page 4 which further delineates the criteria that have found to be compliant, non-compliant, or subject to Planning Commission interpretation and discretion. Out of this analysis, there were a number of criteria we have found still to be non-compliant. They all relate to either traffic impacts or public need.

Both the public need for and the transportation impact of the proposed Zone Change and Comp Plan Amendment have not been adequately addressed by the applicant. ***As Such, Staff finds that PZ 02-01, PZ 02-02, ZC 02-01, ZC 02-02 cannot be recommended for approval.*** A summary of the public need and transportation impact is discussed below:

#### ***Public Need***

No specific data has been provided that identifies the need for additional “valuable goods and services.” There is no market data presented to indicate what segment of the market is underserved. The number of testimonials both for and against the follow-up project is not statistically significant to prove or disprove “the need for additional retail goods and services.” Moreover, the 1982 Comprehensive Plan indicates an oversupply of commercial land. The Applicant has not provided an analysis showing a demand for more commercially designated land that can challenge the adopted plan.

The Davis Wright Tremaine LLP (DWT) letter, dated January 31, 2003 confirms that there was a market study completed that showed that there is a need for this type and size of retail commercial use in the City. The City has not been given the opportunity to review this study nor has any supporting information been provided to demonstrate the “public need.” The applicant has indicated during the public hearings and in their closing arguments that the Comp Plan/Zone Change approval will allow for the proposed Wal-Mart to be built. The applicant contends that the benefits of the new store, such as public infrastructure improvements, increased tax base, additional employment and shopping options demonstrate a public need. Staff response to reasons #1-10 on Page 5 of Exhibit B are as follows:

Oregon City Planning Commission  
Meeting Date: May 12, 2003  
Case File: PZ 02-01, PZ 02-02 ZC  
02-01 ZC 02-02  
Exhibit: A

- Reasons #1,2, &3: While the development of the site may be facilitated by the plan change and rezone, it is the actual site development that will cause these improvements to occur
- Reasons #4,7,8&9: The evidence to support the need for increased employment and shopping opportunities is not substantiated. Rather the Comprehensive Plan stated that additional commercial land supply is not needed and ample retail jobs already exist in the Hilltop area.
- Reason #5: This area is in the Hilltop Urban Renewal District. Increase in property taxes do not result in additional revenues to the schools.
- Reason #6 &10: SDC charges and transportation improvements are required to offset impacts from the proposed development. Without the development, they would not be needed.

### ***Transportation***

Traffic impacts are addressed to some degree in Criteria O 1&4, & 17.68.020 A, B & C. Staff has found that a majority of the traffic concerns related to a question of proportional increase in traffic generation. The applicant has indicated that in the reasonable worst-case commercial land use scenario there would be an additional 46 trips during the PM peak hour and 254 trips during the average day. City staff has also indicated that within the planning horizon (2020) the Molalla Avenue/213 and Beaver Creek/213 intersections will fail regardless of the project.

Two questions arise from this information: Is the specific Comp Plan/Rezone increase in traffic generation significant enough to warrant non-compliance with the traffic related criteria?; and if a city is already expecting a failing intersection, how much incremental increase is acceptable? The Comprehensive Plan and TSP do not give any specific parameters on what defines an acceptable impact. Therefore, it is up to the Planning Commission to define what is acceptable and evaluate if the applicant meets or does not meet the criteria.

## Walmart Stores Comprehensive Plan Amendment & Zoning Change Request

1. **Comprehensive Plan, Chapter O, “Comprehensive Plan Maintenance and Update**
  1. Does the proposed land use change conform with State-Wide Planning Goals and local goals and policies?
  2. Is there a public need to be fulfilled by the change?
  3. Is the public need best satisfied by the particular change being proposed?
  4. Will the change adversely affect the public health, safety and welfare?
  5. Does the factual information base in the Comprehensive Plan support the change?

### 2. Zoning Code, Section 17.68 Zoning Changes and Amendments

#### *17.68.020 Criteria.*

- A. *The proposal shall be consistent with the goals and policies of the Comprehensive Plan.*
  - Citizen Participation
  - Housing
  - Commerce/Industry
  - Historic Preservation
  - Natural Resources, Natural Hazards
  - Growth and Urbanization
  - Energy Conservation
  - Community Facilities
  - Transportation
  - Transportation System Plan (TSP) and The Molalla Avenue Boulevard and Bikeway Improvements Plan
  - Neighborhood Plan Maps – Comprehensive Plan Map Goals and Policies
- B. *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. Service shall be sufficient to support the range of uses and development allowed by the zone.*
- C. *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.*
- D. *Statewide planning goals shall be addressed if the Comprehensive Plan does not contain specific policies or provisions which control the amendment.*

# Walmart Stores Comprehensive Plan Amendment & Zoning Change Request Compliance

COMPLIANCE CRITERIA	Feb. 24/March 10		May 12	
	Compliant	Non-Compliant	Compliant	Non Compliant TOPIC

## Comprehensive Plan, Chapter O, "Comprehensive Plan Maintenance and Update"

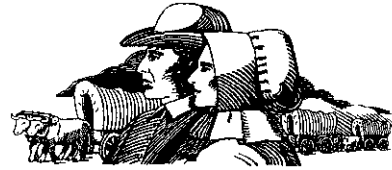
1. Does the proposal conform with state and local planning goals and policies? (ITEM 6)				TRAFFIC/ PUBLIC NEED
2. Does the change fulfill a public need? (ITEM 7)				PUBLIC NEED
3. Does the change satisfy the public need? (ITEM 8)				PUBLIC NEED
4. Does the change adversely affect the public health, safety and welfare? (ITEM 9)				TRAFFIC
5. Does the factual information base in the Comprehensive Plan support the change? (ITEM 11)				OTHER

## Zoning Code, Section 17.68 Zoning Changes and Amendments

<i>17.68.020 Criteria.</i>				
<i>A. Comprehensive Plan Consistency</i>				
• Citizen Participation				
• Housing (ITEM 13)				
• Commerce/Industry (ITEMS 15,16 & 17)				NEW COMMERCIAL
• Historic Preservation				
• Natural Resources, Natural Hazards				
• Growth and Urbanization				
• Energy Conservation				
• Community Facilities (ITEMS 18, 19)				TRAFFIC
• Transportation (ITEM 20, 21, 22, 23)				TRAFFIC
• TSP/Molalla Avenue Boulevard and Bikeway Improvements Plan (ITEMS 21, 22, 23)				TRAFFIC
• Neighborhood Plan Maps (ITEM 24)				TRAFFIC PUBLIC NEED NEW COMMERCIAL
<i>B. Public facilities and services are capable or available to support the use...(ITEM 25)</i>				TRAFFIC
<i>C. The proposed use(s) is consistent with the existing or planned function, capacity and level of service of the transportation system...(ITEM 26)</i>				TRAFFIC
<i>D. Statewide planning goals addressed...</i>				

# CITY OF OREGON CITY

## PLANNING COMMISSION



320 WARNER MILNE ROAD  
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OREGON CITY, OREGON 97045  
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### NON-COMPLIANCE ITEMS FROM PRIOR STAFF REPORTS May 12, 2003

**FILE NO.:** PZ 02-01 and PZ 02-02, ZC 02-01, ZC 02-02

**APPLICATION TYPE:** Quasi-Judicial/Type IV

**ORIGINAL HEARING DATE:** February 24, 2003  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

#### APPLICANTS/ OWNERS

**The following property owners were identified as owners of record at the time of the application submittal:**

- |  |   |
|--|---|
| 1. Rocky and Janice Younger<br>5080 South Maple Lane<br>Oregon City, OR 97045                  | 3. Christopher E. O'Neil<br>Brenda L. O'Neil<br>606 Hilltop Avenue<br>Oregon City, OR 97045 |
| 2. J. Guadalupe Jimenez<br>A. Cristina Sandoval<br>604 Hilltop Avenue<br>Oregon City, OR 97045 | 4. Robert J. Kelley<br>Laura E. Kelley<br>702 Hilltop Avenue<br>Oregon City, OR 97045       |

**The following property owners are identified as owners of record per Metroscan assessor data, December 24, 2002:**

- |  |   |
|--|---|
| 1. Letha A. Younger<br>1367 Molalla Avenue<br>Oregon City, OR 97045                  | 2. Rocky C. Younger<br>5080 South Maple Lane<br>Oregon City, OR 97045 |
| 3. Wal-Mart Stores, Inc.<br>2001 SE 10 <sup>th</sup> Street<br>Bentonville, AR 72716 |   |

#### APPLICANT'S

#### REPRESENTATIVE

PacLand  
contact: Scott Franklin  
10121 S.E. Sunnyside Road, Suite 215  
Clackamas, OR 97015

(503) 659-9500

- REQUESTS:** Comprehensive Plan Amendment from Low Density Residential and High Density Residential to Commercial for Eight Residential Lots and  
  
Zone Change from RA-2 (Multi-Family Dwelling District) (4 lots) and R-10 (Single-Family Dwelling District) (4 lots) to C (General Commercial District) (all 8 lots)
- LOCATION:** 470, 502-504, 506-508, 510-512, 602, 604, 606 and 702 Hilltop Avenue, Oregon City 97045  
3S 2E Section 5, Tax Lots 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100
- REVIEWER:** Chris Cocker, Consulting Sr. Planner,  
David Evans and Associates, Inc.  
Christina Robertson Gardiner, Assistant Planner, City of Oregon City  
Jay Toll, Senior Engineer, City of Oregon City
- RECOMMENDATION:** Staff again recommends denial of this application due to not meeting all the required criteria. The planning commission shall render the initial decision on all Type IV permit applications. If the planning commission denies the Type IV application, that decision is final unless appealed to the city commission in accordance with Section 17.50.190. If the planning commission recommends approval of the application, that recommendation is forwarded to the city commission. City commission decision is the city's final decision on the Type IV application.  
IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT CHRISTINA ROBERTSON IN THE PLANNING DIVISION OFFICE AT 657-0891.

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The following summarizes just the items that were found to be non-compliant from the prior staff reports issued for the Planning Commission meeting of February 24, 2003. Additional information has been entered into the record since the original reports were prepared. Updated findings are presented in front of the prior staff report's findings. The Planning Commission has the option to deny this application due to non-compliance items or they may choose to conditionally approve this application.

**I. DECISION-MAKING CRITERIA:**

**A. Comprehensive Plan, Chapter O, "Comprehensive Plan Maintenance and Update"**

The method of plan maintenance should be evaluated according to the following criteria:

- 1. Does the proposed land use change conform with State-Wide Planning Goals and local goals and policies?**

**6 Updated Finding:**  
**Does Not Comply.** The finding is the same as that described in the February 24, 2003 staff report (see below).

**6**

**February 24 Finding:** *Does Not Comply.* The Oregon City Comprehensive Plan was acknowledged by the Land Conservation and Development Commission on April 16, 1982. The Comprehensive Plan implements the statewide planning goals on a local level. Once acknowledgement occurs, the statewide planning goals themselves are no longer applicable, unless a change in the Plan text is proposed or a Goal Exception is required. The applicant does not propose a change to the text of the goals or policies of the Comprehensive Plan.

The applicable Comprehensive Plan goals and policies are addressed in Section III.B of this staff report. The proposal is not consistent with those City Comprehensive Plan goals and policies as outlined in the identified local goals and policies. The inconsistent criteria from the February 24/March 10 staff report are flagged throughout this staff report with the following symbol [redacted]. The current updated finding corresponding are noted with a [redacted] symbol.



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

### **7 Updated Finding:**

**Does Not Comply.** The applicant has provided a list of items that they see as fulfilling a public need. The specific list summarized in the April 22, 2003 submitted by Davis Wright Tremaine LLP addresses overall public need with only the following items that can be attributable to the incremental expansion (about 15%) of the commercial property from 12.86 acres to 14.82 acres. These include (4) the creation of new employment opportunities in Oregon City ..., (5) the generation of new and substantial tax revenues ..., (6) the generation of System Development Charges (SDC's) ..., (8) the creation of additional shoppers in the Hilltop area that will shop and use existing businesses, and (9) the creation of additional low-cost shopping opportunities and shopping closer to home with less travel time for senior citizens. Other items on the list would occur due to commercial development with or without the additional 1.96 acres.

As part of the analysis of public need, we have had a chance to review the March 10, 2003 Replacement Housing information prepared by Hobson Ferrarini Associates (see March 13, 2003 Planning Commission Hearing, Exhibit H). Staff concurs that there is sufficient similar housing for renters in the area. As a result, we find that the issue of displacement of affordable housing is not relevant to the finding of "public need."

No specific data has been provided that identifies the need for additional "valuable goods and services." The city staff was given no background information (market feasibility or research) on this subject. There is no market data presented to indicate what segment of the market is underserved. No information has been provided to show that this project would not be possible elsewhere in the region (or within the city) on appropriately zoned property. The number of testimonials both for and against the follow-up project is not statistically significant to prove or disprove "the need for additional retail goods and services."

The amendment implies that there is a lack of adequately-sized commercial properties in available and appropriate locations. Although staff recognizes that there is a lack of larger commercial sites within the city, no information has been supplied by the applicant that adequately demonstrates that the commercial need outweighs the need for housing stock at the price points that are affected by the proposed change.

The Davis Wright Tremaine LLP (DWT) letter, dated January 31, 2003 confirms that there was a market study completed that showed that there is a need for this type and size of retail commercial use in the City. The city has not been given the opportunity to review this study nor has any supporting information been provided to demonstrate the "public need." Concern is expressed as there is no information on what the added additional services will cost in the way of displacement of existing businesses. Again, this concerns only the expansion of the site. The applicant has clarified that there would be no large retail project without the additional acreage.

**February 24, 2003 Staff Report finding:**

**Finding:** *Does Not Comply.* The proposal would provide more space for commercial use in Oregon City. The applicant points out that this proposal will help maintain *"a healthy and diversified economic community. Comprehensive Plan Goal D, commerce and Industries, provides that the City shall maintain a healthy and diversified economic community of the supply of goods, services and employment opportunity."* The applicant further states that the large-scale retail tenant cannot make the overall project work without these properties becoming commercially zoned. By approving the map amendment and subsequent rezoning, the project will result in the provision of *"valuable goods and services to the greater Oregon City area and will provide good employment opportunities."* The applicant indicates a public need for additional retail provision of *"valuable goods and services."* However, no specific data are presented to back up this statement.

Staff assumed that a significant market analysis had been done by the retailer to support bringing forward this project. The Davis Wright Tremaine LLP (DWT) letter, dated January 31, 2003 confirms that there was a market study completed that showed that there is a need for this type and size of retail commercial use in the City. The city has not been given the opportunity to review this study nor has any supporting information been provided to demonstrate the "public need." In this case, "public need" is not measured by a market demand study. It must look at the planned uses and allowed uses for the properties and present factual data that demonstrate that a change in the land use designation and zoning would better fulfill "public need" than the existing Comprehensive Plan and zoning code designations. Background information supporting the public need for retail expansion has not been provided.

The current Oregon City Comprehensive Plan shows a need for housing in both the lowest income level and at the highest income level. The City of Oregon City has recently completed a housing inventory. Based on Metro's target capacity projections, the city will need a minimum of 1,500 in-fill housing units over the next 15 years. This project would remove some of the existing housing stock, 22 housing units. The applicant has not addressed the need for housing nor affordable housing as part of the "public need" evaluation and findings.

The applicant states that Comprehensive Plan Goal C, Commerce and Industry also supports the public need. The applicant indicates that current public facilities and services are either presently available or will be made available prior to the certificate of occupancy. Adequacy of public facilities and services is addressed below in III.A.5.(D) *A description of how the proposed change will affect community facilities, natural resources, transportation and adjacent properties;*

The applicant also states that, "As stated in the Water Resources Report, the retail project will have a beneficial affect on the quality of water in the Newell Creek tributary because of the retail projects' proposed stormwater discharge treatment." However, the capability to provide sufficient stormwater treatment does not address a particular public need to be fulfilled by the proposed change. Again adequacy of public facilities is addressed in B.4, below.

The proposed commercial designation of the properties on Hilltop Avenue is anticipated to connect to the existing 14.82 acre commercial property immediately to the south of the subject properties. Assuming that there is a public need for the goods and services (see the preceding paragraphs), staff has found that there are few larger commercial properties within Oregon City. In fact, staff finds that there are less than 25 acres of underutilized commercial properties of over ½ acre in size within the city. This figure includes the 14.82-acre property adjacent and immediately south of the subject properties.

Although the applicant makes a vague case for the "public need" for large retail services, the counterpoint would be that there is also a "public need" for in-fill housing, particularly affordable in-fill housing. The fulfillment of a "public need" is not fully addressed and therefore this finding cannot be made.

If the applicant can demonstrate that there is sufficient affordable housing stock in the city the criteria would be met. 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 cannot be made.

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

#### **8 Updated Finding:**

**Does Not Comply.** The applicant has provided a list of items that they see as fulfilling a public need. The specific list summarized in the April 22, 2003 submitted by Davis Wright Tremaine LLP addresses overall public need with only the following items that can be attributable to the incremental expansion (about 15%) of the commercial property from 12.86 acres to 14.82 acres. These include (4) the creation of new employment opportunities in Oregon City ..., (5) the generation of new and substantial tax revenues ..., (6) the generation of System Development Charges (SDC's) ..., (8) the creation of additional shoppers in the Hilltop area that will shop and use existing businesses, and (9) the creation of additional low-cost shopping opportunities and shopping closer to home with less travel time for senior citizens. Other items on the list would occur due to commercial development with or without the additional 1.96 acres.

As part of the analysis of public need, we have had a chance to review the March 10, 2003 Replacement Housing information prepared by Hobson Ferrarini Associates (see

March 13, 2003 Planning Commission Hearing, Exhibit H). Staff concurs that there is sufficient like housing for renters in the area. As a result, we find that the issue of maintaining adequate affordable housing does not effect the "public need."

No specific data has been provided that identifies the need for additional "valuable goods and services." The city staff was given no background information (market feasibility or research) on this subject. There is no market data presented to indicate what segment of the market is underserved. No information has been provided to show that this project would not be possible elsewhere in the region (or within the city) on appropriately zoned property. The number of testimonials both for and against the follow-up project is not statistically significant to prove or disprove "the need for additional retail goods and services."

The amendment implies that there is a lack of adequately-sized commercial properties in available and appropriate locations. Although staff recognizes that there is a lack of larger commercial sites within the city, no information has been supplied by the applicant that adequately demonstrates that the commercial need outweighs the need for housing stock at the price points that are affected by the proposed change.

The Davis Wright Tremaine LLP (DWT) letter, dated January 31, 2003 confirms that there was a market study completed that showed that there is a need for this type and size of retail commercial use in the City. The city has not been given the opportunity to review this study nor has any supporting information been provided to demonstrate the "public need." Concern is expressed as there is no information on what the added additional services will cost in the way of displacement of existing businesses. Again, this concerns only the expansion of the site. The applicant has clarified that there would be no project without the additional acreage.

The existence of "public need" being satisfied must be based on showing that there is a shortage of retail type property. Preliminary review by staff implies that there may be a shortage of vacant property available for larger retail uses. There is no current information on underutilized commercial sites either within the city or in the southeast Metro area. "Public need" cannot be based on some public testimony (not statistically significant) or on the fact that a retail developer needs extra room for parking area.

**February 24, 2003 Staff Report finding:**

**Finding:** *Does Not Comply.* The applicant explains that *"the public need is best satisfied by the particular plan designation change being proposed as the adjacent property is zoned General Commercial"* and that the proposed properties will *"provide necessary parking, circulation and access for the retail project. The retail project cannot utilize this additional parking area unless the planning designation is changed to General Commercial as proposed."*

“Public need” is demonstrated, in part, by providing some information on the availability of sites in the area that have adequate property for retail development. Although the applicant failed to show any market data that supports the need for more smaller or larger commercial properties in the Oregon City area, staff have looked at current information that has been gathered to support the current Comprehensive Plan update. This information reveals that there is very limited acreage of over ½ acre within the city limits (estimated as less than 25 acres including the 14 acres immediately south of the subject properties). The currently effective Comprehensive Plan shows a need for 232.2 acres of commercial land, with 317 acres available, leading to a significant surplus of almost 85 acres of commercially designated land.

The DWT letter, of January 31, 2003, indicates that the applicant has performed a market study with the conclusion being that there “is a need for this type and size (i.e. the proposed Wal-Mart store) of retail commercial use.” Staff have no applicant information that demonstrates why the retail designation best satisfies the “public need.”

This finding must weigh the need for new retail services in Oregon City versus the need to maintain in-fill multi-family and single-family housing. The applicant’s analysis does not make a case that the need for additional retail property is greater than the need for infill and affordable housing. No information has been provided to support the reduction of this kind of housing stock. Oregon Housing and Community Services data indicates that there is a shortage of multi-family and affordable housing in the area.

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. The applicant has indicated that their market study shows a need for large-scale retail but provides no evidence to that effect or any data regarding the availability of affordable housing. The applicant’s discussion of need does not address the Comprehensive Plan’s information indication that there is a surplus of 85 acres of commercially designated land.


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

**9 Updated Finding:**

***Does Not Comply*** As part of the analysis of public need, we have had a chance to review the March 10, 2003 Replacement Housing information prepared by Hobson Ferrarini Associates (see March 13, 2003 Planning Commission meeting exhibit H). Staff concurs that there is sufficient like housing for renters and housing for purchase in the area. As a result, we find that the issue of displacement of affordable housing is not prohibitive towards maintaining the “public health, safety and welfare.”

Staff has reviewed the information provided by the applicant as it pertains to the addition of 1.96 acres of new commercial property. This has required analysis of the

reasonable, worst-case land use scenario and the basic status of Hilltop Avenue as an existing limited access, non-commercial street. The traffic transportation are small impacts on a transportation system as a whole. Most of the traffic-related impacts can be accommodated through site plan and design review conditions of approval. The potential impact on Fox Lane includes the possible-worst case condition of adding 46 PM peak hour trips and 254 daily trips. This may or may not be relevant to a street that currently serves all the neighborhood traffic heading southbound on Molalla Avenue. As the overall impact of adding these trips is not known, staff is uncertain whether the cumulative traffic would create too much traffic on Fox Lane. The affect on transportation facilities could be mitigated. If a positive finding were to be made regarding potential impacts on Fox Avenue, mitigation conditions would be needed as part of a conditional Comprehensive Plan and Zone Change approval. Potential impacts include the increased PM Peak hour trips on Fox Avenue.

The land use change will somewhat increase the contribution towards the projected future local intersection failure in the area. See item  26, below.

 9

**February 24, 2003 Staff Report finding:**

**Finding:** *Does Not Comply.* The applicant proposes that the project will improve the public health, safety and welfare by virtue of maintaining a healthy and diversified economic community. Public health and welfare can be indirectly measured by economic health indicators. However, there are other potential adverse impacts to public health, such as the availability of (and ability to relocate to) similar housing that have not been addressed by the applicant.

The Comprehensive Plan shows a shortage of affordable houses at the lowest income levels (see Table VI of the Housing Element). Recent (2002) housing inventory figures show some rental housing shortages in affordable housing price ranges. The Comprehensive Plan amendment will likely result in the removal of 22 housing units. The applicant has not addressed the affordability of the housing or the effect of removing these housing units.

The applicant further explains that public facilities and services are "*capable of supporting the project*" and that "*the existing and planned function, capacity and level of service of the transportation system serving the property and will not adversely impact the surrounding transportation system.*" The adequacy of transportation system towards public health, safety and welfare, is addressed in the consulting city's traffic engineer's letters, dated November 20, 2002 (see Exhibit 12) and February 11, 2003 (see Exhibit 13). The first letter reviews the applicant's July 2002 Traffic Impact Analysis (Exhibit 15). This letter finds that additional analysis was needed. The applicant's traffic engineer, The Transpo Group agreed to supplement the original traffic study with the necessary analysis. The original report included inconsistencies that needed addressing and substantive technical items that would have a direct impact on the overall findings. This original review letter also

reiterated the need for the applicant to assess an agreed upon worst-case scenario as part of the Comprehensive Plan Amendment (and zone change) review.

On January 31, 2003, the applicant submitted a “worst case” scenario traffic analysis. The city traffic engineer has reviewed the premise for that analysis and found the residential worst-case to be unrealistically high thereby causing a less than adequate difference in worst-case scenarios (400 additional AM/PM peak hour trips). The difference between existing residential and proposed use also reveals 28 additional trips during the AM/PM peak hours. The transportation system adequacy cannot be deemed sufficient. Also, see section B of this report for the evaluation of the land use change as it relates to the Transportation Element.

The application points out in the Water Resources Report that, “*the retail project will have a beneficial affect on the quality of water in the Newell Creek tributary*” due to “*the proposed stormwater discharge treatment.*” Although some may argue that this has a more direct benefit on the condition of the environment, it is true that better water quality and detention can improve public health, safety and welfare.

The applicant also states that “*The Proposal is consistent with the Oregon City Comprehensive Plan goals and policies.*” The pertinent goals and policies are addressed elsewhere in the staff report. The Housing Element specifically deals with public health, safety and welfare relating to housing needs. The following criteria apply:

#### **Housing Element – Public Health, Safety and Welfare**

The Oregon City Comprehensive Plan requires that the city “*Provide for the planning, development and preservation of a variety of housing types at a range of prices and rents.*” The Plan goes on to identify the following policies under this goal:

2. *The City shall encourage the maintenance of the existing residential housing stock through appropriate zoning designations, considering existing patterns of development in established older neighborhoods.*
3. *The City shall encourage the private sector in maintaining an adequate supply of single and multiple family housing units. This shall be accomplished by relying primarily on the home building industry and private sector market solutions.*
8. *The City shall encourage the development of affordable housing for a diversity of household types consistent with the Clackamas County CHAS fair share policy.*
11. *The City shall, at each Periodic Review, review the allocations of buildable lands to meet regional and local housing needs.*

**10 Updated Finding:**

**Complies.** From a public health, safety and welfare perspective, staff has reviewed the March 10, 2003 Replacement Housing information prepared by Hobson Ferrarini Associates (see March 13, 2003 Planning Commission Hearing, Exhibit H). Staff concurs that there is sufficient, like price point, housing for renters and buyers in the area. As a result, we find that the issue of displacement of affordable housing as not prohibitive towards maintaining the “public health, safety and welfare.”

**10**

Finding: **Does Not Comply.** The applicant has prepared responses to each of these policies. The overall consistency with the Comprehensive Plans and Policies are addressed in Section B., 17.68.020 *Criteria*, below. The applicant reports that the Comprehensive Plan indicates that there is sufficient vacant buildable and redevelopable high-density (RA-2) and low-density (R-10) land to accommodate the City’s housing needs. The applicant addresses the Housing Element in the DWT letter, of January 31, 2003. The letter indicates that the Comprehensive Plan shows sufficient land for housing on a 20-year planning period. The applicant goes further to indicate that the loss of 1.96 acres would be the equivalent of 17 units per acre (original housing units calculated).

The removal of housing stock does not compare with the availability of vacant land. Under the Housing Element, the “preservation” and “maintenance” of housing stock, specifically in the affordable price range has not been addressed by the applicant.

The loss of two acres of residential property would result in an additional shortfall of available residential land within the city. The Comprehensive Plan background data is over 20 years old and are intended to provide a starting point for the element’s goals and policy statements. The applicant talks about the 1982 housing needs and available lands for housing. It is incumbent upon the applicant to demonstrate that this application will not adversely impact the maintenance of today’s adequate housing stock.

The Comprehensive Plan indicates an inadequate supply of affordable housing at the lowest income level. “The area of most concern is the availability of units for the lower income households. The City of Oregon City will address this problem through a variety of mechanisms. The City will cooperate with state, regional and local agencies to ensure adequate land is available for public funded housing projects, particularly for the elderly. It will also encourage the preservation of housing units in older neighborhoods that are a source of more affordable housing. Many of these neighborhoods contain boarding and lodging houses which provide low-cost rooms for rent. In today’s inflationary market, the most affordable housing unit is invariably the unit that is already built.



Oregon City's greatest resource for affordable housing is its existing housing stock."

The 2000 Census data indicates that there are shortages of affordable rental and homeowner units within the city. The recently completed 2002 City Housing Inventory as pointed out by the applicant, has not been formally adopted with the new Comprehensive Plan update. It does indicate, however, that there are deficiencies in the available affordable housing. Any potential displacement of residents in affordable rent categories and home prices has not been addressed by the applicant.

The criteria could not be met because the applicant has not demonstrated that there is sufficient affordable housing stock in the city. The applicant must demonstrate why this application does not go against the provision of "development and preservation of a variety of housing types at a range of prices and rents." And how it provides for the "maintenance of the existing residential housing stock." As an example, the applicant may have shown sufficiency of affordable housing by finding out whether there is an adequate current vacancy rate in the affordable price ranges within the area. Like the subject proposal, similar affordable units would also need to be near transit services. This would offset the displacement of renters by the project.

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

**11 Updated Finding:**

**Does Not Comply.** The Comprehensive Plan (1982) identifies a need for approximately 232.2 acres (the figure below is not correct) of commercial land. The same plan indicates that there were 317 acres that were available, leaving a surplus of almost 85 acres of commercially designated land.

**11**

Finding: **Does Not Comply.** The proposal would affect approximately two acres of land, changing it from residential (low density and high density) to commercial designation. The Comprehensive Plan (1982) identifies a need for approximately 327 acres within the city limits for commercial uses. The applicant has not provided supportive information indicating that additional large acreage commercial land is needed. More current information on the availability of commercial property within the city shows a very limited acreage of over ½ acre within the city limits (estimated as less than 25 acres including the 14 acres immediately south of the subject properties). The DWT letter of January 31, 2003 points out that the data developed for the Housing Inventory have not been officially adopted as part of the its acknowledged Comprehensive Plan, but even under the Comprehensive Plan, the applicant has not

shown how it preserves the existing housing stock or how it affects the identified lack of housing at the lowest income levels.

The loss of two acres of residential property would result in additional shortfall of available residential land within the city. The 2000 Census data indicates that there are shortages of affordable housing rental and homeowner units within the city. The 2002 City Housing Inventory (prepared for the upcoming City Comprehensive Planning Update) was recently completed and shows deficiencies in the available affordable housing. The applicant has not supplied any information relating to the housing that would be removed with the land use change. The impact of displacement of residents in affordable rent categories and home prices is undetermined without additional information from the applicant.

The applicant has not demonstrated that the factual information that supports the Comprehensive Plan (1982 or current data) supports the need for larger commercial properties over affordable residential housing. Therefore, no positive conclusion can be drawn regarding the adequacy with which this criterion is met.

## **B. Zoning Code, Section 17.68 Zoning Changes and Amendments**

### ***17.68.020 Criteria.***

*The criteria for a zone change are set forth as follows:*

#### ***A. The proposal shall be consistent with the goals and policies of the Comprehensive Plan.***

### **Consistency with Comprehensive Plan**

The applicable goals and policies of the Comprehensive Plan are addressed in this section.

### **Housing**

The Housing Element of the Oregon City Comprehensive Plan requires that the city *“Provide for the planning, development and preservation of a variety of housing types at a range of prices and rents.”*

#### **12 Updated Finding:**

**Complies.** The March 10, 2003 Replacement Housing Information prepared by Hobson Ferrarini Associates (see March 13, 2003 Planning Commission Hearing, Exhibit H) indicates that there is sufficient housing stock at the prices and rent levels that are proposed for replacement. Staff concurs that there is sufficient like-housing for renters in the area. As a result, we find that the preservation of housing at the price points proposed for removal is sufficient.

Finding: **Does Not Comply.** This application proposes new possible uses for what appears to be, affordable-type housing on the subject site. The approval of this application would result in 22 units of affordable housing being removed for commercial-type uses. The city inventories the types of housing and the projected need for housing through the Comprehensive Plan process. The above criterion requires the city to protect against a shortage of housing within all housing categories (for sale and for rent).

The applicant has not demonstrated that there is currently sufficient housing in the existing price ranges and therefore would not meet the intent of this criterion. The applicant makes a case that there was sufficient land for housing as the basis for the 1982 Comprehensive Plan. However, the applicant does not address how it would maintain the existing housing stock or preserve the variety of housing types at a range of prices and rents. More recently (2002) Oregon City completed their City Housing Inventory (as part of the upcoming City Comprehensive Plan Update) and looked at background information derived from the Oregon Housing and Community Services Model (2002). This information indicates housing shortages within a number of the housing rental and ownership ranges in Oregon City. Without any additional information that supports the position that there is sufficient available housing in the price ranges to be displaced, the application does not comply with this element of the Comprehensive Plan.

The Comprehensive Plan goes on to identify the following policies under this goal:

*2. The City shall encourage the maintenance of the existing residential housing stock through appropriate zoning designations, considering existing patterns of development in established older neighborhoods.*

**13 Updated Finding:**

**Complies** Staff has reviewed the March 10, 2003 Replacement Housing information prepared by Hobson Ferrarini Associates (see March 13, 2003 Planning Commission Hearing, Exhibit H). Staff concurs that there is sufficient like housing for renters in the area. The only question is whether the change in land use designation would “*encourage the maintenance of the existing housing stock through appropriate zoning designations, considering existing patterns of development in established older neighborhoods.*” The existing housing stock is approximately 30-years old. Staff does not have a definition of what age constitutes an “older neighborhood” and as such, leaves the interpretation of this term and the necessary finding up to the final decision-makers.

Finding: Does Not Comply. Under this policy, the applicant indicates that there is "sufficient vacant buildable and redevelopable high density (RA-2) and low density (R-10) land to accommodate the city's housing needs." In order for the city to allow the removal of 22 housing units, the applicant must demonstrate that there is sufficient housing stock within the same price ranges as the existing housing. The applicant also states that the properties are not part of an established older neighborhood. Most of the homes are about 30 years old and are part of an established neighborhood.

*3. The City shall encourage the private sector in maintaining an adequate supply of single and multiple family housing units. This shall be accomplished by relying primarily on the home building industry and private sector market solutions, supported by the elimination of unnecessary government regulations.*

**14 Updated Finding:**  
**Complies.** As part of the analysis of adequate supply of single and multiple family housing units, the applicant has provided Replacement Housing information, dated March 10, 2003, prepared by Hobson Ferrarini Associates (see March 13, 2003 Planning Commission Hearing, Exhibit H). Staff concurs that there is sufficient like housing for renters in the area. Staff finds that due to the existence of adequate single-family and multi-family housing, the reliance on home building and market sector solutions will not be negated.

Finding: Does Not Comply. The applicant has not addressed the adequacy of supply of single and multiple-family housing units within the city. They have addressed only the vacant land supply. The applicant also is relying on the existing Comprehensive Plan information that is over 20 years old. The future growth projections in the adopted plan have passed the planning horizon, the 20-year time frame to the year 2002. This Comprehensive Plan criterion requires maintenance of adequate housing stock over time. Additional information is needed to support a positive finding.

**Commerce/Industry**

*11. The following policies (Ordinance 90-1034) shall govern the location, siting and design of new Commercial, Limited Commercial, Office Industrial and Campus Industrial areas:*

a. *Commercial*

- (2) *Commercial districts should offer good visibility and access and should be located along major arterials and transit lines.*

**15 Updated Finding:**

**Does Not Comply.** This criteria was not been addressed by applicant's addended information. As eight stand-alone commercial properties, visibility from major arterials and transit lines is not good. If part of a larger development, these sites could be required to be merged with the property to the south that has adequate visibility from Molalla Avenue, a transit street.

**15**

**Finding: Does Not Comply.** The subject properties currently front on Hilltop Avenue, a residential street. Hilltop Avenue has limited access to and from Molalla Avenue, to the west. Molalla Avenue is a major arterial. Visibility of the eight lots is not good.

- (4) *Commercial districts that result in numerous small lots with individual street access points shall be discouraged.*

**16 Updated Finding:**

**Does Not Comply.** There are currently, eight stand-alone properties with potential individual access points proposed for commercial purposes. If conditional approval were considered, each of these properties should be merged with the property to the south and access limitations applied to Hilltop Avenue.

**16**

**Finding: Does Not Comply.** The subject properties front on Hilltop Avenue and have individual eight access points within about 870 feet of frontage.

- (6) *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 Updated Finding:**

**Does Not Comply.** This proposal would ultimately result in some increases in traffic on the nearby residential streets. Specific uses may be conditionally approved to mitigate against traffic within the Hilltop Avenue and Fox Lane area. Without these conditions of approval the protection of this area is not certain.

See item **26**, below.

As discussed in (4) above, this application has the potential to result in eight small lots with individual access points. Without a conditional approval, the proposed district (and zone) would result in small lots with individual street access points.

**17**

Finding: **Does Not Comply.** This proposal would ultimately allow removal of the existing residential use of the subject properties and place commercial development adjacent to a residential street, Hilltop Avenue. Adequacy of residential "protection" is better measured evaluating impacts from traffic, noise, odor, etc. Proximity can be an issue but this can often be mitigated. In this day and age residential and commercial land uses are often in close proximity and occasionally together within mixed use projects. Staff have concerns related to traffic within the adjacent neighborhood.

The proposal will bring commercial use to the west end of Hilltop Avenue, a street that was designed and is currently surrounded by residential use. Making Hilltop Avenue into a street with commercial use on one side will not necessarily serve to protect the residential neighborhood as outlined in the DWT letter of January 31, 2003. In fact, if the subject property residences were not removed the applicant could provide sound or visual protection with fencing or buffering.

The change in use will affect traffic and present issues with regard to the protection of residential properties. It is anticipated that access to Hilltop Avenue from the proposed commercial use will result in additional traffic, truck traffic, and neighborhood cut-through traffic in the vicinity of these properties.

Further, because Hilltop Avenue provided only a right-in right-out access, the proposed commercial properties will have no option for turning south on Molalla Avenue without cut-through

traffic using Beaver Lane, Otter Lane or Fox Lane to reach Warner Milne Road. The status of the right-in right-out intersection will remain unchanged due to needed turn-lane improvements projected on Molalla Avenue (as described in *The Molalla Avenue Boulevard and Bikeway Plan*). The reasonable worst-case scenario may increase the traffic by 400 additional trips during the AM and PM peak hours. The relative differences in trip counts, worst-case or otherwise, will put additional burden on the surrounding neighborhood's streets.

### Community Facilities

Goal: *Serve the health, safety, education, welfare and recreational needs of all Oregon City residents through the planning and provision of adequate community facilities.*

**18 Updated Finding:**

**Does Not Comply.** This proposal will have no direct impact on the recreation or education needs of Oregon City residents. The proposal will add additional street traffic to a number of streets and intersections. These are health, safety and welfare related issues. See item **26**, below, that outlines issues related to health, safety and welfare related to street capacities and level of service.

**18**

**Finding:** **Does Not Comply.** The Comprehensive Plan amendment has potential impact on some community facilities, specifically street capacity, as described in the City Traffic Engineer Review (see Exhibits 12 and 13). Hilltop Avenue is a residential street and is not designed to accommodate this proposed land use change.

*6. 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 Updated Finding:**

**Does Not Comply.** Street capacity on Hilltop Avenue, a residential street, is still a concern. The other concern is increased traffic on Fox Avenue. In the reasonable worst-case commercial land use scenario there would be an additional 46 trips during the PM peak hour and 254 trips during the average day. These figures may not be serious by themselves, but the city has insufficient information (ie. traffic count data) to determine that these added

trips will not overburden the neighborhood traffic that currently use Fox Avenue. The entire neighborhood currently must use Fox to head south on Molalla Avenue. The addition of a future road connection from the east end of Hilltop Avenue to Beaver Creek Road would tend to alleviate some of the traffic on Fox Avenue. Again, the city has no traffic counts to back this up.

In addition, traffic congestion concerns are expressed as described in Item   26, below.

19

**Finding:** **Does Not Comply.** Specific service policies are addressed below. Street capacity is inadequate given the existing and proposed status of Hilltop Avenue. Hilltop Avenue has limited right-in and right-out access with Molalla Avenue, the major arterial, and is built to residential street standards. Concern is raised that the potential commercial uses of the eight properties could have negative impacts on the surrounding residential streets. Under the applicant's worst case scenario, (see DWT letter of January 31, 2003), the existing and planned access to Molalla Avenue is insufficient. Hilltop Avenue is built for residential use and requires traffic that turns south on Molalla Avenue to circulate through the neighborhood to the west before reaching Warner Milne Road and a location to head east on Molalla Avenue. Due to intersection stacking a full turn movement intersection is not possible at Hilltop Avenue and Molalla Avenue.

With the exception of the street system, generally the Comprehensive Plan amendment and zone change will not result in undue burden on other existing public facilities. Service providers have indicated that they have no concerns about the proposed Plan Amendment, although service adequacy would need to be reviewed through site plan review prior to any future site development.

## 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 Updated Finding:**

**Does Not Comply.** The application still leaves a number of questions with regard to adequacy of transportation in accordance with land use planning and public agencies. In addition, the city traffic engineer and ODOT continue to express concerns for level of service issues regarding both opening day and within the 20-year planning horizon. Item **26**, below outlines some of the concerns with relation to transportation level of service and capacity issues.

Staff finds that the additional traffic caused by this application would result in increases in traffic in a system that is already at Level of Service F (Highway 213/Beavercreek, Highway 213/Molalla Avenue) or destined to be at Level of Service F within the 20-year planning window (all intersections in the project area except Molalla Avenue/Hilltop Avenue.

Also, there is no evidence that a regional traffic generating business fits under the base traffic assumptions for the Molalla Avenue Boulevard and Bikeway Improvement Plan (MBBIP).

**20**

**Finding:** **Does Not Comply.** The applicant provided a traffic analysis of a worst-case scenario for both residential and commercial land use on January 31, 2003. In this proposed scenario, the traffic impacts would incrementally increase (roughly calculated by the City Traffic Engineer as 400 additional AM and PM Peak Trips). This shows possible significant increases in peak hour traffic trips for possible future use of the properties.

ODOT Transportation and Planning have both reviewed the traffic impact study and site plan relating to the Comprehensive Plan amendment/zone change and project specific proposal, attached as Exhibits 14 and 23 are two submitted letters indicating ODOT's concerns that outline the need for additional analysis, and a recommendation for denial. ODOT has indicated that the traffic analysis has not accounted for adequate signal timing as required by ODOT. The ODOT recommendation for denial is based on the applicant not meeting Oregon City Comprehensive Plan Chapter O criteria, Zoning Code Section 17.68.020.B, the State Transportation Planning Rule and Oregon Highway Plan policies.

The applicant's traffic impact analysis for a proposed Wal-Mart development has been reviewed by the City's consulting traffic engineer. The proposed use versus existing condition is a valid comparison in determining the adequacy of systems for the movement of people. The existing land use assumptions and services are based upon an existing 22 housing units (originally 17 units using Metro figures). The proposed commercial use would result in an increase of 28 AM and PM peak hour trips over the existing condition (assuming that the Wal-Mart store were in operation on the adjacent land to the south). In summary, the opening day traffic contribution of the proposed project can be accommodated

through a number of conditions of approval. Those conditions will be applied with site plan and design review.

Within the 20-year window, the proposed development scenario would have a contributing negative effect on local roadways and intersections compared to the existing residential development that exists on the subject properties. Without significant changes, the system will fail sooner than is currently anticipated. Both the worst-case and the proposed change in use would serve to decrease the timeframe within which those failures would occur.

### **Transportation System Plan (TSP) and The Molalla Avenue Boulevard and Bikeway Improvements Plan (MBBIP)**

#### **21,22,23 Updated Findings: Do Not Comply.**

Item, **21**, appears not to have been addressed. Specifically, how does this proposal support the mixed use/high density policies to reduce auto demand/dependency (page 5-38, Table 5-9 of the TSP)? The applicant has only supported removal of housing density from an adequacy of replacement housing perspective.

The Molalla Avenue Boulevard and Bikeway Improvement Plan (MBBIP) further requires *“developing a livable Main Street environment with mixed-use, transit-oriented, and community business land uses.”* Staff has repeatedly identified that it is incumbent upon the applicant to demonstrate compliance with the MBBIP (and the TSP). The applicant stated that Wal-Mart is a community business and therefore is supportable under the MBBIP. They support this by commenting that *“the citizens of Oregon City have testified that this is a community business where they want to shop.”* Staff disagrees as the testimony of a few is not the test of compliance with the land uses planned for and supported by the MBBIP (and the TSP).

The applicant has not shown what adding 1.96 acres of additional commercial land means when considering the land use and traffic assumptions associated with the underlying data associated with the plan. The applicant is responsible to provide analysis that looks at a regional generating commercial land use does to the traffic model used when preparing the MBBIP. In addition, what does the MBBIP traffic model reflect when a land use that apparently can not be built on 12.86 acres (per applicant) is suddenly built on 14.82 acres? The necessary background information and analysis is not in the record to support a finding of compliance, proposal to add 1.96 acres of commercial land, with the MBBIP (and the TSP).

The Transportation System Plan (TSP) also looks at a 20-year planning horizon. The addition of more commercial land would have a contributing negative effect on local roadways and intersections compared to the residential development that exists on the subject properties. Most of the intersections within the immediate area are projected to fail within the 20-year period. The addition of more commercial property will contribute to the decreasing the timeframe within which that failure will occur. Can this be alleviated? Possibly, but not without considering conditions that would mitigate this impact. Item 22 questioned: how the removal of the 22 residences is supported by the plan that encourages more mixed and high density residential land uses. The applicant has made a strong case that like replacement housing can (and is) being found. Do all uses allowed in the commercial land use designation and by commercial zoning encourage multi-model transportation use? Although the applicant has not addressed this issue directly, a regional generator of traffic can support multi-modal transportation and a conditional approval could assure that this would take place. The issue of whether cut-through traffic would or would not occur is not assured as explained in item 26, below.

Item 23 questioned how the expansion of the commercial area would support the local community needs envisioned by the plan, specifically that the demand on local trip making would be reduced by the removal of housing that is in close proximity to other uses. Staff does not agree that removal of housing stock and the potential replacement by part local and part regional traffic generating retail business will have the effect of reducing demand for over-all trip making. The fact that the applicant has shown that there is current adequate replacement housing in the area only demonstrates that there is not a current public need for this type of housing but it does not prove that the action will support overall trip reduction.

Finding: **Does Not Comply.** *The TSP and The Molalla Avenue Boulevard and Bikeway Improvements Plan* are both adopted Comprehensive Plan documents. The following are items of relevance from these documents.

The project does not meet the overall community vision and goals for the Molalla Avenue Corridor. Specifically, the Molalla Avenue Corridor Plan states, "The Oregon City community, City Staff, and the decision and policy makers have all expressed a desire to focus the physical and operational characteristics of Molalla Avenue on enhancing multi-modal travel and developing a livable Main Street environment with mixed-use, transit-oriented, and community business land uses. As such, accepting a higher level of congestion for vehicular operations along the facility is a feasible policy

*decision that can be made by the community in order to achieve the overall transportation and land use goals for the corridor.*” Staff indicates that the intent was not to develop a five-lane arterial but to have a mix of uses and enhance “a feeling of community.” Currently, land use is being evaluated in the corridor with new mixed use zoning to be added. Two questions that are raised are, “Does a Wal-Mart fit with the picture of “community business land use”?” and, “Does the removal of housing density fit with the picture for the Molalla Avenue Corridor Plan?” These are questions that must be addressed in approving or denying this application.

21

The TSP also raises some concerns. One of the Land Use/Policy Strategies is to support mixed use/high density policies to reduce auto demand/dependency (from page 5-38, Table 5-9. Transportation System Management Strategies, in the TSP).

The TSP outlines *Goal 1 – Multi-Modal Travel Options: Develop and maintain a transportation system that incorporates, provides for, and encourage a variety of multi-modal travel options to meet the mobility needs of all Oregon City residents. Objective 2. Provide an interconnected and accessible street system that minimizes vehicle-miles-traveled and inappropriate neighborhood cut-through traffic, throughout the network (Please note: A 10-percent reduction in VMT per capita has been assumed within the 20-year horizon consistent with and reflected in the Metro travel demand forecasting model used to evaluate the transportation system and identify needs)* (TSP, page 5-4). The applicant has provided a traffic impact analysis with “worst-case scenarios.” The applicant’s commercial “worst-case scenario” would involve the eight subject properties developing with three individual commercial land uses. The City Traffic Engineer has looked at reasonable “worst-case scenario” land uses and concludes that an additional 400 peak hour trips would occur. The analysis is needed to determine what the impacts the change in land use designation could have on the surrounding road system. This also points to additional impacts on Hilltop Avenue and the residential connecting streets.

Staff are concerned about the removal of housing density (22 residences), the degree to which the project supports multi-modal transportation and the inadequacy of the traffic analysis in assessing commercial use impacts of cut-through traffic within the neighborhood.

22

The TSP indicates that “*Through the public involvement process for the TSP, the applicant was advised for enhancing the corridor to encourage multi-modal use, preserve historic characteristics and local community needs, and improve economic viability. The existing land uses will continue to integrate effectively with the neighborhoods they serve, while reducing vehicular demand for local trip making. In addition, the mix and intensity of uses will further support transit on the corridor and promote pedestrian and bicycle activity within the area.*” (TSP, pages 5-8 and 5-9). Although increased economic viability is

proposed, staff feel that the demand on local trip making, the support of pedestrian activity within the corridor and the integration with the neighborhood are not supported by the removal of housing. The expansion of the commercial area to accommodate a regional retail business was not part of the preservation of the historic character and local community needs envisioned by this plan.

23

***Neighborhood Plan Maps – Comprehensive Plan Map Goals and Policies***

*Goal: Maintain and review the Comprehensive Plan Map as the official long-range planning guide for land use development of the City by type, density and location.*

**Finding:** The proposed Comprehensive Plan Map amendment does not alter the official status of the Plan Map. Proposed Comprehensive Plan changes are processed via amendments resulting in each land use request being evaluated under the appropriate criteria including the effect the change would have on planned services. The application request is evaluated through a legislative application process that assures consistency with this goal.

**Policies**

*2. Proposed amendments to the Comprehensive Plan Map will follow City administrative procedures for a change of zoning district. The burden of proof for such a change is placed on the petitioner seeking such an action. The applicant must show that the requested change is (1) consistent and supportive of the appropriate Comprehensive Plan Goals and Policies, (2) compatible with land use patterns established by the Comprehensive Plan Map, (3) in the public interest to grant the petition, and (4) that the interest is best served by granting the petition at this time and at the requested locations. Rezoning may be considered concurrently with the request for modification of the Comprehensive Plan Map designation.*

**24 Updated Finding:**

**Does Not Comply.** The applicant has not addressed nor met all the required criteria including consistency with the Comprehensive Plan Goals and Policies. See criteria identified as items **12-20**, above. Full compliance with the Molalla Avenue Boulevard and Bikeway Improvement Plan. See criteria identified as **21-23**, above. The applicant has not proven that there is “public need” for this land use action. See criteria identified as items **7-8**, above.

**Finding: Does Not Comply.** The applicant has not provided the necessary information or cannot meet the requirements for many of the criteria in Section III of this report. See [REDACTED] symbols for approval criteria that did not meet the criteria within the February 24/March 10 staff report. The updated findings for each of these non-compliant items is noted within this report with [REDACTED] symbols.

The administrative procedures for a change of zoning district are outlined in a separate concurrent application request.

The applicant attended a pre-application conference with City staff on March 6, 2002. The Pre-Application Conference Summary is attached as Exhibit 1. The subject properties are within the Barclay Hills Neighborhood. There is no requirement to meet with the neighborhood association and the applicant has not indicated that they have had any meetings with any of the Neighborhood Associations in the area.

The application was deemed complete on October 9, 2002. Notice of the Planning Commission hearing was issued on November 8, 2001, more than 20 days prior to the hearing, in accordance with Section 17.50.090(B). The scheduled public hearing before the Oregon City Planning Commission was scheduled for December 18, 2002. The hearing was re-noticed on December 4, 2002. The applicant moved the hearing date to January 27, 2003. The original final City Commission hearing scheduled for January 15, 2003 was rescheduled for February 5, 2003. Later, the Planning Commission hearing was again re-noticed on January 17, 2003 for a February 24, 2003 hearing date.

*3. The hearings shall be conducted in accordance with the requirements of Section 17.50.120, and the review and decision in accordance with Sections 17.50.130 through .160.*

***B. 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. Service shall be sufficient to support the range of uses and development allowed by the zone.***

**25 Updated Finding:**

**Does Not Comply.** Transportation is the only public facility or service that has not been demonstrated to be supported by the uses allowed within the zone. See the next finding (17.68.20.C) which deals with function, capacity and level of service of the transportation system.

**25**

**Does Not Comply.** The applicant indicates that public facilities and services are either presently available or will be made available by the retail project prior to issuance of the certificate of occupancy. Services that need to be made available as a result of a proposed site development will require separate site development conditions of approval. The applicant is required to show sufficiency to support the range of uses and possible development allowed by the proposed zone. The city requested a worst-case scenario for uses allowed in the proposed land use designation. The applicant chose not to provide this information. Note that the approval of the Comprehensive Plan Amendment (or the concurrent zone change) cannot be made contingent on a specific project that may (or may not) be built on this site. The city staff cannot recommend appropriate generic conditions of approval dealing with the subject properties as there is insufficient traffic information upon which to base this finding.

Public facilities include sewer, water, stormwater drainage, solid waste disposal, electricity, gas, telephone, health services, education and government services. Solid waste disposal, electricity, gas, telephone, health services and education are made available to all property owners within the city limits and specific service provider areas.

City engineering and public works have made comments regarding the adequacy of sewer, water and storm drainage facilities to serve these properties (see Exhibits 9 and 24). These comments include determination that utility upgrades will be necessary and conditions of approval will be needed with the separate site plan and design review.

Sufficiency of facilities is determined by assessing the potential impact to those services from the change in land use designation. In this case, the change in land use designation from housing (low and high density) to commercial designation is evaluated. To help support a determination of adequacy of community facilities, the applicant has provided a Traffic Impact Analysis and a Water Resources report describing the protections for the nearby water quality resource area. The water resource report is required due to proposed development of the property immediately adjacent to the subject properties. If the development does not identify the water resource district boundary as touching the subject properties, the report is not subject to review within this application.

The application is non-compliant as the transportation facilities have not been proved adequate as indicated in the attached city traffic engineer's letters (see Exhibits 12 and 13). The traffic impact analysis lacks some substantive technical items as outlined in

the letter. The applicant has not provided the city with the necessary worst-case scenario under the possible new land uses for the subject properties. This scenario deals with the change in land use from residential land uses to possible high traffic impact commercial uses. In this case, the incomplete traffic analysis has evaluated one possible development scenario (a portion of the parking lot for a proposed adjacent Regional traffic generator store). This proposed development traffic analysis is incomplete and also does not include an evaluation of the worst-case scenario. As a result, it is not possible to determine whether transportation facilities are adequate and whether service would be sufficient to support the range of uses and development allowed by the zone.

***C. 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 Updated Finding:**

**Does Not Comply.** Adding 1.96 acres of commercial land will incrementally affect the overall surrounding area. The city traffic engineer has pointed out that the applicant's traffic study results indicate that most of the local system intersections are expected to fail within the 20-year planning horizon. The addition of more commercial land will contribute to making the system fail sooner. Likewise, the 213/Beavercreek Road and 213/Molalla Avenue intersections will have opening day Level of Service F conditions. The addition of a regional retail generator of traffic will increase traffic delay substantially at these intersections. As an example, ODOT has indicated with their SimTraffic modeling that in the PM peak hour by 2004, the average current wait at the OR 213/Beavercreek intersection is 2 minutes and 15 seconds. With a regional generator, that same average wait will become 4 minutes and 25 seconds. The 1.96 acres would add an incremental portion of this serious delay.

By 2004, the study area transportation system will begin to experience instances of congestion. Congestion occurs as traffic begins to spillover out of some left-turn lanes and long queues in through lanes block access to turn lanes. By 2020, congestion will affect most study area intersections during the PM peak hour and overflow traffic from intersections will stack up to and through adjacent intersections. Authors of procedures used in the Synchro model, presented by the applicant in their reasonable worst-case TPR evaluation, clearly state that those procedures do not account for the effects of congestion. Congestion is expected to occur throughout the study by the year 2020: including lane spillover, lane blockages, and traffic queues extending from one intersection through adjacent intersections. Despite requests from the city traffic engineer and ODOT comments, the applicant has continued to present Synchro results as the basis for asserting that the study area will meet LOS D standards in 2020 (both with and without a Wal-Mart store). This information is misleading and not credible as it does not account for congestion.



The other concern is increased traffic on Fox Avenue. In the reasonable worst-case commercial land use scenario there would be an additional 46 trips during the PM peak hour and 254 trips during the average day using Fox Avenue. These figures may not be serious by themselves, but the city has received insufficient information (i.e. traffic count data) to determine that these added trips will not overburden the local neighborhood street. The entire neighborhood currently must use Fox Avenue to head south on Molalla Avenue. The addition of a future road connection from the east end of Hilltop Avenue to Beaver Creek Road would tend to alleviate some of the traffic on Fox Avenue. Again, the city has no traffic counts to back this up.

26

Finding: **Does Not Comply.** The consulting city traffic engineer has reviewed that applicant's traffic study and compared the potential new uses with the evaluation of existing and planned levels of service. Significant substantive items have not been included in the applicant's report. The traffic analysis also does not include an evaluation of the land uses that would be allowed under a potential change in use for the property. Without this analysis it is impossible to determine that this criterion is met or could be met with conditions of approval. The access and circulation to and from the subject properties is limited due to restrictions at the Hilltop Avenue/Molalla Avenue intersection, the residential street system in the area and the standard to which Hilltop Avenue is built.

The applicant has not provided adequate analysis, and as a result, consistency with the planned function, capacity and level of service of the transportation system cannot be determined.

*D. Statewide planning goals addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.*

**Updated Finding:**

**Complies.** No statewide planning goals are addressed as the City Comprehensive Plan does contain specific policies and provisions that control this amendment (see above).

**C. RECOMMENDED CONCLUSION AND DECISION:**

The proposed Comprehensive Plan Map amendment is not consistent with all applicable criteria of the zoning ordinance and Comprehensive Plan.

City staff recommends denial of this application due to the non-compliance items above.

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

*Submitted to:*

Planning Commission  
City of Oregon City

April 22, 2003

*Prepared and Submitted by:*

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Oregon City Planning Commission  
Meeting Date: May 12, 2003  
Case File: PZ 02-01, PZ 02-02 ZC  
02-01 ZC 02-02  
Exhibit: B



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April 22, 2003

Linda Carter, Chairperson  
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 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: **Written Closing Argument for Proposed Wal-Mart Store  
 Comprehensive Plan Map and Zone Change Amendments**

Dear Chair Carter and Members of the Commission:

This written Closing Argument regarding the above-entitled matter is submitted pursuant to ORS 197.763(6)(e) and the procedures outlined by the Planning Commission at its meeting on April 8, 2003. The record regarding the Comprehensive Plan and Zone Change amendment applications (the "applications") for the proposed Wal-Mart store was closed on April 15, 2003. This Written Closing Argument will state the reasons why the Planning Commission should approve these applications based on the record that has been established in these proceedings.

A number of questions have been raised regarding these applications based on the staff reports, the testimony presented to the Planning Commission at the public hearings, and the evidence submitted by the parties to these proceedings. This Written Closing Argument will address these questions as set forth below.

The answers to these questions and an understanding of the key issues should be instructive and helpful to the Planning Commission in its consideration of the applications. We believe the Planning Commission will find that the applications comply with all of the applicable legal requirements, and that there are significant community benefits which result in the



construction of the proposed Wal-Mart store at this location in Oregon City. These community benefits outweigh any potential concerns that some may have about locating a Wal-Mart store in the Hilltop area.

The true measure of whether the potential concerns associated with this Wal-Mart store can be properly addressed and mitigated is set forth in the staff report for the Site Plan and Design Review for the proposed store. *See* Site Plan and Design Review-Staff Report dated February 14, 2003. The staff has determined that the proposed Wal-Mart store meets all of the City's new design standards, including the requirements to create a main street environment and accommodate pedestrians and bikes. The staff has also determined that with conditions, all of the potential impacts of the new store are properly mitigated, including any traffic impacts, the protection of the adjacent neighborhood and the preservation of Newell Creek Canyon.

We understand that some of the parties to these proceedings do not want a Wal-Mart store in Oregon City regardless of whether the applications meet the legal requirements or it is a significantly better use of the property than Dales Auto Wrecking Yard. These opponents want the Planning Commission to deny these applications for various reasons, such as

- (1) they simply do not like Wal-Mart,
- (2) they do not like the company's employment practices, especially the labor unions;
- (3) they are fearful that existing businesses in the area will be adversely affected, although many believe that these businesses will benefit from the additional shoppers in the Hilltop area;
- (4) they are concerned about traffic impacts, although the staff has concluded that potential traffic impacts can be mitigated;
- (5) they believe that the adjacent neighborhood will be adversely impacted, although staff has concluded that the proposed store meets the City's requirements for Site Plan and Design Review;
- (6) they are concerned that displaced residents will not be able to find comparable affordable housing in the area, although there is a 9.7% vacancy rate in the area for similar housing;
- (7) they believe that the proposed store is too large for the Hilltop area, although it is smaller than Fred Meyer and satisfies the City's new design standards.

Notwithstanding this opposition, there are many people in the community who have participated in these proceedings who want Wal-Mart in Oregon City. They see the community benefits. They see the opportunity for environmental cleanup of the property. They see how Wal-Mart can play a significant role in preserving and enhancing Newell Creek Canyon.



They see how a Wal-Mart will actually have the effect of keeping shoppers in Oregon City and bringing more shoppers to the Hilltop area which will benefit existing businesses. They see how the commercial development of the property will increase tax revenues which could benefit the local schools. They see why there is more public benefit in redesignating the residential property to commercial to allow for the Wal-Mart store when there is a 9.7% vacancy rate in comparable affordable housing in the area. They see the employment opportunities in a depressed economy.

However, and more importantly from the Planning Commission's perspective, the proposed store can be built in compliance with all of the City's legal requirements.

### **WHAT IS THE PROPOSAL?**

Wal-Mart is seeking to amend the planning and zoning designation for a 1.96 acre strip of property from residential to commercial to enable the construction of an approximately 135,000 square foot retail discount store. The proposed store is the smallest discount store offered by Wal-Mart and does not include any grocery use. It is smaller than the Fred Meyer store which is located in the area.

The 1.96 acres will be consolidated with an adjacent 12 acre site (Dales Auto Wrecking Yard) and used as a part of the parking field and landscaped buffer for the proposed store. This additional acreage allows Wal-Mart to increase the size of the proposed store an additional 17,000 square feet. Without this additional acreage, Wal-Mart would not be able to build the project. It is for this reason that opponents of Wal-Mart are urging the Planning Commission to deny the applications to prevent Wal-Mart from locating in Oregon City.

Wal-Mart has also filed concurrently with the Comprehensive Plan Map and Zone Change amendment applications, a Site Plan and Design Review application for the proposed store, and a Water Resource review for that portion of the property that will physically accommodate the new roadway that will connect to Beaver Creek Road. The City's Code permits the applications to be filed concurrently. Typically, if an applicant is ready to proceed with a specific project, all of the necessary applications are filed at the same time, processed concurrently, and decided separately. In this case, Wal-Mart is seeking approval of all of these applications to enable the construction of the proposed store.

### **CAN THE PLANNING COMMISSION CONSIDER THE PROPOSED WAL-MART STORE IN ITS REVIEW OF THE COMPREHENSIVE PLAN MAP AND ZONE CHANGE APPLICATIONS?**

The answer is yes. As stated above, the purpose of the Comprehensive Plan Map and Zone Change applications is to enable the construction of the proposed store on the consolidated parcels. We have encouraged the Planning Commission to consider the proposed Wal-Mart store during its consideration of the Comprehensive Plan Map and Zone Change Amendment applications for the following reasons:



(1) The City has in past cases, when considering plan and zone change amendment requests, relied on the applicant's objective for seeking the amendments as a basis to demonstrate compliance with the applicable criteria. For example, in PZ99-04 and ZC99-16, an applicant requested to amend the City's comprehensive plan map from Low Density Residential to Limited Commercial, and the City's zoning map from R-6 (Single Family Dwelling District) to LO (Limited Office District). *See Findings, PZ99-04 and ZC99-16.*

In that case, the applicant's objective in seeking the amendments was to build a medical office facility next to Willamette Falls Hospital (although the findings indicate that the applicant had not yet filed a specific site plan development application). In this case, Wal-Mart's objective in seeking the plan and zoning map amendments is to build a retail store, and has filed a specific site plan development application for that use.

(2) It makes sense in this case to consider the proposed store since a Site Plan and Design Review application has been concurrently filed by Wal-Mart for that use. As a result, it is a more effective review for the Planning Commission to judge the applicable criteria with the specific project in mind, as opposed to having to measure compliance based on theoretical uses authorized under the new planning and zoning designation.

For example, instead of theorizing as to whether there is a public or a community need to change the 1.96 acre strip from a residential designation to a commercial designation, the real question is whether the specifically proposed project satisfies that requirement. Instead of theorizing what the neighborhood impacts might be if eight (8) separate commercial lots are created within the 1.96 acre strip, the real question is what are the potential neighborhood impacts of the proposed Wal-Mart store and can those impacts be properly mitigated?

(3) The Planning Commission has the authority to condition the approval of the Comprehensive Plan Map and Zone Change applications subject to the specific use proposed for Site Plan and Design Review, i.e., the proposed Wal-Mart store. The Planning Commission has the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can, be met. 17.50.130 A., Oregon City Municipal Code. In granting a change in zoning classification to any property, the Planning Commission may attach such conditions to the zone change as the Commission deems necessary in the public interest. 17.50.050, Oregon City Municipal Code. In this case, Wal-Mart has voluntarily agreed to condition the approval of the applications subject to the specific use proposed in the Site Plan and Design Review application.

(4) The Planning Commissions reliance on the specific proposal in its evaluation of the applicable criteria, provides a more effective and realistic review of the applications as opposed to reviewing the requests in the abstract.





**IS THERE A PUBLIC NEED TO BE FULFILLED BY THE  
PROPOSED CHANGE THAT WOULD ACCOMMODATE  
THE BUILDING OF THE WAL-MART STORE?**

The answer is yes. The Planning Commission has heard plenty of testimony and received lots of written testimony regarding the reasons why there is a public need to change the planning and zoning designation on the 1.96 acre strip from residential to commercial to allow for the construction of the proposed Wal-Mart store on the consolidated parcels:

- (1) The removal of Dales Auto Wrecking Yard and the environmental clean-up of the site;
- (2) The extension of the sewer from the end of Hilltop Avenue to Beaver Creek Road on the east side of the proposed building which will allow for the removal of the Hilltop Sewage Pump Station;
- (3) The construction of an on-site storm drainage system which will protect downstream water quality and assist in protecting the environmental values of Newell Creek Canyon which will allow Wal-Mart to be a significant participant in the long term preservation of the basin;
- (4) The creation of new employment opportunities in Oregon City where currently there is a lack of new employment opportunities in a poor economy, including opportunities for disabled students at Oregon City High School;
- (5) The generation of new and substantial tax revenues which will benefit the local schools within the community;
- (6) The generation of significant System Development Charges (SDC's) which will contribute to the City's public infrastructure;
- (7) The creation of new shopping opportunities for the many citizens who want to shop at a Wal-Mart in Oregon City rather than driving to other Wal-Mart stores outside of the City. Literally thousands of Oregon City citizens are expected to shop at the proposed store on a daily basis which will keep local dollars in Oregon City;
- (8) The creation of additional shopping opportunities in the Hilltop area that will help and support the existing businesses in the area;
- (9) The creation of additional low-cost shopping opportunities and shopping closer to home with less travel time for senior citizens of Oregon City;
- (10) The construction of all of the public facility improvements, including transportation improvements required as conditions of approval in the Site Plan and Design staff



report dated February 14, 2003. *See* Site Plan and Design Review Staff-Report dated February 14, 2003.

The City staff points out in its staff report for the Comprehensive Plan Map amendment that the test to determine whether a “public need” has been established is if it can be demonstrated that a change in the land use designation would better fulfill “public need” than the existing designation. In this case, the staff expressed concern that a change in the residential designation would displace residents currently residing in the affordable housing located on Hilltop Avenue within the 1.96 acre area. In the staff report, the staff stated that the applicant had not demonstrated that a change in designation allowing a new Wal-Mart store would better fulfill a public need if it could not be demonstrated that there was sufficient affordable housing stock available to those residents that would be displaced. The staff explained how the applicant could demonstrate there was a “public need” for the change to accommodate the Wal-Mart store:

If the applicant can demonstrate that there is sufficient affordable housing stock in the City the criteria would be met. 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 cannot be made. Staff Report, Comprehensive Plan Map Amendment dated February 14, 2003, pg. 11.

At the Planning Commission hearing on March 10, 2003, the applicant submitted a report prepared by Hobson Ferrarini Associates regarding replacement housing for the units on Hilltop Avenue. *See* Hobson Ferrarini Associates, Replacement Housing Report dated March 10, 2003. The purpose of this report was to specifically address the issue raised by staff in its February 14<sup>th</sup> staff report regarding replacement housing.

The scope of the Hobson Ferrarini report was to determine if the people who lived in the 18 rental and four owner-occupied homes located on Hilltop Avenue would be able to find replacement housing that was comparable in terms of price and distance from commercial/retail services and public transit. Based on their study, Hobson Ferrarini concluded that all of the people who owned or are renting on Hilltop Avenue that may be affected by the proposed Wal-Mart store have or will be able to find comparable replacement housing easily. They made the following “key conclusion.”

(1) The number of available comparable units far exceeds the number of units that will be lost. Fifty-two units are currently vacant and comparable in terms of type (2-3 bedrooms), price (45%-55% MFI), and location (+4 blocks from transit and retail). This selection will provide ample choice for the relocating tenants.

(2) In addition, removing some units from the available supply will be good for the overall apartment market. The average vacancy rate among surveyed projects is 9.7%, well above the industry benchmark of 5% for a healthy market.



(3) All of the previous owners of homes have been successful in finding comparable or better homes; the owner of the duplex purchased two single family homes and moved the occupants into those homes.

Based on this evidence, the Planning Commission can find that changing the land use designation to commercial to accommodate the proposed Wal-Mart store would better fulfill "public need" than the existing residential designation.

**IS THE PUBLIC NEED BEST SATISFIED BY THE PROPOSED CHANGE THAT WOULD ACCOMMODATE THE BUILDING OF THE WAL-MART STORE?**

The answer is yes. The staff report for the Comprehensive Plan Map Amendment points out that the test to satisfy this criterion is to weigh the public need for the proposed Wal-Mart store with the need for affordable housing. See Comprehensive Plan Amendment Staff-Report dated February 14, 2003, pg. 12. The staff stated how the applicant could satisfy this test:

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. Staff Report dated February 14, 2003, pg. 12.

Based on this test, and the evidence in the record, the Planning Commission can find that there is a greater "public need" for the change in designation to accommodate the proposed Wal-Mart store since there is sufficient available and similar affordable housing for those residents displaced by the change.

**DOES THE BUILDING OF THE WAL-MART STORE MEET A COMMUNITY NEED WITHIN OREGON CITY?**

The answer is yes. The staff points out in its staff report for the Comprehensive Plan Map amendment that the applicant has not demonstrated that the community need for a new Wal-Mart store "outweighs" the need to provide comparable affordable housing in the area for the displaced residents. See Comprehensive Plan and Map Staff Report, dated February 14, 2003, pg. 7. However, as stated above, because there is a large surplus of available and affordable housing in the area for the displaced residents, the community need (and public benefits) for the new Wal-Mart store has been demonstrated.

**DOES THE BUILDING OF THE WAL-MART STORE MEET THE APPLICABLE HOUSING POLICIES OF THE CITY?**

The answer is yes. The staff points out in its staff report for the Comprehensive Plan Map amendment that the applicant has not demonstrated compliance with the City's policy of the "preservation of a variety of housing types at a range of prices and rents" because the



applicant has not demonstrated that there is sufficient affordable housing stock in the city. The staff provides the test of how the applicant can satisfy this housing policy of the City:

...the applicant may have shown sufficiency of affordable housing by finding out whether there is an adequate current vacancy rate in the affordable price ranges within the area. Like the subject proposal, similar affordable units would also need to be near transit services. This would offset the displacement of renters by the project. Comprehensive Plan Amendment-Staff Report dated February 14, 2003, pg. 14.

The Hobson Ferrarini Report, as stated above, conducted a survey to determine if the people who lived in the 18 rental and four owner-occupied homes located on Hilltop Avenue would be able to find replacement housing in the area that was comparable in terms of price and distance from commercial/retail services and public transit. The report concluded that there is currently a 9.7% vacancy rate in the area for comparable housing which is well above the 5% vacancy rate which is the benchmark for a healthy market. See Hobson Ferrarini Report dated March 12, 2003. This information meets the test identified by staff to demonstrate compliance with the above-mentioned housing policy.

**WILL THE PROPOSED CHANGE THAT WOULD ACCOMMODATE  
THE BUILDING OF THE WAL-MART STORE ADVERSELY AFFECT  
THE PUBLIC HEALTH, SAFETY AND WELFARE?**

The answer is no. The staff in its report regarding the Comprehensive Plan Map amendment stated that the applicant had not satisfied this criterion because: (1) the applicant had not demonstrated the availability of sufficient and comparable replacement housing for those residents which would be displaced by the building of the proposed Wal-Mart store; and (2) the applicant had not demonstrated that a "worse-case" scenario for the proposed change would not adversely impact the City's transportation system.

**Replacement Housing**

The staff concern regarding the potential adverse impact of displacing residents to accommodate the building of the Wal-Mart store has been previously addressed above. The evidence demonstrates that there is available, affordable, and similar replacement housing for those residents displaced by the building of the Wal-Mart store. See Hobson Ferrarini Report dated March 10, 2003.

**Worse-Case Transportation Issue**

The staff concern over the potential traffic impacts of the proposed designation change from residential to commercial for the 1.96 acre strip, and its effect on the adjacent neighborhood, hinges on a worse-case analysis of the traffic impacts associated with uses permitted by the existing and changed designations. The Transpo Group has prepared a worse-



case analysis which demonstrates that the proposed rezone of the 1.96 acres area can be accommodated by the surrounding street system without creating any adverse impacts that require mitigation. See The Transpo Group, Worse-Case Traffic Analysis, dated March 17, 2003.

However, as stated above, we do not believe that a worse-case analysis is the relevant test to determine the impacts of the proposed change which will accommodate the building of the proposed Wal-Mart store. Instead, the examination by the Planning Commission should focus on the specifically proposed use to determine whether that use will adversely impact the adjacent neighborhood and the surrounding transportation system.

If the Planning Commission focuses on the proposed Wal-Mart store, the evidence demonstrates that the change in zoning to allow for an additional 17,000 sq. ft. of building does not create any adverse impacts on the surrounding street system that require mitigation. See, The Transpo Group Transportation Planning Rule Analysis, dated January, 2003. If the Planning Commission focuses on the proposed Wal-Mart store, and not just the 1.96 acre change in zoning, the evidence demonstrates that all of the traffic impacts associated with the new store can be mitigated with appropriate transportation improvements. The Site Plan and Design Review staff report recommends approval of the proposed store subject to conditions of approval, including transportation improvements. See, Site Plan and Design Review-Staff Report, dated February 14, 2003.

**DOES THE PROPOSED CHANGE TO ACCOMMODATE THE  
BUILDING OF THE WAL-MART STORE ADVERSELY  
IMPACT THE ADJACENT NEIGHBORHOOD?**

The answer is no. The evidence demonstrates that if the Planning Commission focuses on the change in designation to accommodate an additional 17,000 sq. ft. of building, there is no impact on the surrounding transportation system or adjacent neighborhood. Furthermore, if the Planning Commission focuses on the entire Wal-Mart project, the evidence demonstrates that all impacts can be properly mitigated as recommended by staff in its Site Plan and Design Review staff report.

**DOES THE PROPOSED CHANGE TO ACCOMMODATE  
THE BUILDING OF THE WAL-MART STORE COMPLY  
WITH THE TRANSPORTATION PLANNING RULES?**

The answer is yes. Wal-Mart demonstrated that the Comprehensive Plan Map Amendment and Zone Change complies with the Transportation Planning Rule ("TPR") because it will not "significantly affect" the surrounding transportation facilities. The TPR provides that a comprehensive plan amendment "significantly affects" a transportation facility if it (a) causes a transportation facility to fail during the planning period or (b) increases the LOS or V/C ratio of an already failing transportation facility during the planning period. OAR 660-12-060(2). To determine if a comprehensive plan amendment "significantly affects" a transportation facility the City must consider the *net effect* on the transportation facilities. *ODOT v. City of Klamath Falls*,



39 Or LUBA 641 (2001). As explained below, Wal-Mart demonstrated that the Comprehensive Plan Map Amendment and Zone Change will not “significantly affect” the surrounding transportation facilities under either the Conditional Approval Traffic Analysis and/or the Worst-Case Traffic Analysis.

### **Conditional Approval Subject to Proposed Wal-Mart Store**

The Conditional Approval Traffic Analysis demonstrates that if the Comprehensive Plan Map Amendment and Zone Change applications are conditioned upon the approval of the specific use proposed in the Site Plan and Design Review application, i.e., the proposed Wal-Mart store, the applications comply with the TPR because there will be a net reduction in traffic impacts.

The Comprehensive Plan Map Amendment and Zone Change of the 1.96 acre residential strip will allow for approximately 17,000 square feet of additional retail space than would be allowed if the adjacent commercial property was developed alone. The Conditional Approval Traffic Analysis considered the traffic impact of the conditional Comprehensive Plan Map Amendment and Zone Change based on the net difference between (1) the traffic impact of the potential land uses under the existing residential zones and (2) the traffic impact of the additional 17,000 square feet of retail space allowed by the conditional Comprehensive Plan Map Amendment and Zone Change. Based on this analysis, the Conditional Approval Traffic Analysis concluded that there will be a net reduction in the traffic impacts because 17,000 square feet of additional retail space will have less traffic impacts than the traffic impacts generated by the potential land uses under the existing residential zones. Therefore, the Conditional Approval Traffic Analysis demonstrated that there will not be a “significant affect” on the transportation facilities because the conditional Comprehensive Plan Map Amendment and Zone Change will not have any traffic impacts.

The Planning Commission has the authority to condition the approval of the Comprehensive Plan Map Amendment and Zone Change applications subject to the specific use proposed in the Site Plan and Design Review application. The TPR specifically allows local jurisdictions to condition the approval of comprehensive plan amendments and zone change applications to a specific use in order to demonstrate compliance with the TPR. OAR 660-12-060(1)(d); *Adams v. City of Medford*, 39 Or LUBA 464 (2001).

Additionally, as stated above, the Planning Commission has the authority to condition the approval of the Comprehensive Plan Map Amendment and Zone Change applications subject to the specific use proposed pursuant to the Oregon City Municipal Code. The Planning Commission has the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can, be met. 17.50.130 A. of Oregon City Municipal Code. In granting a change in zoning classification to any property, the Planning Commission may attach such conditions to the zone change as the Commission deems necessary in the public interest. 17.68.050 of Oregon City Municipal Code.



### Worse-Case Analysis

The Worst-Case Traffic Analysis demonstrates that the Comprehensive Plan Map Amendment and Zone Change applications comply with the TPR even if the applications are not conditioned upon the approval of the Site Plan and Design Review application. The Worst-Case Traffic Analysis considered the traffic impact of the Comprehensive Plan Map Amendment and Zone Change based on the net difference between (1) the traffic impact of the most intense land uses allowed under the existing residential zones and (2) the traffic impact of the most intense land uses allowed under the proposed commercial zone. Both ODOT and the City Staff concurred with Wal-Mart's selection of the most intense uses for both the existing residential zones and the proposed commercial zone. Based on this analysis, the Worst-Case Traffic Analysis concludes that the Comprehensive Plan Map Amendment and Zone Change will not cause any transportation facilities to fail during the planning period or increase the LOS or V/C ratio of already failing transportation facilities during the planning period. Therefore, the Comprehensive Plan Map Amendment and Zone Change applications comply with the TPR because there will not be "significantly affects" the surrounding transportation facilities. OAR 660-12-060(2).

Pursuant to the Conditional Approval Traffic Analysis and the Worst-Case Traffic Analysis, Wal-Mart demonstrated that the Comprehensive Plan Map Amendment and Zone Change complies with the TPR whether or not the Planning Commission conditions its approval upon the approval of proposed Wal-Mart store.

### **CAN ALL OF THE POTENTIAL TRANSPORTATION IMPACTS RELATED TO THE BUILDING OF THE PROPOSED WAL-MART STORE BE MITIGATED?**

The answer is yes. Wal-Mart's Traffic Impact Analysis, dated January 2003, evaluated the traffic impacts associated with the proposed Wal-Mart store. The Traffic Impact Analysis demonstrates that traffic impacts associated with the proposed Wal-Mart store can be mitigated by imposing the recommended conditions of approval. The staff concludes in the Staff Report for the Site Plan and Design Review application that the traffic impacts can be mitigated if staff's recommended conditions of approval #29 through #38 are imposed. Therefore, traffic impacts associated with the proposed Wal-Mart store can be mitigated through the imposition of staff's recommended conditions of approval.

### **CAN ALL OF THE POTENTIAL ENVIRONMENTAL IMPACTS RELATED TO THE BUILDING OF THE PROPOSED WAL-MART STORE BE MITIGATED?**

The answer is yes. Staff recognizes that any environmental impacts associated with the proposed store can be properly mitigated. The testimony of Rick Gruen, District Manager, Clackamas County Soil and Water Conservation District at the Planning Commission hearing on March 10, 2003 acknowledges the environmental benefits associated with the proposed store and that Wal-Mart can be a significant participant in the protection and



preservation of the Newell Creek Canyon basin. The conditions recommended by staff in its staff reports for Site Plan and Design Review and Water Resources review ensures that any environmental impacts can be properly mitigated. *See*, Site Plan and Design Review-Staff Report, dated February 14, 2003; *See*, Water Resources Review-Staff Report, dated February 14, 2003.

**DOES THE PROPOSED WAL-MART STORE VIOLATE  
THE MOLALLA AVENUE BOULEVARD  
AND BIKEWAY IMPROVEMENTS PLAN?**

The answer is no. The staff asserts in its report for the Comprehensive Plan that the proposed store does not comply with the Molalla Avenue Boulevard Plan because (1) the proposed store does not qualify as a “community business”, (2) the removal of housing outweighs the increase in economic viability created by the proposed store, and (3) a Wal-Mart store was not envisioned by the Corridor Plan.

The proposed store complies with the general policies of the Molalla Avenue Corridor Plan because it qualifies as a “community business” which meets the newly adopted and creative design standards of the City. The citizens of Oregon City have testified in these proceedings that the proposed Wal-Mart is a community business where they want to shop. They want this community business so they do not have to travel and shop at a Wal-Mart located outside of Oregon City. The City’s design standards requires and promotes a livable Main Street environment with pedestrian and bike friendly connections to the store. The staff has determined that the proposed store meets the City’s design standards:

...staff concludes that the proposed retail development and associated parking, landscaping, and circulation...does meet the requirements of Chapters 17.32, 17.44, 17.52, and 17.62 of the Oregon City Municipal Code. Site Plan and Design Review Staff Report dated February 14, 2003, pg. 26.

The question the Planning Commission needs to ask is how can the proposed Wal-Mart store violate the Molalla Avenue Corridor Plan, as staff asserts, when the evidence demonstrates that (1) the community wants to shop at the store, (2) the proposed store meets the newly adopted design standards of the City, (3) there is a 9.7% vacancy rate for comparable affordable replacement housing, (4) the public and community need tests, as defined by staff, are met due to the availability of comparable affordable housing and if the Molalla Avenue Plan does not prohibit or restrict retail businesses like the proposed store?

The staff’s assertion of non-compliance is based upon general, broad and vague statements regarding the overall objective and policy of the Molalla Avenue Plan. The Plan does not prohibit or restrict a large retail discount store in this area, nor does it specifically reference whether or not this specific property should be used for residential or commercial purposes. To the contrary, the Plan envisions a variety of “mixed use, transit-oriented, and community business land uses” that will serve the needs of the community along this corridor. Staffs





position that the proposed Wal-Mart store does not comply with these broad and vague statements in light of the evidence in this case is not appropriate.

We would respectfully caution the Planning Commission to consider the staff's position that the broad and vague statements of the Molalla Avenue Plan can be used as a basis to deny a proposed use. For example, the staff's rationale is particularly problematic because it would apply to conditional uses, as well as comprehensive plan amendments and zone changes. An applicant proposing a conditional use must demonstrate that it satisfies the City's Comprehensive Plan goals and policies. Oregon City Zoning Code, Section 17.56.010(A)(5). Therefore, under staff's rationale, the Molalla Avenue Plan could be used to prohibit uses along this corridor even if such a use is recognized as a conditional use under the zoning of the property.

#### **ARE THERE ANY TECHNICAL REASONS TO DENY THE APPLICATIONS?**

The answer is no. Based on the evidence in the record of these proceedings, all of the applicable legal requirements can be satisfied. We have attempted to address in this Written Closing Argument all of the key questions and issues that have been raised before your Planning Commission. We have not attempted to address every single legal technicality. However, all of the issues which have been raised by the opposition have been previously addressed by the applicant and are contained in the record. If the Planning Commission votes to approve these applications, we will prepare the necessary legal findings which will support the approval of these applications with conditions.

#### **WHY SHOULD THE PLANNING COMMISSION APPROVE THE APPLICATIONS?**

These applications should be approved by the Planning Commission because there is a greater community need to change the land use designation to commercial, to enable the building of the store, as opposed to retaining the residential designation. Many members of the community see the public benefits which result if the store is built. The key is that the store can be built and all of the potential impacts associated with the store can be properly mitigated.

The City has an opportunity to clean up this area and allow an effective redevelopment of the property. The redevelopment will environmentally enhance the site and the Newell Creek Canyon basin. The redevelopment will create employment opportunities in a depressed economy. Wal-Mart has modified its site plan and design of the building to meet the City's new design standards. Members of the community want to shop at a Wal-Mart in Oregon City.

None of the community benefits resulting from the building of a Wal-Mart can occur without the approval of the Comprehensive Plan and Zone Change Amendments. The staff agrees that if these amendments are approved, the proposed store satisfies the City's design standards, and that all of the potential impacts associated with the store can be properly



mitigated. These applications satisfy all of the applicable legal requirements and if approved, are legally defensible. We respectfully request your Planning Commission's approval of these amendments and the direction to prepare findings for your adoption.

Thank you for your consideration.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in black ink, reading 'Gregory S. Hathaway'. The signature is written in a cursive, flowing style.

Gregory S. Hathaway

GSH:ikt

cc: William K. Kabeiseman, City Attorney  
Christina Robertson-Gardner, Associate Planner (Hand Delivered)  
Dan Drentlaw, Community Development Director  
Phil Grillo, Esq.  
Scott Franklin, PacLand  
Tom Spencer, PacLand

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RECEIVED  
CITY OF OREGON CITY

Kelly S. Hossaini  
khossaini@millernash.com  
(503) 205-2332 direct line

April 8, 2003

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

Subject: Comprehensive Plan Amendment/Zone Change/Site Plan and Design  
Review Applications for Retail Development at  
1367 Molalla Avenue (ZC 02-01, ZC 02-02, PZ 02-01,  
PZ 02-02, SP 02-09)

Dear Commissioners:

This letter provides comments, on behalf of Hilltop Properties LLC, with respect to the March 17, 2003, Transportation Planning Rule traffic analysis ("TPR Analysis") submitted to the record by The Transpo Group in the above-referenced applications. The submitted TPR Analysis demonstrates that the proposed rezone will significantly affect surrounding transportation facilities, and, because the applicant has not proposed any mitigation for those impacts, the applicant's Comprehensive Plan map and zone change applications violate the TPR and should be denied.

The applicant's TPR Analysis shows that there will be a net increase in trips generated as a result of the proposed rezone. Specifically, an additional 77 trips are reported for the AM Peak Hour, and an additional 99 trips are reported for the PM Peak Hour. According to the applicant's TPR Analysis, three affected intersections will fail during the planning horizon in the PM Peak Hour, with or without the rezone.<sup>1</sup> The applicant has not shown that the additional trips from the rezone will not accelerate each of those failures, and so it can be presumed that the applicant's mitigation prepared by its applicant is insufficient to avoid the TPR. Department of Transp. v. City of Klamath Falls, 177 Or App 1, 34 P3d 667 (2001).

The applicant's January 2003 Updated Transportation Impact Analysis ("TIA") provides an even more detailed look at the surrounding transportation system over the 20-year

<sup>1</sup> These intersections are: Molalla Avenue/Beavercreek Road, Molalla Avenue/Highway 213, and Beavercreek Road/Highway 213.

Oregon City Planning Commission  
Meeting Date: May 12, 2003  
Case File: PZ 02-01, PZ 02-02 ZC  
02-01 ZC 02-02  
Exhibit: C

planning horizon, and even more cause for concern. According to the baseline conditions for 2004 and 2020 in the applicant's TIA, even without the proposed development or rezone, there will be a numerous intersection and turning movement failures during the 20-year planning horizon.<sup>2</sup> As above, it can be presumed that the additional trips resulting from the proposed rezone under the applicant's worst case scenario will accelerate the failures of each of those intersections and turning movements. Without mitigation proposed by the applicant, this acceleration is a violation of the TPR.

Although the applicant's TPR Analysis contains the information required for a "worst-case scenario" analysis, it does not tell the whole story. The whole story is contained in the applicant's TIA and reflects the actual impacts of the proposed rezone and 136,000 square feet of "big box" retail on the surrounding transportation system. These significant detrimental impacts are detailed in several letters we have submitted to the Commission and Christina Robertson-Gardiner, and are summarized below.<sup>3</sup>

1. The development itself will cause a number of City-controlled intersections and individual turning movements to fall below LOS D, the City's minimum acceptable level, during the planning horizon.
2. The development will increase the volume-to-capacity ("v/c") ratio of ODOT-controlled intersections beyond the allowed maximum.
3. The development will accelerate the failures of those intersections and turning movements that will fail anyway during the planning horizon.
4. The development will have significant detrimental impacts on nearly every intersection in the area — causing failures that otherwise would not occur, accelerating the failure of intersections that will fail with or without the project, and degrading even further intersections that are already failing.
5. The development could cause as many as eight new spillback conditions, and a number of existing spillback conditions will be worsened.
6. The LOS and queues at the project's Molalla Avenue/Hilltop Mall intersection will be significantly congested, and, as a result, safety at this particular intersection could be compromised.

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<sup>2</sup> For example, the Synchro analysis shown in Tables 17 and 19 show that between 2004 and 2020 under our baseline conditions, during the PM Peak Hour, the project will cause two intersections to fail as a whole or experience at least one failing approach (Molalla Avenue/Beavercreek Road and Beavercreek Road/Highway 213), and four approaches of three other intersections will likewise fail (Molalla Avenue/Warner Milne, eastbound; Molalla Avenue/Gaffney Lane, northbound and eastbound; Molalla Avenue/Highway 213, eastbound). The SimTraffic shows even more failures: between 2004 and 2020 during the PM Peak Hour, the data show that every intersection but one (Molalla Avenue/Hilltop Lane) will either fail as a whole or experience at least one failing approach.

<sup>3</sup> These submittals include our January 6 and February 6, 2003, letters to Christina Robertson-Gardiner, and our February 24, 2003, letter to the Planning Commission.

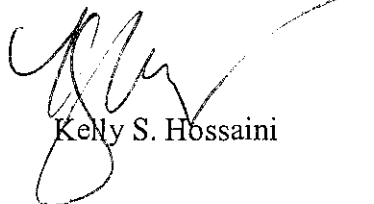
Oregon City Planning Commission

- 3 -

April 8, 2003

The proposed Comprehensive Plan Map amendment and rezone applications violate the TPR, the City's Transportation System Plan, and the Molalla Avenue Boulevard and Bikeway Improvements Plan, and should be denied on those bases.

Very truly yours,



Kelly S. Hossaini

cc: Ms. Carol Suzuki  
Mr. Craig Danielson  
Mr. Carl Springer



# LETTER OF TRANSMITTAL

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**Date:** April 15, 2003

**To:** Christina Robertson - Gardiner, Oregon City Planning

**From:** Thomas Spencer

**Re:** Wal-Mart Store #5053, Oregon City, Oregon  
Supplemental Exhibits and Submittals  
ZC 02-01, ZC 02-02, PZ 02-01, PZ 02-02 , SPA 02-09

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**Remarks:**

Please find attached the following supplemental exhibits and submittals for the above referenced project:

1. Article from Fortune 500 regarding Wal-Mart Stores.
2. Staff Report for SP 02-09 Application dated February 24, 2003
3. Letter regarding TPR Rezone Traffic Analysis by The Transpo Group, dated April 15, 2003
4. Findings for Comp Plan Amendment PZ 99-04 and ZC 99-16 "as a similar PZ/ZC request".

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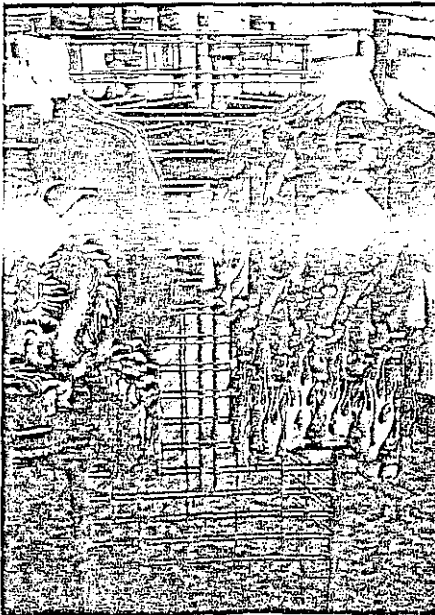
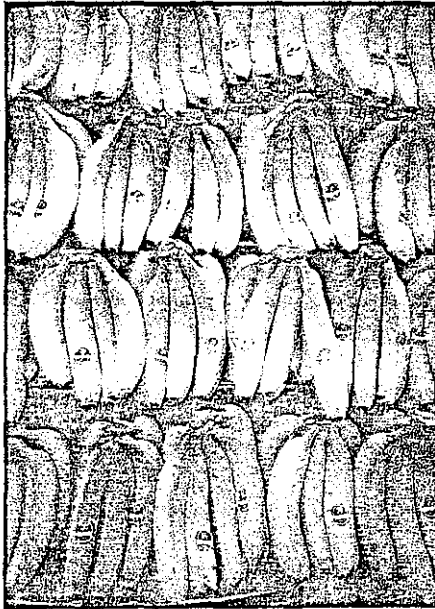
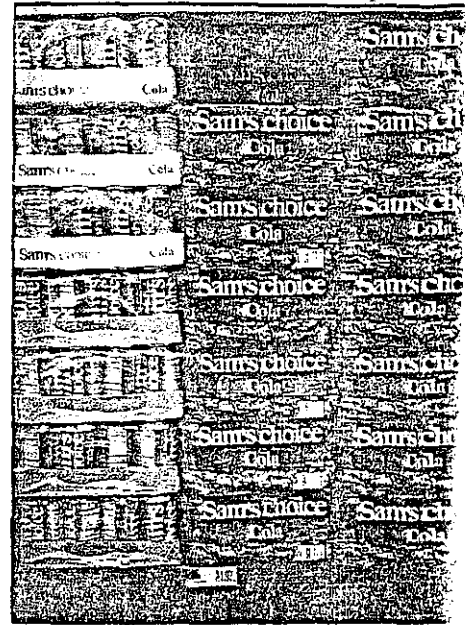
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Oregon City Planning Commission  
Meeting Date: May 12, 2003  
Case File: PZ 02-01, PZ 02-02 ZC  
02-01 ZC 02-02  
Exhibit: D

# One Nation Under Wal-Mart

How retailing's superpower—and our biggest Most Admired company—is changing the rules for corporate America. BY JERRY USEEM *Photographs by Gabor Ekecs*







**B**entonville, Ark., does not come to the world. The world comes to Bentonville. Whether you're a media mogul or a toy tycoon or King Tut, you drive your rent-a-car north on Walton Boulevard, past Smokin' Joe's Ribhouse and the Lube N' Go, and into one of the parking spots marked SUPPLIER. Don't expect a welcoming party. You make your way into a packed waiting room that reminds you of the Department of Motor Vehicles and have a seat. Thirsty from your trip? Coke machine in the back. Coffee? Ten cents in the box, please. Change machine over there if you need it.

The young buyer who emerges to greet you has a paycheck that's far smaller than yours, a name that's far less celebrated, and a budget of about \$1 billion. He ushers you into a seven-by-ten-foot blue roomlet—one fluorescent light, one table, one photo of Mr. Sam. So, says the buyer in his unflinchingly polite manner, how can Disney help Wal-Mart?

If you are an executive from Walt Disney, you've been here before. Your company sells movies, Pooh merchandise, and many other items to Wal-Mart. But when the buyer wonders whether Disney could make a short video involving Wal-Mart and a Disney character—you know, something to get the store associates fired up or perhaps to play on Wal-Mart's in-store TV network—you have to say no: Disney characters aren't allowed to be so crassly commercial. Well, that's okay. Jeffrey Katzenberg was down here, and his team at DreamWorks made the nicest video of Shrek doing the Wal-Mart cheer ...

Not only was the *Shrek* video a huge hit, but Katzenberg has spent more time around Bentonville than anyone might suspect. "I've been there three times in the last 45 days," he confirmed recently. "I cannot tell you how much I respect and love the bare-essentials efficiency... I'm flattered by the opportunity they've offered." If this strikes you as unconvincing, you haven't seen Jeffrey Katzenberg do the Wal-Mart cheer.

"Give me a H!" with fist raised might generate snickers among his peers. But nobody was laughing in 2001 when Wal-Mart—its stores bristling with displays of the green ogre—helped turn *Shrek* into the year's bestselling DVD. "Jeffrey figured out something his competitors didn't," says Warren Lieberfarb, the former Warner Home Video chief, who is known as the father of DVD. "Wal-Mart is the largest sin-

gle revenue generator for Hollywood in the world."

And so, you see, there are two types of executives these days: those who have learned to play by Wal-Mart's rules, and those who still haven't learned the right answer to the cheer's closing question: "Who's No. 1?"

*"The customer! Always! Whoomp!!!"*

FOR MOST OF WAL-MART'S 41 YEARS, CORPORATE AMERICA refused to acknowledge the retailer as one of its own. Wal-Mart was Podunk, U.S.A., Jed Clampett, Uncle Jesse's pickup—and worse yet, a *discount store*. This year its transfiguration is complete. Wal-Mart is FORTUNE's most admired company, marking the first time the world's biggest corporation—yes, it replaced Exxon Mobil atop the FORTUNE 500 last year—is also its most respected. You might say that Wal-Mart finally belongs in corporate America. More accurately, you could say corporate America belongs to Wal-Mart.

To understand this astonishing development, you need to grasp the difference between a big company—what Wal-Mart was at the time of Sam Walton's death in 1992, when it was about one-fifth its present size—and a company that has created a whole new definition of bigness. If conventional met-

rics, like Wal-Mart's \$240 billion—plus in sales or its 1.3 million "associates," don't do the trick, these may help:

► Wal-Mart's sales on one day last fall—\$1.42 billion—were larger than the GDPs of 36 countries.

► It is the biggest employer in 21 states, with more people in uniform than the U.S. Army.

► It plans to grow this year by the equivalent of—take your pick—one Dow Chemical, one PepsiCo, one Microsoft, or one Lockheed Martin.

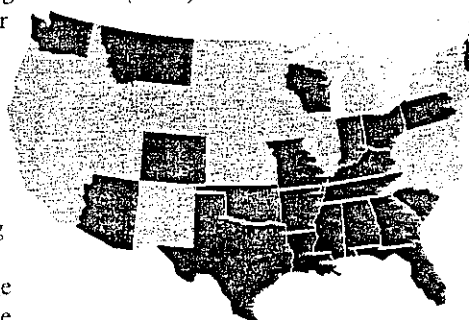
► If the estimated \$2 billion it loses through theft each year were incorporated as a business, it would rank No. 694 on the FORTUNE 1,000.

What this means for Wal-Mart's low-profile CEO, Lee Scott, is that he runs what is arguably the world's most powerful company. What it means for corporate America is a bit more bracing. It means, for one, that Wal-Mart is not just Disney's biggest customer but also Procter & Gamble's and Kraft's and Revlon's and Gillette's and Campbell's ... and ...

... that the nation's biggest seller of DVDs is also its biggest seller of groceries, toys, guns, diamonds, CDs, apparel, dog food, detergent, jewelry, sporting goods, videogames, socks, bedding, and toothpaste—not to mention its biggest film developer, optician, private truck-fleet operator, energy consumer, and real estate developer. It means, finally, that the real market clout in many industries no longer resides in Hollywood or Cincinnati or

### It employs the most

Wal-Mart is the largest employer in 21 states (in red).



### It buys the most

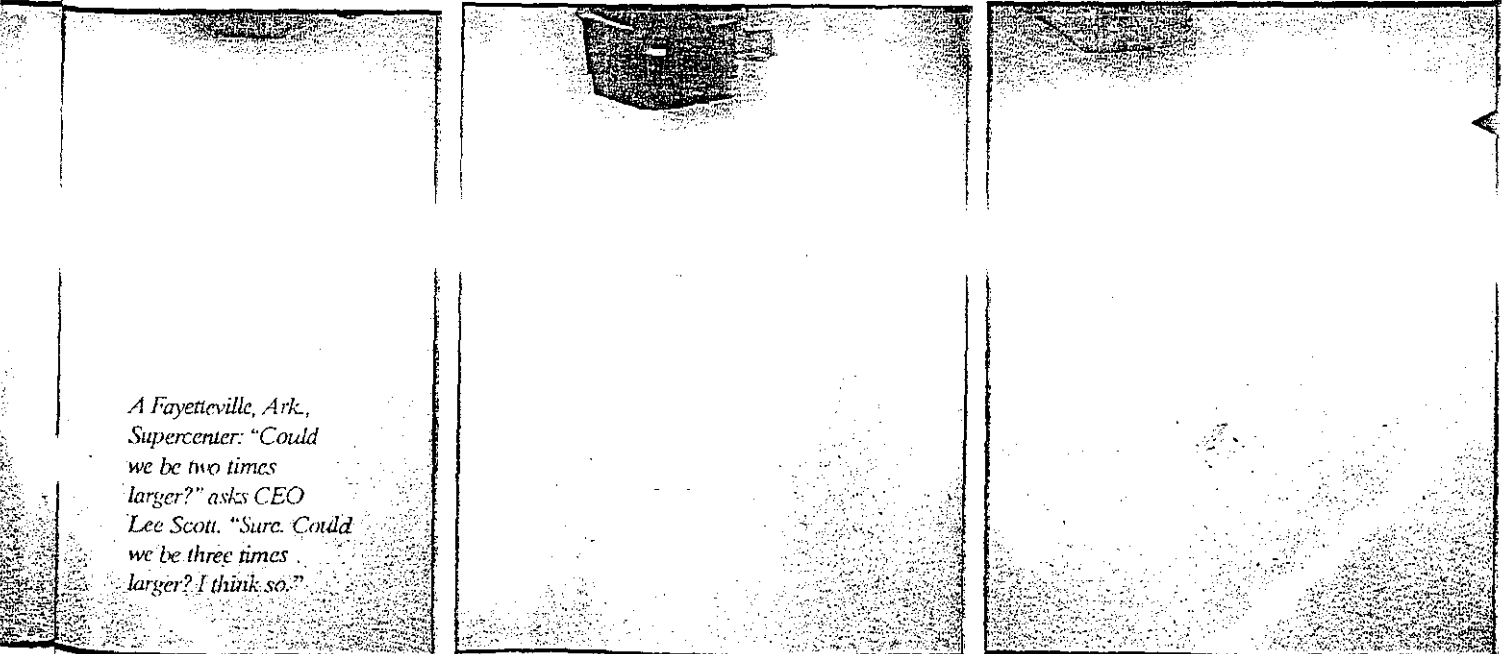
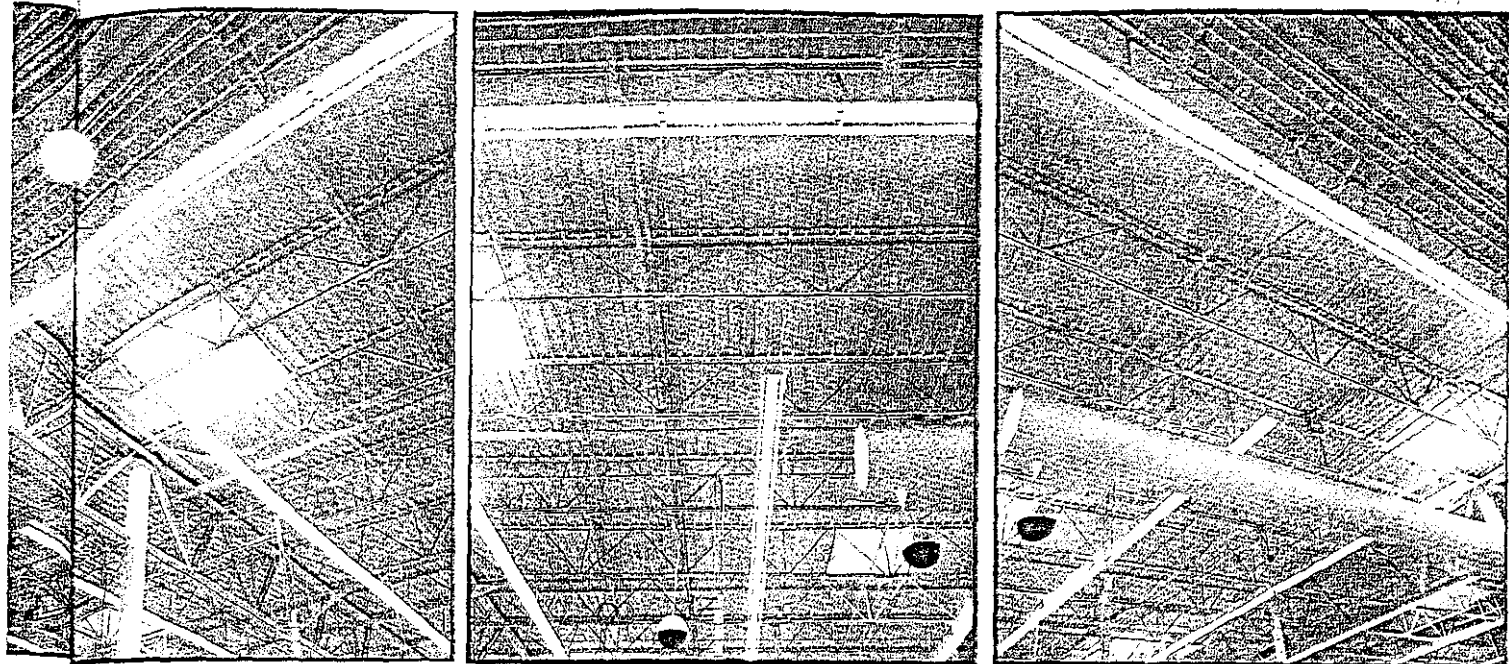
COMPANY	% OF ITS TOTAL SALES TO WAL-MART
Tandy Brands Accessories	39%
Clorox	23%
Revlon	20%
RJF Tobacco	20%

### It sells the most

PRODUCT	WAL-MART'S U.S. MARKET SHARE*
Dog food	36%
Disposable diapers	32%
Photographic film	30%
Toothpaste	26%
Pain remedies	21%

\*Percent of all sales through food, drug, and mass-merchandisers.

PHOTOS: ECHONOVCOM; SEE FILMS; A.C. NELSEN



*A Fayetteville, Ark.,  
Supercenter: "Could  
we be two times  
larger?" asks CEO  
Lee Scott. "Sure. Could  
we be three times  
larger? I think so."*



*Service with a smile. Wal-Mart grows its top line by focusing on the customer's bottom line.*

New York City, but in the hills of northwestern Arkansas.

If this sounds fanciful, then you haven't visited Newell Rubbermaid's new Bentonville office, just a 60-second drive from Wal-Mart headquarters. One of 200 corporate embassies here that form a thing known as "Ver-

## Daily nonstop flights from LaGuardia to Bentonville: 2

thing in here is like Wal-Mart," says one manager, and he means it literally. The carpets mirror those in Wal-Mart headquarters. Same with the cheap cubicles. The first floor has an "exact replica of a Wal-Mart store" showing the placement of Newell glassware, Sharpie pens, trash cans, Levelor blinds, and so forth. Upstairs, Sam Walton's image and aphorisms hang on the walls, while even the Gregorian calendar has given way to "Wal-Mart time": Week 9 is understood to mean nine weeks into the company's fiscal year, starting Feb. 1. "You need to be your customer," explains my host.

Newell's reasoning comes down to one number: 15, the percent-

age of its merchandise that passes through Wal-Mart cash registers. That number helps explain why Newell CEO Joe Galli spends four weeks a year touring Wal-Mart stores, and why Newell seldom designs or launches a new product without Wal-Mart's involvement, and why division president Steven Scheyer gives every new employee a copy of Sam Walton's autobiography. (It also helps explain why there are no direct flights from New York City to Little Rock, but you can catch one of American Airlines' two daily nonstops from LaGuardia to Bentonville.) "We live and breathe with these guys," says Scheyer. "People are focusing on 'What's the right Sharpie for Wal-Mart, what's the right closet product for Wal-Mart, what's the right stroller?'" Little wonder that Stockholm Syndrome—the phenomenon in which hostages come to identify with their captors—has been a problem for some companies. "At first there's resistance, then they break down, then they go to the other side," says Steve Cleere, a consultant at Trade-Marketing. "They're thinking like Wal-Mart people instead of brand people, and they need to be rotated out."

How Wal-Mart thinks has never been a big mystery: Buy stuff at the lowest cost possible, pass the gains on to the consumer through superlow prices, watch stuff fly off the shelves at insane velocity. (Critics who say Wal-Mart is obsessed with its bottom line have one thing wrong: Wal-Mart is obsessed with its top line, which it grows by focusing on the consumer's bottom line.) Suppliers are expected to offer their best price, period. "It's not even negotiated anymore," says Paul Kelly of Silvermine, a consulting company that helps manufacturers sell to big retailers. "No one would dare come in with a half-ass price." As for a supplier raising prices, good luck: In some cases Wal-Mart has been known simply to keep sending payment for the old amount. "The days of the price increase," Joe Galli has told his troops, "are over."

By systematically wresting "pricing power" from the manufacturers and handing it to the consumer, Wal-Mart has begun to generate an

inflation, meaning that all Americans—even members of Whirl-Mart, a "ritual resistance" group that silently pushes empty carts through superstores—unknowingly benefit from the retailer's clout. A 2002 McKinsey study, moreover, found that more than one-eighth of U.S. productivity growth between 1995 and 1999 could be explained "by only two syllables: Wal-Mart." "You add it all up," says Warren Buffett, "and they have contributed to the financial well-being of the American public more than any institution I can think of." His own back-of-the-envelope calculation: \$10 billion a year.

That, mind you, is Wal-Mart today. "As Wal-Mart grows," writes



Convenience stores, meanwhile, are threatened by the 700 gas stations now in Wal-Mart parking lots, causing petroleum sellers to lobby vigorously for protective legislation. "We are seeing margins on fuel that we haven't seen this low in a decade or more," says Jeff Lenard, a spokesman for the National Association of Convenience Stores.

The battle of the brands, too, is increasingly played out on Wal-Mart turf. In batteries, perennial third-place Rayovac has used a low-cost "Wal-Mart über Alles" strategy to challenge Energizer and Gillette's Duracell. Tattered Levi Strauss, once too cool for discount stores, has bet its future on sub-\$30 jeans to hit Wal-Mart racks this summer. And toy companies anxiously watch the fate—and try actively to boost the fortunes—of Toys "R" Us, fearing a unipolar world. "If Toys 'R' Us goes under, and then Kmart too, are you selling 60% of your toys to Wal-Mart?" asks Alex Lintner, a retail expert at Boston Consulting Group.

Wal-Mart in 2003 is, in short, a lot like America in 2003: a sole superpower with a down-home twang. As with Uncle Sam, everyone's position in the world will largely be defined in relation to Mr. Sam. Is your company a "strategic competitor" like China or a "partner" like Britain? Is it a client state like Israel or a supplier to the opposition like Yemen? Is it France, benefiting from the superpower's reach while complaining the whole time? Or is it... well, a Target? You can admire the superpower in person here—on page 116—

consultant Ira Kalish of Retail Forward, "it will transform its competitors, its suppliers, and the industries it dominates." In apparel, for instance, Wal-Mart is moving from staples into cheap-chic fashion, exemplified by its new clothing line, which of its career hauls like

Wal-Mart vacations. Used cars. Money orders.

Bloomingdale's to Banana Republic to compete on price as well as image. "Wal-Mart has caused the fashion industry to go topsy-turvy," says Marshal Cohen, co-president of NPDfashionworld.

In Hollywood, Wal-Mart's push for cheap DVDs (as low as \$5.88) has exacerbated a schism between studios like Universal, which don't want to cannibalize the lucrative rental business, and those like Warner, which are pushing a high-volume, low-margin approach. Caught perilously in the middle is Viacom's Blockbuster. "We don't plan to participate in the below-cost DVD madness," says CEO John Antioco.

## All happening.

the folksy visage of Sam Walton. Spend enough time inside the company—where nothing backs up a point better than a quotation from Walton scripture—and it's easy to get the impression that the founder is orchestrating his creation from beyond. The explosive growth of the past decade has, of course, actually occurred under the earthly apostleship of David Glass and, since 2000, 53-year-old Lee Scott.

Yet the best way to understand Wal-Mart is to talk to people like



# WAL-MART

Shelly Chandler. Daughter of a Marine colonel, she started out sorting invoices for \$4.65 an hour. As a \$50,000-a-year apparel buyer in the mid-1990s, she controlled a budget of \$1 billion. "Tough as I am—thank you, Sam—I got good deals," recalls Chandler, who still speaks of the company as "we" despite having left in 1996, when her child fell ill. "Sam taught us to be tough but fair. That's what makes Wal-Mart go round and round and round." Pressed on how it felt to control a thousand million dollars, Chandler paused. "I had the biggest pencil in the United States of America," she said, "and if someone didn't do what fit with our program, I could break my pencil, throw it on the table, and never come back."

EARLY POWER RETAILERS LIKE SEARS AND A&P STARTED OUT with the upper hand. A 1930 FORTUNE article noted that "A&P's terms became, practically, Economic Law." (The magazine also marveled that "if every person in New York City were a hen laying regularly, there would not be enough eggs to fill the A&P demand.") It was the coming of television, plus laws that prevented stores from selling products below their listed price, that shifted the advantage to mass-marketers like P&G, Coke, and Revlon (which not only sponsored but owned the top-rated '50s TV show *The \$64,000 Question*). "What Wal-Mart has done," says Harvard's Tedlow, "is turn that on its head again. The store has a helluva lot of power."

How Wal-Mart chooses to wield this power is today's \$244 Billion Question. Many assume that the company uses it crudely, cracking suppliers' heads and stealing their lunch money. But if that were the case, you'd expect to see manufacturers' margins shrinking. And? According to Value Line, operating margins of household product makers actually grew 48% between 1992 and 2001; food processors' went up 30%; soft drink makers' rose 14%. Though horror stories do circulate (some entrepreneurs have accused Wal-Mart of knocking off their product proposals), Wal-Mart also towered as the "best retailer with which to do business" in a Cannondale Associates survey of 122 manufacturers. "I think most would say that Wal-Mart is their most profitable customer," says one manufacturer.

But the demand that first retailers imposed on suppliers—display fees. Display fees. Damage allowances. Handling charges. Late penalties. Special sales and rebates. Super Bowl tickets. Each is a small inefficiency that benefits the retailer at the supplier's expense and, ultimately—since the supplier builds those costs into its prices—the consumer's. Wal-Mart, by contrast, is famous for boiling everything down to a one-number negotiation. "It's very pure," says Newell Rubbermaid's Scheyer. "All the funny money—1% for this, 2% for that, 'I need a rebate ... I need a special fund for our annual golf event'—it isn't there. They'll negotiate hard to get the extra penny, but they'll pass it along to the customer."

While this part of the negotiation is strictly arm's-length (figura-

tively anyway, given the cubby-like dimensions of the blue rooms), Wal-Mart also operates in "partnering" mode, in which both sides swap information to streamline the flow of goods from raw materials to checkout counter. "They would rather extract fat from the process than extract their suppliers' profits," explains Ananth Raman, a Harvard Business School professor who studies supply chains. So while Newell Rubbermaid's "We ♥ Wal-Mart" strategy can seem the ultimate in corporate vassalage, consider what Newell gets out of the deal: not only huge volume but, thanks to Everyday Low Prices, predictable volume, which lets it keep its factories running full and steady. There are no advertising costs, no "funny money." And Wal-Mart will even back up its trucks to Newell's factories. Many suppliers, including P&G, like the model so much that they've pushed it on their other customers.

There's more. Newell gets product ideas from Wal-Mart. Hundreds of them. A store associate in Arizona mentions that Hispanic

customers are looking for a kind of cookware called a *caldero*. Done. The hardware department sees an opportunity for "light industrial" cleaning products. Time to market: 90 days. Shoppers, in effect, get direct control of the nation's manufacturing facilities—reason to see Wal-Mart as the world's most finely articulated tool for turning customer wants into reality. A win-win-win.

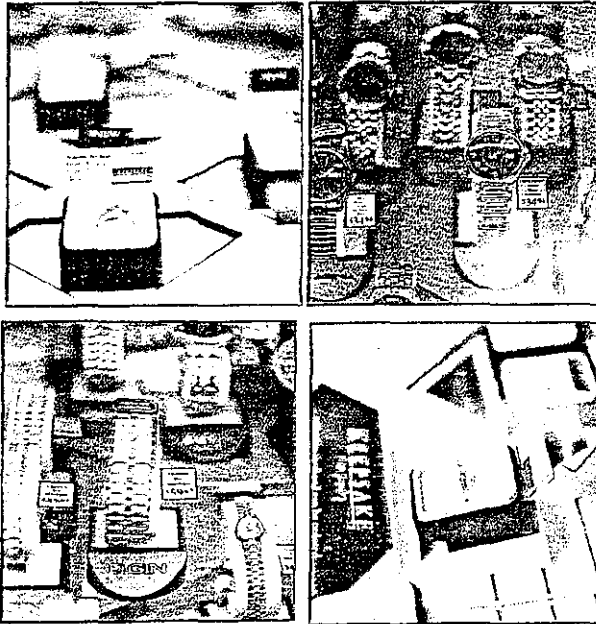
Playing this game, however, requires constant hustle. Besides continually cutting your costs, you need to handle all that data pouring off RetailLink—the system that lets suppliers track their wares through Wal-Mart World—since you wouldn't want to annoy Wal-Mart with excess inventory or, worse yet, not enough. An electronic "vendor scorecard" will let you know how you're doing.

In the meantime, you should also be peppering Wal-Mart with "retail-tainment" ideas about how to make its stores more fun. If you're the maker of Power Rangers, that means creating the world's largest inflatable structure—a 5,000-square-foot moon—for a tour of Wal-Mart parking lots. If you're Coke, it means routing your L.A.-to-Atlanta Olympic Torch Run past every Wal-Mart possible. You may be "encouraged" to buy time on the moon.

And you should be thinking like a retailer. "If you're focused on your shipments, you're screwed," says Dennis Bruce, a vice president with Newell Rubbermaid's Bentonville team. "You gotta be worried about what's moving through the registers."

"Vendor offenders," as some Wal-Marters jokingly call them, don't last long. "People think they're wired in at the top of the company, but the relationship in itself means nothing if you don't perform," says Newell's Scheyer, whose father sold to Sam Walton in the 1960s.

Then, too, Bentonville isn't above dropping the occasional bomb. Procter & Gamble's storied partnership with Wal-Mart be-



Diamonds and watches sell alongside dog food and detergent.

gan on a 1987 canoe trip when Walton and a P&G boss agreed to start sharing information instead of hoarding it. Yet there was little warning when, in 2001, Wal-Mart unveiled its Sam's American Choice detergent at roughly half the price of P&G's family jewel, Tide. (The move "in no way strains our relationship," a P&G spokeswoman said at the time. Uh-huh. And we have no problem with a McDonald's™ brand FORTUNE.) Now there are rumors—which Wal-Mart does not confirm—that the retailer is planning to introduce a second, even cheaper detergent under its Great Value label. "I'm not sure [P&G] didn't pay way too high a price to achieve that partnership," says TradeMarketing's Cleere. "They taught Wal-Mart about the laundry business."

Tide still commands about four times the shelf space of Sam's Choice, and Tom Coughlin, chief of Wal-Mart's U.S. stores, says manufacturers' brands will remain the company's cornerstone. But Wal-Mart's private-label assault has turned even its most trusted suppliers into its competitors. With little fanfare and no advertising, Wal-Mart's Ol' Roy dog food (named for Sam Walton's English Setter: 1970-81) has charged past Nestlé's Purina as the world's top-selling brand. Great Value bleach outsells Clorox in some stores.

That raises a tricky question: What, exactly, is the brand here? As Wal-Mart flexes its muscle as a marketer and not just a merchandiser, it could accelerate the demise of weaker brands. Even P&G has refocused on just 12 powerhouses, like Crest and Pampers. Now manufacturers worry about losing their direct connection to the consumer. Two decades ago 65% of their ad budgets went to television and other mass media, while today 60% go to retailers for in-store promotions and the like. The worry, as a Forrester report predicts, is that "Wal-Mart will become the next Procter & Gamble." The nightmare: Wal-Mart becomes your company's new VP of marketing.

IF THE TRIP ON GULLIVER'S COATTAILS IS NO JOYRIDE, IT sure beats being a Lilliputian underfoot. Over the years Wal-Mart has thundered its way up the retail food chain, first flattening mom-and-pop stores, then stepping on discounters like Ames, Bradlees, and Kmart, and finally sitting on specialty retailers like Toys "R" Us—threatening, in effect, to kill the category killer. Now no category seems safe.

Just ask your grocer. The quintessentially low-margin business had benefited from a decade of consolidation and cost-cutting by

a juicy sirloin in the presence of a grizzly. Your dinner won't be there for long, and unless you start running, neither will you. Only ten years after launching its food business amid much guffawing, Wal-Mart is the world's biggest grocer, driving down prices an average of 13% in the markets it enters, according to a UBS Warburg study. The effect has been seismic: Kroger has gone on a cost-cutting drive to narrow the price gap, Albertsons has abandoned some markets entirely, and an army of consultants now advise grocers on how to grapple with the 800-pound gorilla. When Wal-Mart moves, it adheres to the Powell doctrine of overwhelming force.

Now imagine you're a Wal-Mart strategic planner on the

prowl for other high-value targets. Where else are middlemen taking fat profits and stiffing consumers? Did someone say used cars? Of course! The last castle of medieval retailing. Visit the parking lots of several Houston Supercenters, and you'll find a dealer quietly testing a no-haggle approach under the name Price 1.

What else? Well, what about Microsoft? Its margins are—can this be right?—44%, and it's sitting on \$38 billion in cash. Mr. Sam would not approve. Log on to walmart.com and you'll find \$199 computers powered by a fledgling Windows competitor, Lindows.

Financial services! Regulators have twice thwarted Wal-Mart's attempts to buy a bank, but hey, you don't need a bank to offer wire transfers and money orders. And get this: Western Union charges \$50 to wire \$1,000 from Texas to Mexico. How about a flat \$12.95 instead, and 46-cent money orders instead of the 90 cents charged by the U.S. Postal Service? Available at a store near you.

Wal-Mart vacations. Internet access. Flower delivery. Online DVD rentals à la Netflix. All happening.

Wal-Mart stresses that many of these experiments are just that: experiments. But the company has long excelled at using itself as a testing lab, tweaking and refining a concept until—boom!—it's everywhere. That's why even the looniest speculation—Wal-Mart partners with a Korean auto company to make a private-label car, Wal-Mart acquires a drug chain, Wal-Mart becomes a wholesaler to other merchants—can't be dismissed. Just because you're paranoid doesn't mean Bentonville isn't out to get you.

Wal-Mart's zero-to-60 engine is driven by three powerful cylinders: scale, scope, and speed. The scale part is obvious. The scope part allows Wal-Mart to "flex" its toy section before the holidays and collapse it afterward, while Toys "R" Us is stuck selling toys year-round. (Scope also lets Wal-Mart use entire categories—gas, soft drinks, whatever—as loss leaders to pull people into the stores.) The speed part may be the most intimidating. Wal-Mart's turnover is so rapid that 70% of its merchandise is rung up at the register before the company has paid for it. Speed is why it routes ships from China through the Suez Canal and across the Atlantic, so that exactly 50% of imports end up on each coast—more expensive in the short run, but faster in the long. And while the interior of a Wal-Mart distribution center evokes the final scene of *Raiders of the Lost Ark*—42-foot-high corridors of toilet paper stretching toward a vanishing point—many items never hit the warehouse floor, moving directly from

them; Bentonville doesn't do acquisitions). Option No. 1 is to play Wal-Mart's game. Very risky. In the mid-1990s, Kmart proved it to be ritual suicide. On the other hand, companies already steeped in discounting—Costco, Family Dollar, grocery chain Publix—have more than held their own against Goliath. Option No. 1 should thus carry the warning found atop black-diamond ski runs: EXPERTS ONLY.

Option No. 2: Don't play Wal-Mart's game. Typically a better choice. Grocery folks regularly tromp through H-E-B, a Texas grocery chain that's held Wal-Mart at bay with such "destination

## The company of giants

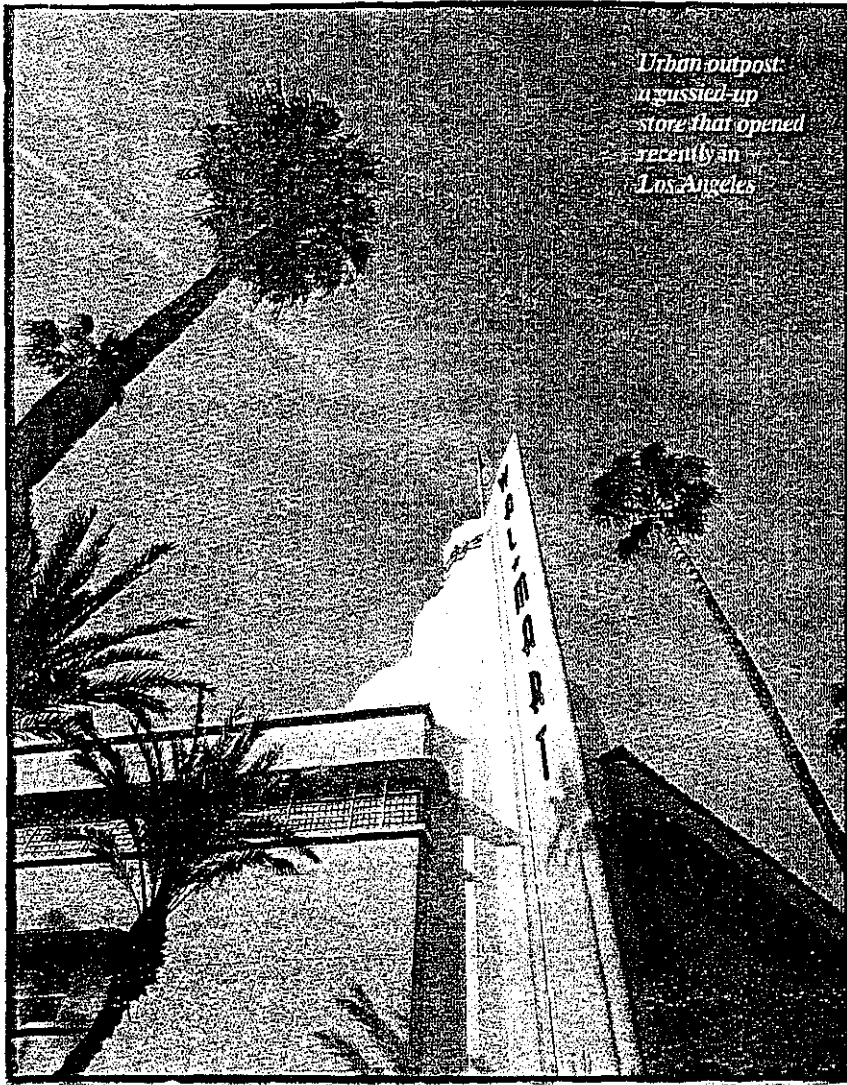
*Wal-Mart's share of the economy isn't the biggest ever, but it will be in four years if its recent growth rate continues.*

YEAR	COMPANY	% OF GNP
1917	US Steel	2.8%
1932	A&P	1.5%
1955	GM	3.0%
1983	Sears	1.0%
1990	IBM	1.2%
2002	Wal-Mart	2.3%*

\*Estimate

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*Urban outpost: a revamped store that opened recently in Los Angeles*

products” as ice cream made from Potect strawberries, a local favorite that H-E-B freezes in vast quantities. Not surprisingly, Wal-Mart is already thinking along similar lines, mining its mountains of data to tailor individual stores to local tastes.

The question on everyone’s mind, of course, is, How much more dominant can Wal-Mart get? More than 70 million people already roam its aisles each week. Its truckers are trained to avoid deluded motorists who dream of a collision and a Wal-Mart-sized settlement. The U.S. Mint chose Wal-Mart, not banks, to introduce its Sacagawea gold dollar in 2002. Target had difficulty finding American faces on Sep. 11, 2001, so the company gave up and imported

Yet a ton of fifth-grade math produces a startling result: If Wal-Mart maintains its annual growth rate of 15%, it will be twice as big in five years. “Could we be two times larger?” asks CEO Lee Scott. “Sure. Could we be three times larger? I think so.”

Crazy talk? Maybe not. Roughly half of Wal-Mart’s Supercenters (groceries plus general merchandise) are in the 11 states of the Old South, leaving plenty of room for expansion in California and the Northeast. And Bentonville is getting creative about overcoming the political and real estate hurdles there. In January it opened its first inner-city Supercenter in the Baldwin Hills neighborhood of Los Angeles, a three-story affair with spe-

cial escalators for shopping carts. All told, Wal-Mart will open roughly a store a day this year.

As it expands outward, it’s also filling in the gaps. “We’ve found that a smaller population than what we originally had thought can support a Supercenter,” says Scott. “So you can put two Supercenters—Rogers (Ark.) and Fayetteville—roughly four miles apart. Same thing is true in Dallas, Houston, Atlanta.” Within those four miles Wal-Mart is building new Neighborhood Markets, or “Small-Marts”: smartly designed food/drug combos with conveniences like self-checkout, honor-system coffee and pastries, drive-through pharmacies, and half-hour film processing (this last based on a finding that 50% of women shoppers have an undeveloped roll of film in their purse). In Arkansas, Wal-Mart’s even dabbling with stand-alone pharmacies. Throw in Sam’s Club, with 46 million paid memberships, and walmart.com, with its mission of “easy access to more Wal-Mart,” and you start to wonder: Is there any format Bentonville won’t consider on its march to “saturation”? Well, yes, says Scott. “You’re not going to see Wal-Mart casinos.”

WHICH BRINGS US TO A FINAL ISSUE: IS someone going to decide that Wal-Mart has too much power? Doesn’t the government break up companies that get this big? The short answer in this case is “not likely.” Antitrust law is aimed at protecting consumers, not competitors. (In the U.S. anyway: A German judge last year ordered

Wal-Mart to raise its prices.) Monopolists jack up prices. Wal-Mart lowers them—making it, in some instances, a more effective trustbuster than the trustbusters themselves.

Yet the company has grown self-conscious about its size. While Sears and Woolworth once announced their power by erecting the world’s tallest skyscrapers, Wal-Mart strives to be everywhere and nowhere, hidden in plain sight—just your friendly hometown superpower. The reasons for that may be less calculated than cultural. Sam Walton used the language of service and democracy—customers, he said, “voted with their feet”—to build a reputation for “customer appreciation.” “We’re not here to sell

products, we’re here to help people,” he said. But the company has also been one of its most maligned, recently attracting headlines about class-action lawsuits alleging that associates were forced to work unpaid overtime. “In the past we were judged by our aspirations,” says Scott. “Now we’re going to be judged by our exceptions.”

It’s more than a little reminiscent of another fledgling republic that became a superpower and discovered to its shock that much of the world saw it as an imperial bully. Admired and resented, imitated and vilified, envied and feared: One Nation, Under Wal-Mart. **E**

FEEDBACK: [juseem@fortunemail.com](mailto:juseem@fortunemail.com)

April 15, 2003

TG: 01269.00

Ms. Christina Robertson-Gardiner  
Planning Department  
City of Oregon City  
P.O. Box 3040  
320 Warner-Milne Road  
Oregon City, OR 97045

**SUBJECT: OREGON CITY RETAIL PROJECT — TPR TRAFFIC ANALYSIS**

Dear Ms. Robertson-Gardiner:

We have prepared this letter to address specific elements of the TPR analysis (worst-case analysis) regarding the forecast traffic studies and analysis tools used in the evaluation. Most of these elements can be summarized into general categories including Oregon Department of Transportation (ODOT) signal timing comments, traffic analysis tools, and potential neighborhood impacts. The following sections provide additional clarification with regard to these issues.

**ODOT Comments**

ODOT provided comments (dated February 10, 2003) in response to our TPR Rezone Traffic Analysis letter dated January 30, 2003. These comments focused primarily on two areas: (1) "worst-case" rezone land use assumptions; and (2) signal timing parameters along Highway 213. The first area has been resolved through extensive coordination with Oregon City staff and their consultants and is reflected in the updated TPR Rezone Traffic Analysis letter dated March 17, 2003. The signal timing issue was addressed through subsequent coordination with ODOT staff and is also reflected in the updated March 17, 2003 TPR letter where the "worst-case" rezone scenario was not found to cause any new violations of City or ODOT intersection standards. ODOT has completed review of the March 17 updated TPR analysis assumptions and has found that those assumptions related to timing are valid as noted in their April 14, 2003 email (see attached).

**Traffic Analysis Tools**

In the original letter, we requested TPR to request that ODOT require the use of MicroSim 2000 to ensure that microsimulation be used to assess 20-year impacts of the proposed rezone. In all discussions with City staff over the past four months regarding the worst-case analysis, a simulation analysis was never required. Notwithstanding the fact that the simulation was never required previously, such a microsimulation analysis is not appropriate in this circumstance.

SimTraffic (and other similar microsimulation models) are often employed to evaluate complex traffic conditions, most often dealing with coordinated signal systems, corridor progression, and the effects



of mid-block bottlenecks within a short planning period. In each of these situations, a large amount of input data is required in order to build and calibrate the microsimulation models, not the least of which is accurate traffic volumes. While simulation can provide a more detailed evaluation of the operations of a corridor or system if good data is available, "more data" and analysis does not necessarily equate to "better" in all circumstances, and in particular the circumstances surrounding the worst-case TPR analysis.

Several concerns within the traffic engineering and transportation planning industry often limit the value of using a microsimulation model in evaluating detailed intersection operations specifically for long-range forecasting applications. Concerns in this worst-case TPR case are:

- Accuracy of forecasting individual traffic movements 20-years into the future
- Stochastic nature of microsimulation models (i.e., SimTraffic)

#### **Accuracy of Forecasting**

For purposes of 20-year planning horizons simulation is not generally the appropriate tool unless the evaluation is specific as to a significant change in either the transportation network or demands placed on a network in testing alternatives. In the worst-case TPR analysis, the order of magnitude of the change in traffic volumes is insignificant when compared to the amount of general background growth anticipated to occur for traffic throughout the transportation network.

For short-range traffic forecasts (i.e., 1 to 5 years), the customary approach in the industry is to determine existing traffic volumes based upon field observations combined with traffic impact studies from previously approved development projects in the vicinity. This customary process provides a reasonable estimate of specific turning movements for the localized area in the short term. Such a short-range traffic forecasting process is unreasonable for longer-range traffic forecasts for as much as 10 to 20 years into the future beyond a localized area because of the uncertainty regarding specific development projects 10 to 20 years in the future. Instead, for long-range forecasting, traffic engineers and transportation planners typically depend on area-wide growth rates to factor up existing traffic volumes to accommodate generic development activity versus known specific development projects, which is the process that was employed in the worst-case TPR analysis.

Since the worst-case TPR analysis is used to assess can the transportation system "accommodate" the purported change in traffic associated with the change in land use, an order of magnitude of the impacts can answer that questions. As noted previously, more data and analysis does not necessarily mean better results. The level of precision output from the microsimulation does not mean that the results are more accurate. Therefore, the use of a detailed microsimulation model such as SimTraffic is inappropriate under these conditions and does not help to assess whether the rezone can be accommodated.

#### **Stochastic Nature of the Microsimulation**

As stated in our March 17, 2003 TPR Rezone Traffic Analysis letter, SimTraffic is a stochastic model which means it has a degree of randomness to its results. The traditional and industry standard

approach to assessing long-range forecasts is to use deterministic and more simplistic models such as the Highway Capacity Manual. The following is an excerpt from Chapter 31, page 4, of the *Highway Capacity Manual 2000*, which is used as the industry standard for assessing operational characteristics of transportation facilities:

*"A deterministic model is not subject to randomness. Each application of the model will produce the same outcome. If these statements are not true and some attribute of the model is not known with certainty, the model is stochastic...the outcome from a simulation model based on a stochastic model cannot be predicted with certainty before analysis begins."*

### **Oregon City TSP**

As required by the Oregon Transportation Planning Rule, Oregon City has developed a Transportation System Plan (TSP) to evaluate the transportation improvements that will be required to support forecast traffic growth throughout the City. Based on the information contained in the TSP, microsimulation was not used in the development or evaluation of long-range forecast traffic volumes or improvement alternatives. As such, the City has set no precedent for the application of such models for such long-term evaluations. Therefore, if City staff did not identify significant value in the use of SimTraffic for their long-range citywide transportation planning, it is unclear what foundation the City has for requiring it from private development proposals.

### **Neighborhood Impacts**

City staff and public testimony have indicated concern in response to the TPR Rezone Traffic Analysis (worst-case analysis) related to the impact of traffic on the neighborhood between Hilltop Avenue and Warner-Milne Road. These concerns appear to focus on two items: (1) concern over traffic cutting-through the neighborhood; and (2) the adequacy of Hilltop Avenue to accommodate commercial use.

### **Concern over Cut-Through Traffic**

As a point of clarification, the TPR analyses were prepared excluding the Beaver Creek Road connection that has been shown in the January 2003 Traffic Impact Analysis and recent site plans. Since this connection is a component of the full project it was not assumed in the worst-case TPR Rezone Traffic Analyses requested by City staff.

Concerns regarding potential cut-through traffic come from the right-in/right-out nature of the Melaleuca Avenue/Hilltop Avenue intersection. With these turn restrictions, traffic approaching the site from the south can turn right onto Hilltop Avenue, and then turn right onto Warner-Milne Road and Fox Road via the neighborhood to the north. Fox Road currently provides access to an apartment building on the west, which also has access directly to Warner-Milne Road, and to approximately four to six residential dwelling units on the east.

Based on the trip distribution summarized in Figure 7 of the January 2003 Traffic Impact Study, and the rezone trip generation summarized in Table 5 of the March 17, 2003 TPR Rezone Traffic Analysis

Ms. Christina Robertson-Gardiner  
April 15, 2003  
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letter, the worst-case rezone scenario would result in an additional 5 vehicles on Fox Road during the AM peak hour, and 46 vehicles during the PM peak hour. This equates to approximately one vehicle every 12 minutes during the AM peak hour and 1.3 minutes during the PM peak hour. Impacts of this magnitude are not considered severe.

Furthermore, under the conditional rezone analysis, the proposed retail project will construct a primary access driveway aligned with the Hilltop Mall traffic signal. By providing this signalized access, motorists will be allowed a more direct route in and out of the site from all directions, thereby relieving the need for traffic to use the circuitous route through the neighborhood to the north.

### **Hilltop Avenue Adequacy**

The second comment heard regarding neighborhood traffic impacts focused on the concern that Hilltop Avenue is designed as a neighborhood street and would not be able to support commercial traffic generated by either the proposed project (conditional rezone) or the worst-case rezone scenario. While this is a legitimate concern, City staff has placed conditions on any commercial development of the rezone parcels fronting Hilltop Avenue such that the project would be required to construct improvements raising the design standards of the roadway to a commercial grade. As such, either the worst-case rezone scenario or the proposed project (conditional rezone) would result in both an upgraded roadway capable of accommodating traffic per Oregon City standards for commercial roadways, and direct access routes for traffic from all directions to the site.

This information has been assembled to help clarify any lingering questions or comments related to the March 17, 2003 Oregon City Retail – worst-case TPR Rezone Traffic Analysis. We trust that it will be helpful. As always, please feel free to contact us at anytime with questions.

Sincerely,  
The Transpo Group, Inc.

A handwritten signature in black ink that reads "Bruce R. Haldors".

Bruce R. Haldors  
Principal

A handwritten signature in black ink that reads "Eric Armbruster".

Eric Armbruster, P.E.  
Transportation Engineer

BRH/EMA/jdp

Attachment

M:\01\01269\WP\April 14 2003 Close of TPR record e-ltr.doc

## Jay Pearson

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**From:** Kathleen.M.FREITAG@odot.state.or.us  
**Sent:** Monday, April 14, 2003 3:24 PM  
**To:** ErichA@TheTranspoGroup.com  
**Cc:** BruceH@TheTranspoGroup.com; sfranklin@pacland.com; tspencer@pacland.com; Nelson.CHI@odot.state.or.us; Sonya.B.KAZEN@odot.state.or.us  
**Subject:** RE: Mollala/213-Oregon City Walmart Transportation Impact Analysis

Erich,

ODOT is currently in the process of finalizing our comments. I have completed my review, in conjunction with Nelson Chi's review. We found that the TPR analysis was consistent with the signal timing parameters that Nelson had specified for the OR213 signals.

I have no further questions at this point. I expect to have my comments completed within a day or so. Sonya Kazen, the planner assigned to this case for ODOT, will provide our overall findings to Oregon City this week.

Let me know if you have any additional questions.

Kate Freitag  
Region 1 Traffic  
123 NW Flanders  
Portland, OR. 97209  
(503) 731-8220

-----Original Message-----

**From:** Erich Armbruster [mailto:ErichA@TheTranspoGroup.com]  
**Sent:** Friday, April 11, 2003 5:11 PM  
**To:** FREITAG Kathleen M \* Kate  
**Cc:** Bruce Haldors; sfranklin@pacland.com; tspencer@pacland.com  
**Subject:** RE: Mollala/213-Oregon City Walmart Transportation Impact Analysis

Kate,

Could you give me a status update on ODOT's review of the latest TPR traffic analysis submitted for the Oregon City Retail project? Nelson emailed me late last month requesting our electronic files, which I forwarded. I've left voicemail and email for Nelson Chi but haven't heard from him yet. Any information you could provide regarding ODOT review or comments would be helpful. Thanks, Erich Armbruster, P.E. Transportation Engineer The Transpo Group 11730 118th Avenue NE Suite 600 Kirkland, WA 98034-7120 P. 425/821-3665 x 256 F. 425/825-8434 mailto:ErichA@TheTranspoGroup.com

-----Original Message-----

**From:** Erich Armbruster [mailto:ErichA@TheTranspoGroup.com]  
**Sent:** Friday, March 28, 2003 1:54 PM  
**To:** ErichA@TheTranspoGroup.com  
**Cc:** BruceH@TheTranspoGroup.com; Kathleen.M.FREITAG@odot.state.or.us; sfranklin@pacland.com; tspencer@pacland.com; gregoryhathaway@dwt.com  
**Subject:** RE: Mollala/213-Oregon City Walmart Transportation Impact Analysis

In general, we found the updated submittal fairly consistent on what has been discussed from the last review. I am

particularly interested in the synchro files with Walmart traffic in the following 4 conditions, 1. 2004 AM 2. 2004 PM 3. 2020 AM 4. 2020 PM

I believe the files should give us a chance to look over the space diagram for the highway signal system.

Thanks.

Nelson

-----Original Message-----

From: Erich Armbruster [mailto:ErichA@TheTranspoGroup.com]  
Sent: Friday, March 28, 2003 3:32 PM  
To: CHI Nelson; Erich Armbruster  
Cc: Bruce Haldors; FREITAG Kathleen M \* Kate; Scott Franklin; 'Tom Spencer'; Greg Hathaway (E-mail)  
Subject: RE: Mollala/213-Oregon City Walmart Transportation Impact Analysis

Nelson,

Thanks for your email. Before I pull the files together, do you have specific questions related to the traffic study analysis? As you may know, there were several iterations and time periods analyzed for this study. So as not to overwhelm you with irrelevant data, what specific information/time periods would be most helpful for you to see?

Erich

-----Original Message-----

From: Nelson.CHI@odot.state.or.us [mailto:Nelson.CHI@odot.state.or.us]  
Sent: Friday, March 28, 2003 2:26 PM  
To: ErichA@thetranspogroup.com  
Cc: bruceh@thetranspogroup.com; Kathleen.M.FREITAG@odot.state.or.us  
Subject: Mollala/213-Oregon City Walmart Transportation Impact Analysis

Hi Eric -

We just reviewed the latest submittal of the Oregon City Walmart traffic study. We would like to take a look at the Synchro models established with the updated changes before comments are sent out. Please send them over through email.

I appreciate your help in advance. Thanks.

Nelson

-----Original Message-----

From: FREITAG Kathleen M \* Kate  
Sent: Wednesday, February 26, 2003 9:46 AM  
To: 'Bruce Haldors'  
Cc: ErichA@thetranspogroup.com; gregoryhathaway@dwt.com; michaelconners@dwt.com; CHI Nelson; KAZEN Sonya B; 'BAKER, Michael'  
Subject: RE: Mollala/213

Bruce,

After some internal discussion regarding the inclusion of the dual NB/SB left turn lanes on OR213 at Molalla Avenue, ODOT concurs that it can be included in the analysis. The turn lanes were unintentionally included in the ODOT Synchro files as a result of checking the data that was in the traffic study. ODOT still stands that improvements should not be included in analysis unless they are identified in the Regional Transportation Plan (RTP) constrained list, ODOT's Statewide Transportation Improvement Plan (STIP), or are planned and funded through some other means, such as the City's Capital Improvement Program (CIP) or by an approved development. The improvements in the Oregon City TSP are not considered planned and funded unless they are also in the RTP, CIP or STIP.

It is my understanding that the City has given direction that dual NB/SB left turn lanes should be included in the analysis. Given that fact, as well as the fact that the ODOT Synchro file included the dual turn lanes, the turn lanes can be included in the analysis.

I hope this clears up any miscommunication regarding this issue. Please let me know if there are any questions.

Kate Freitag  
Region 1 Traffic  
123 NW Flanders  
Portland, OR. 97209  
(503) 731-8220

-----Original Message-----

From: Bruce Haldors [mailto:bruceh@thetranspogroup.com]  
Sent: Monday, February 24, 2003 12:48 PM  
To: FREITAG Kathleen M \* Kate  
Cc: ErichA@thetranspogroup.com; gregoryhathaway@dwt.com; michaelconners@dwt.com  
Subject: Mollala/213

Kate,

In your previous email to Erich(from Traspo) regarding the various improvement alternatives along 213 it was noted that the dual NB/SB left turn lanes on 213 were in question. However this improvement is listed on the City's TSP and was included in the previous Synchro files received from ODOT, hence we feel it is appropriate that we include it in our analysis since both City and ODOT have included it as well. Please let me know if you have any questions about this. Thanks

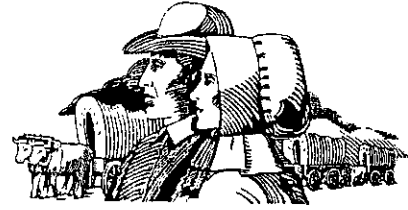
Bruce Haldors  
Principal  
The Transpo Group, Inc.  
425-821-3665 p  
425-825-434 f

# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
FAX 657-7892



### COMPREHENSIVE PLAN MAP AMENDMENT PZ99-04 ZONING MAP AMENDMENT ZC99-16 FINDINGS

#### BASIC FACTS:

1. The subject property is approximately 5,000 square feet in area and is located at the southwest intersection of 15<sup>th</sup> Street and Division Street, at 1809 15<sup>th</sup> Street. The property is designated "Low Density Residential" on the Oregon City Comprehensive Plan Map and is zoned "R-6" Single-Family Dwelling District.
2. A single-family residence occupies the subject property. Willamette Falls Hospital is located near the subject property, on the east side of Division Street. The Oregon City Orthopedic Clinic abuts the property to the north, west, and east.
3. Transmittals on the proposal were sent to various City departments, affected agencies, property owners within 300 feet, and the Citizen Involvement Committee Council (CICC). The received comments are incorporated into the analysis and findings section below.

#### ANALYSIS AND FINDINGS:

##### A. Oregon City Comprehensive Plan, Section "O" Plan Maintenance and Update

Section "O" of the Oregon City Comprehensive Plan provides criteria for Comprehensive Plan amendments.

**Criterion 1: Does the proposed change conform to State Planning Goals and local goals and policies?**

The following Statewide Planning Goals are applicable to this request:

Goal 1 *Statewide Planning Goal 1*  
The Oregon City Comprehensive Plan was acknowledged by the Land Conservation and Development Commission on April 16, 1982. The applicant's proposal is made under the provisions of that plan and its implementing ordinances. The public hearing will be held on March 13, 1999, and will be heard by the Planning Commission on March 13. The public hearing will provide an opportunity for comment and testimony from interested parties.

Goal 2 *Land Use Planning*  
The Oregon City Comprehensive Plan was acknowledged by the Land Conservation and Development Commission on April 16, 1982. The applicant's proposal is made under the provisions of that plan and its implementing ordinances.

Goal 9 *Economic Development*

This goal requires the City to provide for an adequate supply of commercial land to accommodate for a variety of commercial uses. City records indicate that there are approximately 13 acres of gross vacant land designated "O" Limited Office within the City of Oregon City Urban Growth Boundary.

The information provided by the applicant ("Public Need Analysis", Exhibit 3) indicates that there is no adequate supply of commercial land located in proximity to Willamette Falls Hospital that would accommodate a need for medical office facilities.

The applicant states that the population of Oregon City has grown substantially since the adoption of the Oregon City Comprehensive Plan in 1982. Along with the increase in population, the average age of Oregon City residents also increased. This fact, coupled with major changes in the health care system, provides the basis to justify the need for more commercial office land supply in Oregon City.

Given the size of the subject property and the established land use pattern in the vicinity of the site, the proposed Comprehensive Plan map amendment is a logical extension of an already established medical service.

Goal 10 *Housing*

This goal requires the City provide for an adequate supply of land for residential uses within the Urban Growth Boundary at particular price ranges and rent levels. City records indicate that there are approximately 1400 acres of gross vacant land designated "Low Density Residential" within the City of Oregon City Urban Growth Boundary.

The proposed change involves a 5,000-square foot residential parcel. This parcel is occupied by one single-family dwelling. Removing this parcel from the residential land inventory will not significantly impact the availability of housing units in Oregon City.

Goal 11 *Public Facilities and Services*

This goal requires the City to plan and develop a timely, orderly and efficient and convenient public facilities and services to support development in the city.

The City Engineering Division (Exhibit 4a), the Public Works Division (Exhibit 4b), and the Building Division (Exhibit 4d) reviewed the proposal with regards to the availability of public services and facilities and utilities.



The Engineering Division indicated that since no new development is proposed, there is no need for additional facilities. The Building Division commented that the existing building would require a certificate of occupancy permit prior to establishing a commercial office use on the subject property.

Goal 12 *Transportation*

This goal requires that the City insure a transportation system that supports the City's land uses and provide appropriate facilities to accommodate transportation movements.

The applicant submitted a Traffic Impact Analysis (TIA) that was evaluated by the City's Traffic Engineer. The City's Traffic Engineer determined that the submitted TIA is limited in scope and assesses traffic impacts that would be generated by a 2000-square foot medical office (Exhibit 4b).

As previously stated in this report, the applicant has not submitted a specific site plan development application at this time. The request involves a change in the Comprehensive Plan Map from "Low Density Residential" to "Limited Commercial" with a concurrent zone change from the "R-6" Residential Dwelling District to the "LO" Limited Office District.

The range of uses allowed in the "LO" zone is limited to office uses and high density residential uses (OCMC Chapter 17.22). Given the size of the subject property and the City's current development standards, it is unlikely that the subject 5000-square foot property could accommodate a building larger than 2,000 square feet in size.

No specific traffic facility improvements are required at this time.

The Engineering Division noted that 15<sup>th</sup> Street is classified by the City Transportation Plan as a collector. Upon future development of the subject property, bike lanes will need to be provided along 15<sup>th</sup> Street. This would restrict on-street parking within the vicinity of the subject property.

**Conclusion:** Based on the above analysis, the proposal, as presented by the applicant, has satisfied Criterion 1.

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

The applicant submitted a detailed "Public Needs Analysis" as part of the application narrative (Exhibit 3).

In the submitted analysis the applicant points out that the increase in the City's senior population, coupled with the trend towards outpatient service also requires the addition of more medical space. The objective of this request is to provide additional outpatient service to medical care recipients in Oregon City.

**Conclusion:** Based on the need analysis provided by the applicant, the proposed amendment to the Comprehensive Plan Map would fulfill the need for more medical office space in Oregon City.

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

The applicant states that the subject property is best suited for the proposed change because of its location within the area already established for medical office uses. The development of the subject property provides for an economy of scale for the existing medical facilities in the vicinity of the site.

**Conclusion:** Based on the above analysis, staff finds that the proposed change has satisfied Criterion 3.

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

As previously discussed in this report, the public health, safety, and welfare would be positively affected by the proposed amendment due to the concentration of services in this area of the City.

**Conclusion:** Based on the above analysis, staff finds that the proposed change has satisfied Criterion 4.

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

The factual information base in the Comprehensive Plan supports the proposed amendment because it would add 5,000 square feet of limited office space to the City's inventory of "O" Limited Commercial designated property. The applicant's narrative (Exhibit 3) details the need for office space in this area, specifically the need for medical office space due to the aging population, the emphasis on outpatient services, and the proximity to the Willamette Falls Hospital.

**Conclusion:** Based on the above analysis, staff finds that the proposed change has satisfied Criterion 5.

**B. Oregon City Municipal Code Chapter 17.68.**

Criteria for a zone change are set forth in Section 17.68.020 and are as follows:

**Criterion A:** The proposal shall be consistent with the goals and policies of the comprehensive plan.

The following goals and policies of the City of Oregon City Comprehensive Plan are applicable to the requested change:

**Housing Goal** *Provide for the planning, development, and preservation of a variety of housing types at a range of rents.*

As discussed previously in this report, the proposed amendment will remove 5,000 square feet from the residential land inventory; but this action will not significantly impact the range of available housing types in Oregon City.

Commerce and Industry      *Maintain a healthy and diversified economic community for the supply of goods, services, and employment opportunity.*

The applicant's need analysis (Exhibit 3) detailed the need for office space in this area, specifically the need for medical office space due to the aging population, the emphasis on outpatient services, and the proximity to the Willamette Falls Hospital.

The proposed zone change will contribute to a healthy and diversified economic community for the supply of medical services in Oregon City.

**Criterion B. 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. Service shall be sufficient to support the range of uses and development allowed by the zone.**

As discussed in this report, since no new development is proposed at this time, any necessary upgrades to existing public services or facilities would be considered during design review, when the property is developed. Comments submitted by the Public Works Division and the Engineering Division indicate that the development of the subject property is feasible, but it may require some upsizing of the water and storm sewer lines. A main sewer line already exists on 15<sup>th</sup> Street and would not need to be upsized.

The Building Division commented that the existing building would require a certificate of occupancy permit prior to establishing a commercial office use on the subject property.

**Criterion C. 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.**

An analysis and findings of compliance under this section have been discussed in this report in response to Criterion 1, Comprehensive Plan Amendment, Goal 12 *Transportation*.

**Criterion D. The zoning ordinance does not contain specific policies or provisions, which control the amendment.**

An analysis and findings of compliance under this section have been discussed in this report in response to Criterion 1, Comprehensive Plan Amendment.

**CONCLUSION AND RECOMMENDATION:**

Based on the analysis and findings presented in the report, the proposed Comprehensive Plan Map Amendment from "Low Density Residential" to "Limited Commercial" with a concurrent zone change from "R-6" Single-Family Dwelling District to "LO" Limited Office District satisfies the requirements as described in the Oregon City Comprehensive Plan and the Oregon City Municipal Code.

Staff recommends the Planning Commission recommends the City Commission approve the requested Comprehensive Plan Map Amendment from "Low Density Residential" to "Limited Commercial" with a concurrent zone change from "R-6" Single-Family Dwelling District to "LO" Limited Office District, affecting the property identified as Clackamas County Map 2S-2E-32AB, Tax Lot 204.

The approval is subject to the following conditions:

1. The existing building would require a certificate of occupancy permit prior to establishing a commercial office use on the subject property.

**EXHIBITS \*:**

1. Vicinity Map
2. Applicant's Narrative
3. Applicant's Need Analysis
4. Agency Comments
  - a. City Engineering Division
  - b. Traffic Engineer
  - c. Public Works Division
  - d. Building Division
  - e. Tualatin Valley & Fire Rescue
5. Site Map

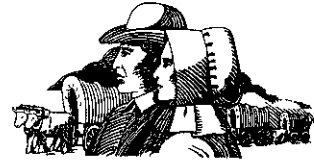
\* available for review at City Hall, Planning Division



# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER-MILNE ROAD      OREGON CITY, OREGON 97045  
TEL (503) 657.0891      FAX (503) 722.3880



**TO:** Planning Commission

**FROM:** Tony Konkol, Associate Planner

**DATE:** May 5, 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 9, 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 July 24, 2003 to August 7, 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 9, 2003.

# SISUL ENGINEERING

*A Division of Sisul Enterprises, Inc.*

375 PORTLAND AVENUE, GLADSTONE, OREGON 97027

(503) 657-0188

FAX (503) 657-5779

May 2, 2003

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

ATTN: Tony Konkol

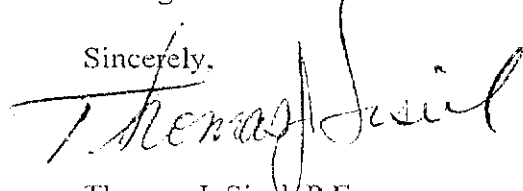
RE: Rose Vista; J.O. SGL00-107  
City file #PD03-01, WR03-01, VR03-11, & SP03-07

Dear Mr. Konkol:

We wish to request a continuance of the Planning Commission Hearing for this development until the June 9, 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.

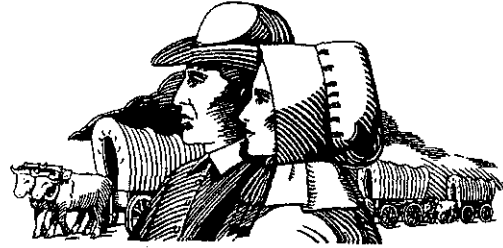
TJS/glb  
pc: Paul Reeder

# 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 03-08

Complete: March 27, 2003  
120-Day: July 25, 2003

**APPLICATION TYPE:** Type III

**HEARING DATE:** May 12, 2003  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

**APPLICANT:** Rick and Annette Sieverson  
13798 Holcomb Boulevard  
Oregon City, OR 97045

**REQUEST:** The applicant is requesting a Variance Hearing before the Oregon City Planning Commission 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 subject site.

**LOCATION:** The property is located at 13798 Holcomb Boulevard and identified on the Clackamas County Tax Assessor Map as 2S-2E-29DA, Tax Lot 2800 (Exhibit 1).

**REVIEWER:** Tony Konkol, Associate Planner

**PROCESS:** The Planning Commission shall make the decision on all Type III permit applications. Once the Planning Commission makes a decision on the Type III application, that decision is final unless appealed to the City Commission in accordance with Section 17.50.190. If appealed, the City Commission decision is the City's final decision on the Type III application.

**RECOMMENDATION:** Approval

IF YOU HAVE ANY QUESTIONS ABOUT THIS DECISION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 657-0891.



## **BACKGROUND:**

A minor partition, MP 95-12, was approved on March 8, 1996. The initial partition created the subject site with the intention of partitioning the subject site into two lots at some future date. At the time of the original partition of the parent parcel, the Oregon City Municipal Code required an average lot width of 60 feet for R-10 development, for which the site was prepared for. Since the date of this decision, the R-10 Single-Family dimensional standards contained in the Oregon City Municipal Code has been updated to require an average lot width of 75. The applicant has applied for an additional variance on the subject site, Planning File VR 0307, which is an administrative variance request to reduce the required lot size from 10,000 square feet to 9,675 square feet. The original parcel was portioned into three parcels. The second variance to the lot size is necessary since the Oregon City Transportation System Plan has been implemented and requires a larger Right-of-way dedication on Holcomb Boulevard than the initial partition provided. In 1996, a 5-foot dedication was given to the city increasing the ROW to 35 feet. A non-remonstrance with the city was also signed at the time of the partition.

Should the applicant's requested Planning Commission and administrative variance be approved, the applicant plans to partition the property into two parcels of 9,675 square feet.

## **BASIC FACTS:**

1. **Zoning/Permitted Use:** The property is currently zoned "R-10" Single-Family Dwelling District and is designated as "LR" Low Density Residential in the City's Comprehensive Plan.
2. **Project Description:** The applicant is requesting a Variance Hearing before the Oregon City Planning Commission to reduce the minimum average lot width in the R-10 zone from 75 feet to 65 feet.
3. **Surrounding Uses/Zoning:**
  - North:** Directly north of the subject site is Holcomb Boulevard. North of Holcomb is a property zoned R-10 Single-Family and a property zoned R-8 Single-Family.
  - South:** South of the subject site is a property zoned R-10 Single-Family and was parcel 2 of the original partition that created the subject site.
  - West:** West of the subject site is a 1.04-acre site zoned R-10 Single-Family and developed with one single-family residents.
  - East:** East of the subject site are two flags, totaling 20 feet, which provide access to the two parcels created in the original partition. East of the flags is a 0.41-acre parcel zoned R-10 Single-Family and developed with a single-family home.
4. **Comments:** Notice of this proposal was sent to property owners within three hundred feet of the subject property and various City departments and other agencies regarding the proposed development plan. Notice of the Planning Commission hearing was mailed to property owners within 300 feet of the subject site on April 1<sup>st</sup>, 2003. The hearing was advertised in the Clackamas Review on April 9<sup>th</sup>, 2003 and the property owner posted a notice of the hearing on the property on April 8<sup>th</sup>, 2003. The Park Place Neighborhood Association submitted comments indicating that the proposed variance does not conflict with their interests (Exhibit 2).

## **DECISION-MAKING CRITERIA:**

### **Municipal Code Standards and Requirements**

<b>Title 17, Zoning:</b>	Chapter 17.08.040(B), R-10 Single-Family Lot Width
	Chapter 17.50, Administration and Procedures
	Chapter 17.60, Variances

**ANALYSIS:**

Section 17.60.020 *Variances—Grounds* states that a variance may be granted if the applicant meets six approval criteria:

- A. That the literal application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this title; or extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site;**

The applicant states the extraordinary circumstance is that the original partition of the property on March 8, 1996 was designed to allow the subject site to be partitioned at a later date to the R-10 dimensional requirements in place at the time of the 1996 partition. The applicant purchased the property in 1998 and had the subject site surveyed in order to complete the partition as proposed in the 1996 partition, however, the dimensional requirements of the R-10 zone were changed in October 1998 before an application could be submitted to the City, increasing the minimum average lot width from 60 feet to 75 feet.

Therefore, the applicant satisfies this criterion.

- B. That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;**

The applicant states that there are no negative affects to surrounding properties as both lots are flat, side-by-side, and have good access. The applicant is requesting a 13% variance, reducing the required average lot width of the R-10 zoned from 75 feet to 65 feet.

The subject site is separated from the property to the east by a 20-foot access easement, providing a larger side yard separation than if the access easement was not in place (Exhibit 3). The existing home on the site is located on the western property line of the subject site. A variance to reduce the lot width will not affect the relationship of the existing home to the property and home located west of the subject site. The existing home on the property to the south will be buffered from new development of the subject site with the existing rear yard setback for R-10 Single-Family development, which is 20 feet.

It appears the smaller lot width will not negatively impact the desirable qualities of the properties adjacent to the subject site.

Therefore, the requested variance satisfies this criterion.

- C. The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased;**

The applicant states that they had every reason to believe that the property was dividable when the subject site was purchased in August of 1998. The applicant confirmed with the City prior to purchasing the property that a partition could be applied for on the subject site and that the lots would meet the existing dimensional requirements of the R-10 zone. It was not until months after the purchase of the property that the zoning code was amended to increase the minimum lot width of the R-10 zone from 60 feet to 75 feet. The R-10 single-family dwelling district dimensional requirements were amended in October of 1998.

Therefore, the requested variance satisfies this criterion.

**D. No practical alternatives have been identified which would accomplish the same purposes and not require a variance;**

The applicant states, and staff concurs, that the applicant has tried several possible lot configurations without success. Due to the increased average lot width requirements of the R-10 single-family zone, there are no alternatives that would accomplish the same purpose and not require a variance.

Therefore, the applicant satisfies this criterion.

**E. That the variance requested is the minimum variance which would alleviate the hardship;**

The reduction of the required lot width to 65 feet, a Type III decision, and a variance to reduce the minimum lot size, a Type II decision, are the minimum variances that would alleviate the hardship.

Therefore, the applicant satisfies this criterion.

**F. That the variance conforms to the comprehensive plan and the intent of the ordinance being varied.**

The applicant states that the Comprehensive Plan designation for the area is low density residential and the proposed development satisfies density requirements (Exhibit 4). The proposed variance to the average lot width allows the full development of a site that is not affected by physical constraints, in compliance with required densities, and the best use of the available public utilities.

Therefore, the applicant satisfies the criterion.

**STAFF RECOMMENDATION:**

In conclusion, Staff has determined that the requested Variance before the Planning Commission, VR 03-08, from which the applicant is requesting to reduce the minimum average lot width of the R-10 Single-Family Dwelling District from 75 feet as required in Section 17.08.040(B) of the Oregon City Municipal Code to 65 feet satisfies the variance approval criteria in Chapter 17.60.

Therefore, Staff would recommend approval of file VR 03-08 by the Planning Commission for the property located at 13798 Holcomb boulevard and identified on the Clackamas County Tax Assessor Map as 2S-2E-29DA, Tax Lot 2800.

**EXHIBITS:**

1. Vicinity Map
2. Park Place Neighborhood Association
3. Site Plan
4. Applicant's Narrative

# Planning Files: VR 03-07 and VR 03-08

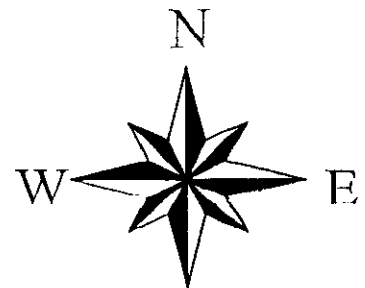
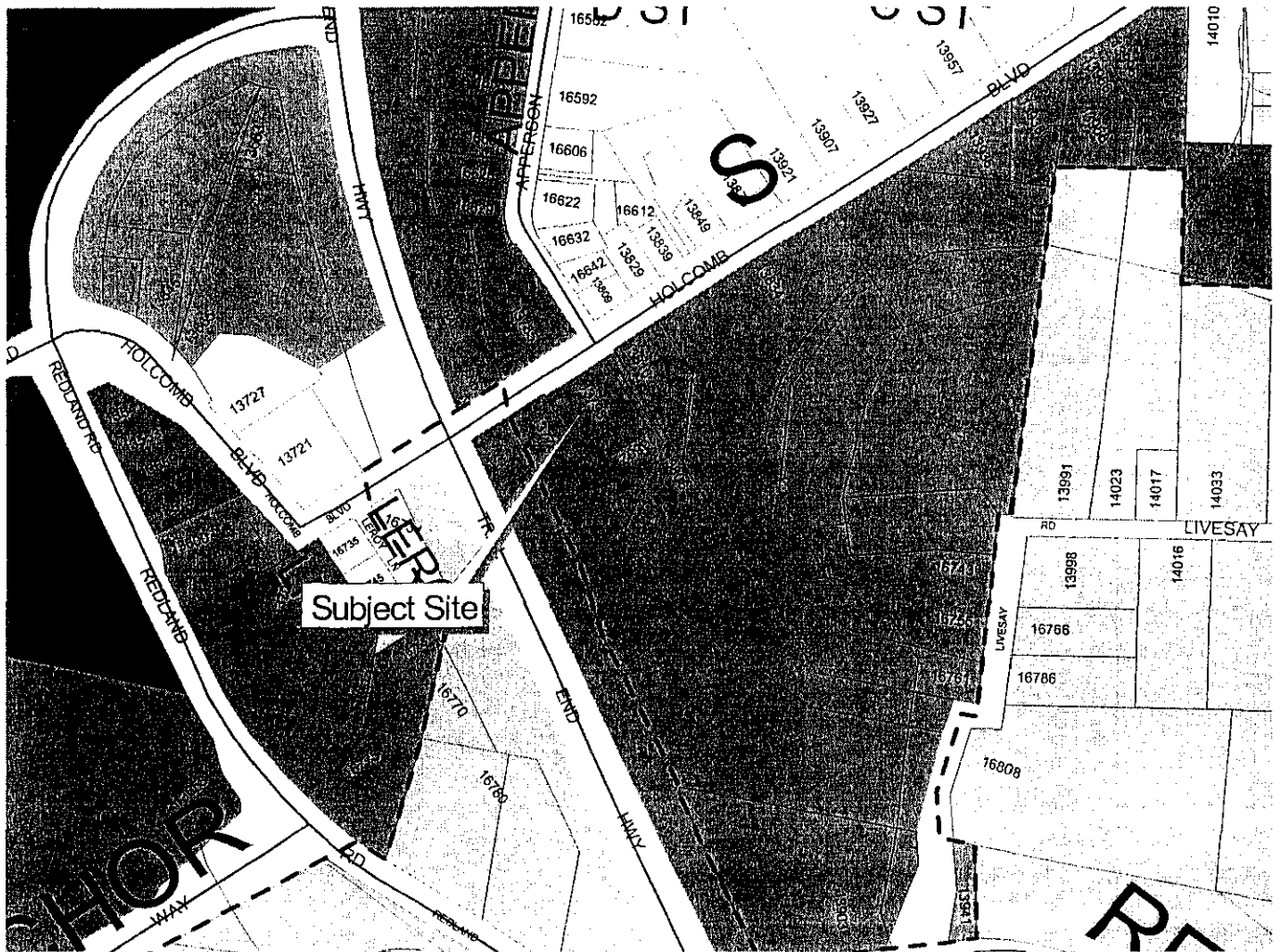


Exhibit 1

**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**

- CICC
- NEIGHBORHOOD ASSOCIATION (N.A.) CHAIR
- N.A. LAND USE CHAIR *P.P.*
- 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:

COMMENTS DUE BY: April 25, 2003

Tony Konkol  
Planning Division

HEARING DATE: **May 12, 2003 (Type III)**  
HEARING BODY: Staff Review:      PC: XX CC:     

IN REFERENCE TO

FILE # & TYPE:  
PLANNER:  
APPLICANT:  
REQUEST:

VR 03-08  
Tony Konkol, Associate Planner  
~~Rick Sieverson~~  
Variance to reduce the R-10 lot width from 75 to 65 feet.  
(Related file VR 03-07)  
Map # 2S-2E-29DA, Tax Lot 2800.

LOCATION:

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:

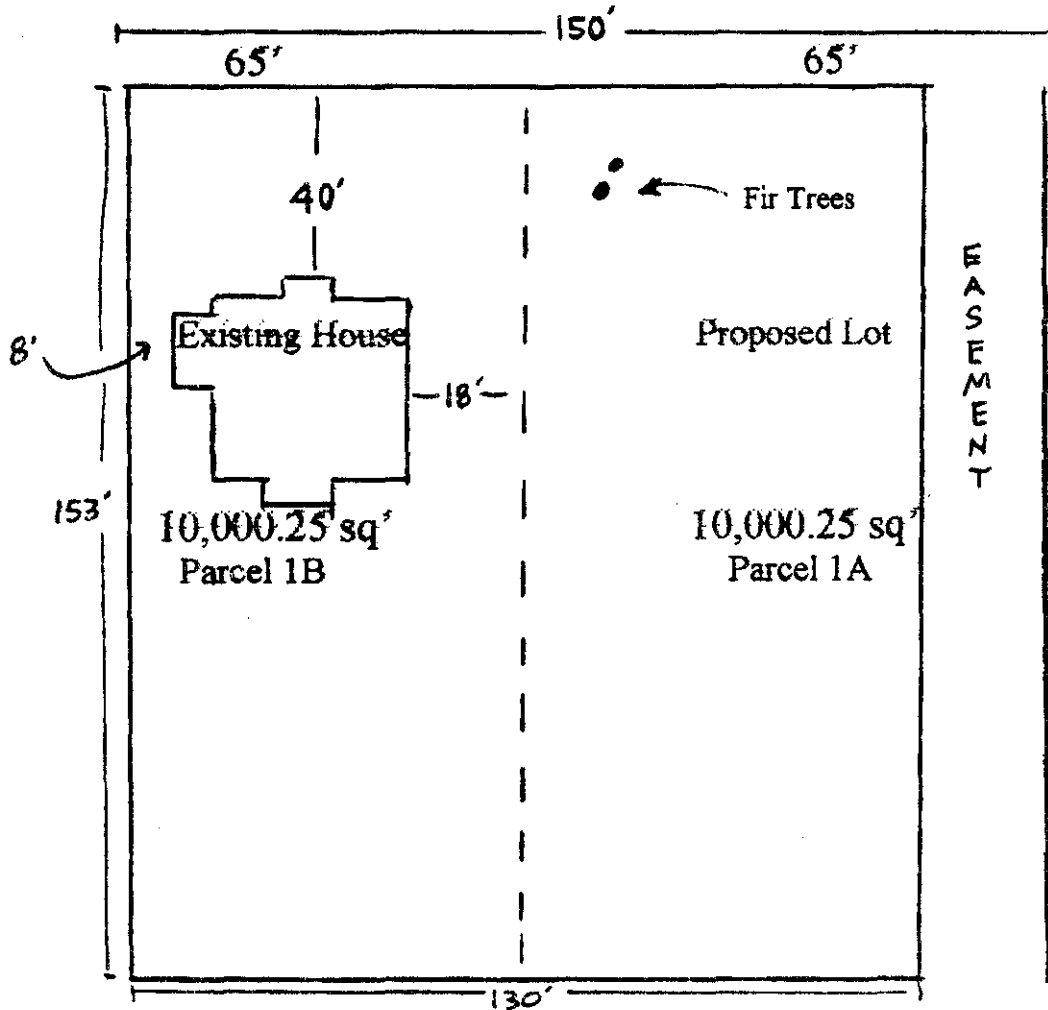
Signed *Donald L. Hood*  
Title *Acting Vice President Park Lane Neighborhood Assn.*

**PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATERIAL WITH THIS FORM.**

Exhibit   2

# SITE PLAN

Holcomb Blvd.  
(Water and Sewer in street)



13798 S Holcomb Blvd  
Section 29DA  
Tax Lot 2800  
Owner Rick and Anette Sieverson  
Scale 1" = 30'  
Date 02/25/03

Variance for  
lot width - PC.

Variance Narrative

17.60.020 Variances--Grounds.

A variance may be granted only in the event that all of the following conditions exist:

- A. That the literal application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this title; or extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site;

**Response: This property, was originally surveyed to be partitioned in 1998 when we purchased it, however months later the rules changed preventing us from completing it. Both lots still meet the 10,000 square feet minimum however they do not meet the minimum lot width of 75 feet. These lots are proportioned in a fashion to allow more than sufficient set backs on all sides.**

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- B. That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;

**Response There isn't any negative affect to surrounding properties. Both lots are flat, side by side and have good access.**

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- C. The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased;

**Response: Ive had every reason to believe the property was dividable when purchased. We confirmed with the city that the property could be partitioned before we made the decsion to buy. It was not until months later that the change was made addressing an increase in minimum lot width for a R10 property to 75 feet.**

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- D. No practical alternatives have been identified which would accomplish the same purposes and not require a variance;

**Response: We have worked with city planners to research any other possible lot configurations without success.**

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- E. That the variance requested is the minimum variance which would alleviate the hardship;

**Response: This request is the minimum variance needed.**

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- F. That the variance conforms to the Oregon City Comprehensive Plan and the intent of the ordinance being varied.

**Response: This land partition parallels the city's comprehensive plan.**

**Oregon City Comprehensive Plan**

- A. Statement in Growth and Urbanization Section: *"It is the City's policy to encourage small lot single-family development in the low density residential areas..."*
- B. Community Facilities Policy No. 7: *"Maximum efficiency for existing urban facilities and services will be reinforced by encouraging development at maximum levels permitted in the Comprehensive Plan and through infill of vacant City land."*



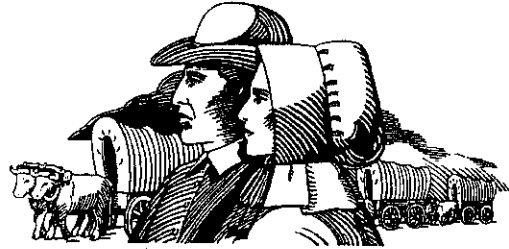


# CITY OF OREGON CITY

## Planning Commission

320 WARNER MILNE ROAD  
TEL (503) 657-0891

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



**FILE NO.:** ZC 03-01

Complete: March 10, 2003  
120-Day: July 6, 2003

**APPLICATION TYPE:** Quasi-Judicial/Type IV

**HEARING DATE:** May 12, 2003  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

**APPLICANT:** Oregon City Excavation and Development, Inc.  
Brett Eells  
16670 South Thayer Road  
Oregon City, OR 97045

**REPRESENTATIVE:** Land Tech, Inc.  
Matt Wellner  
8835 SW Canyon Lane, Suite 402  
Portland, OR 97225.

**REQUEST:** Zone Change from "R-10" Single-Family to "R-8" Single-Family.

**LOCATION:** The property is located at 19605 South Meyers Road on the Clackamas County Tax Assessor Map as 3S-2E-8CA, Tax Lot 4501 (Exhibit 1).

**REVIEWER:** Tony Konkol, Associate Planner

**RECOMMENDATION:** Approval

**PROCESS:** Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763. At the evidentiary hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission either in person or in writing) may appeal the planning commission denial to the city commission. If the planning commission denies the application and no appeal has been received within ten days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission decision is the city's final decision and is appealable to the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

**I. BACKGROUND:**

The applicant is requesting a zone change from R-10 Single-Family Dwelling to R-8 Single-Family Dwelling for a parcel of approximately 4.97-acres identified as Clackamas County Tax Assessor Map 3S-2E-8CA, Tax Lot 4501 (Exhibit 1). The site has recently been logged, and contains one vacant home. The applicant has indicated that the current zoning designation of parcels within several hundred feet of the subject site and within the Urban Growth Boundary are zoned R-8 Single-Family Dwelling District, as the applicant is requesting (Exhibit 2).

The applicant has submitted for a Subdivision (Planning File TP 02-05) with a Variance (VR 03-01) to increase the maximum cul-de-sac length and a water resource determination (WR 02-15). The applicant states that this low-density residential development will continue towards the R-8 zoning due to the fact that it provides larger than average lots while also supplying the higher density required by the City of Oregon City and Metro.

**II. BASIC FACTS:**

1. **Zoning/Permitted Use:** The property is currently zoned “R-10” Single-Family Dwelling District and is designated as “LR” Low Density Residential in the City’s Comprehensive Plan. The applicant has applied for a Zone Change to “R-8” Single-Family Dwelling District for the property which is permitted under the “LR” Land Use designation.
2. **Project Description:** The applicant has applied for a Zone Change from “R-10” Single-Family, which permits 4.4 dwelling units per acre to “R-8” Single-Family, which permits 5.5 dwelling units per acre for the site.
3. **Surrounding Uses/Zoning:**
  - North:** Directly north of the site is Meyers Road, Minor Arterial in the Oregon City Transportation System Plan. North of Meyer Road is the Deer Meadow’s 1 subdivision, which is zoned “R-8” Single-Family Residential.
  - South:** South of the subject site is outside the Oregon City City Limits and the Urban Growth Boundary. The parcel is under Clackamas County jurisdiction and there is a stream running north to south through the middle of the site. This parcel has a 25-foot access easement through the subject site to Meyers Road. A second parcel outside the UGB has a stubbed street from the Millennium Park subdivision to the north property line.
  - West:** West of the site is a wetland/creek area that is an open space tract associated with the Settlers Point Subdivision, which is zoned “R-8” Single-Family and was developed as a Planned Unit Development. There is also an existing Bonneville Power Administration easement through the open space.
  - East:** East of the site is Millennium Park, which was developed as a 33-lot “R-8” Single-Family Dwelling subdivision.
4. **Comments:** Notice of this proposal was sent to property owners within three hundred feet of the subject property and various city departments and other agencies regarding the proposed development plan. Comments were received from the Director of Public Safety, indicating that the demand for police service is driven primarily by population growth. The increased density and, therefore population, will adversely affect a police department already strained to respond to the demand for services (Exhibit 3a). David Evans and Associates, which performed the Traffic Analysis for the site, indicated that the impacts associated with a change from R-10 to R-8 are not expected to substantially affect the planned 20-year transportation system (Exhibit 3b). Comments were also received from the Oregon City Public Works Department (Exhibit 3c).

Mr. Charles Hoffman of 13159 Century Drive, Oregon City, Oregon 97045 provided written testimony concerning the proposed zone change on March 15<sup>th</sup>, 2003. Mr. Hoffman indicated that the proposed zone change would overload the infrastructure, add to the already too densely populated area, and add traffic to Meyers Road, which is already overloaded. Mr. Hoffman also indicates that the property was annexed into the city because of a failing septic system and that on the date of the letter the subject site had not been hooked-up to the city sewer system (Exhibit 4).

The comments received were incorporated into the analysis and findings sections below.

**III. DECISION-MAKING CRITERIA:**  
**Chapter 17.68, "Changes and Amendments"**

(a) **17.68.010 Initiation of the amendment.**

*A text amendment to this title or the comprehensive plan, or an amendment to the zoning map or the comprehensive plan map, may be initiated by:*

*A. A resolution request by the commission;*

*B. An official proposal by the planning commission;*

*C. An application to the planning division presented on forms and accompanied by information prescribed by the planning commission.*

*All requests for amendment or change in this title shall be referred to the planning commission. (Ord. 91-1007 §1(part), 1991: prior code §11-12-1)*

**Finding: Initiated.** The applicant, Oregon City Excavation and Development, submitted a complete application to the planning division, thereby initiating the amendment in accordance with 17.68.010.C. The narrative information and application form are attached as Exhibits 2 and 5. The application was deemed complete on March 10, 2003.

(b) **17.68.020 Criteria.**

*The criteria for a zone change are set forth as follows:*

*A. The proposal shall be consistent with the goals and policies of the comprehensive plan.*

**Finding: Complies.** Consistency with comprehensive plan policies and goals is addressed in Section III.B on page 6 of this staff report.

*B. 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. Service shall be sufficient to support the range of uses and development allowed by the zone.*

Water

**Finding: Complies.** There is an existing 16" water main in Meyers Road that will not need to be upsized. Future water service to the subject site will be provided via an existing water line that will have to be extended into the subject site. Based on the information and comments from the City's engineering and public works departments during the pre-application conference, there is sufficient capacity in the existing system to provide water service to the site at the densities allowed under the R-8 zone.

Sewer

**Finding: Complies.** There is an existing 8" sanitary sewer main located in Meyers Road and Andrea Street that will provide service to the site. The applicant has recently hooked up the existing home on the site to the sewer system. Based on the information and comments from the City's engineering and

public works departments during the pre-application conference, there is sufficient capacity in the existing system to provide sanitary service to the site at the densities allowed under the R-8 zone.

#### Storm Drainage

**Finding:** **Complies.** The applicant has proposed to construct a storm facility on the subject site that will detain and treat on-site storm water and release the treated water into the creek to the west of the site.

#### Transportation

**Finding:** **Complies.** The applicant submitted a Traffic Impact Study (TIS) dated January 2003 for the proposed Meyers Road development (Exhibit 6). Based on an analysis of the TIS it is apparent that traffic operations at the Warner-Parrott/Warner-Milne/Leland/Linn intersection are reaching failing conditions today and will essentially fail by year 2003 with and without the proposed project. The City should consider implementing planned improvements from the TSP (R-35, R-44, R-72) into the next Capital Improvement Program.

The modest increase of a zone change from R-10 to R-8 is not expected to substantially affect the planned 20-year transportation system identified within the City's TSP. Additional future analysis for the zone change is not recommended and there is no reason to deny the requested zone change base on traffic impacts. The incremental impact from additional units should be captured under SDC assessments and the applicant has signed a Non-Remonstrance agreement with the City in association with the property being annexed into the City in 2001 (AN 01-04).

#### Schools

**Finding:** **Complies.** A transmittal requesting comments was sent to the Oregon City School District concerning this application on March 10, 2003. No comments were received. The applicant had not spoken with the superintendent of schools, but indicates that the increased students projected below are expected to have minimal to no impact upon the school district.

The applicant indicates that using a commonly accepted multiplier of .36 elementary students per single family dwelling unit, the proposed development at the R-8 zoning designation would be expected to generate approximately seven additional elementary students and approximately one additional student than the R-10 zoning designation.

Using .10 middle school students and .08 high school students per single-family dwelling unit, the proposed development at the R-8 zoning designation would be expected to generate approximately two additional middle school and high school students and would create less than one additional student than the R-10 zoning designation.

#### Police and Fire

**Finding:** **Complies.** Transmittals were sent to the Fire department concerning this application. No comments were received.

The Oregon City Police department indicated that the increased density associated with the proposed zone change from R-10 single-family to R-8 single-family would adversely affect a police department already strained to respond to the demand for services (Exhibit 3a).

Staff would propose that the burdens of development on the existing police department are increasing; however, denial of the proposed subdivision would potentially increase the future burden on the department and other City services. Denial of the proposal would potentially transfer the density that could be located in close proximity to major transportation routes, education facilities, parks, commercial

development, and existing services that currently have adequate capacity to serve increased densities to vacant parcels further out to meet City and Regional densities requirements at a later date.

*C. 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.*

**Finding:**       **Complies.** This criterion was addressed above.

*D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment. (Ord. 91-1007 §1(part), 1991: prior code §11-12-2)*

**Finding:**       **Complies.** The Oregon City Comprehensive Plan was acknowledged by the Land Conservation and Development Commission on April 16, 1982. The Comprehensive Plan implements the statewide planning goals on a local level. The acknowledged Comprehensive Plan includes specific goals and policies that apply to the proposed zone change. Therefore, it is not necessary to address the statewide planning goals in response to this criterion. The Comprehensive Plan goals and policies are addressed in Section B on page 6 of this staff report.

**17.68.025 Zoning changes for land annexed into the city.**

- A. Notwithstanding any other section of this chapter, when property is annexed into the city from the city/county dual interest area . . .*
- B. Applications for these rezonings . . . .*

**Finding:**       The subject site is within the city limits. This criterion is not applicable.

**17.68.030 Public hearing.**

*A public hearing shall be held pursuant to standards set forth in Chapter 17.50.*

- A. Quasi-judicial reviews shall be subject to the requirements in Sections 17.50.210 through 17.50.250. (Note: the section numbers cited in the Code are incorrect and should be Sections 17.50.120 through .160.)*
- B. Legislative reviews shall be subject to the requirements in Section 17.50.260. (Note: the section number cited in the Code is incorrect; it should be 17.50.170.) (Ord. 91-1007 §1(part), 1991: prior code §11-12-3)*

**Finding:**       **Complies.** According to Section 17.50.030 of the Code, zone changes and plan amendments are reviewed through a Type IV process. According to Section 17.50.030.D, "Type IV decisions include only quasi-judicial plan amendments and zone changes." Therefore, the requirements of Sections 17.50.120 through .160 apply.

The applicant attended a pre-application conference (PA 02-22) with City staff on May 15, 2002 (Exhibit 5) Transmittals regarding the proposed development plan were mailed on March 10, 2003 to the Gaffney Lane Neighborhood Association and CICC Chairperson.

The applicant submitted the initial application for a subdivision on November 7, 2002. The applicant, after discussion with staff, submitted for a zone change on February 6, 2003. The application was deemed complete on March 8, 2003. The planning division scheduled the first evidentiary hearing, before the Oregon City Planning Commission, for May 12, 2003. The second hearing, should the Planning Commission recommend approval, is scheduled for May 21, 2003 before the Oregon City City Commission. Notice of the hearing was issued on March 10, 2003 to properties within 300 feet, the hearing was noticed in the Clackamas Review on March 19, 2003, and the property was posted on April 10, 2003, more than 21 days prior to the hearing, in accordance with Section 17.50.090(B).

This staff report has been prepared in accordance with 17.50.120.C.

The hearings shall be conducted in accordance with the requirements of Section 17.50.120, and the review and decision in accordance with Sections 17.50.130 through .160.

**17.68.040 Approval by the commission**

*If the planning commission approves such request or application for an amendment, or change, it shall forward its findings and recommendation to the city commission for action thereon by that body. (Ord. 91-1007 §1(part), 1991: prior code §11-12-4)*

**Finding:** **Complies.** If the Planning Commission approves the applicant's request, the City Commission shall review its findings and recommendations at a public hearing. That City Commission public hearing has been scheduled for May 21, 2003.

**17.68.050 Conditions.**

*In granting a change in zoning classification to any property, the commission may attach such conditions and requirements to the zone change as the commission deems necessary in the public interest, in the nature of, but not limited to those listed in Section 17.56.010:*

*A. Such conditions and restrictions shall thereafter apply to the zone change;*

*B. Where such conditions are attached, no zone change shall become effective until the written acceptance of the terms of the zone change ordinance as per Section 17.50-.330. (Ord. 91-1007 §1(part), 1991: prior code §11-12-5)*

**Finding:** Staff has not recommend any Conditions of Approval at this time. Conditions of Approval would be attached to any proposed development of this site should it be found necessary. This section is not applicable.

**17.68.060 Filing of an application**

*Applications for amendment or change in this title shall be filed with the planning division on forms available at City Hall. At the time of filing an application, the applicant shall pay the sum listed in the fee schedule in Chapter 17.50. (Ord. 91-1007 §1(part), 1991: prior code §11-12-6)*

**Finding:** **Complies.** The applicant has submitted the appropriate application forms and fees.

**B. Consistency with Comprehensive Plan**

The applicable goals and policies of the Comprehensive Plan are addressed in this section.

**(B) Citizen Participation**

Goal: Provide an active and systematic process for citizen and public agency involvement in the land-use decision-making for Oregon City.

**Finding:** **Complies.** The City's process includes public notice, public hearings, and notifying surrounding neighbors, the neighborhood association, and the CICC. Public notice was mailed on March 10, 2003, advertised in the Clackamas Review on March 19, 2003 and the subject property was posted on April 10, 2003.

On March 10, 2003 transmittals were sent to the Citizen Involvement Committee Council (CICC) and the Gaffney Lane Neighborhood Association apprising them of the application.

**Policy #1**

*Encourage and promote a city-wide citizen participation program that helps neighborhoods to organize so that they may develop and respond to land-use planning proposals.*

**Finding:** **Complies.** As noted above, the Gaffney Lane Neighborhood Associations and the CICC were notified. This staff report and the file containing project information were available for public review and posted on the City's website seven days prior to the first evidentiary hearing.

**(C) Housing**

Goal: Provide for the planning, development and preservation of a variety of housing types at a range of price and rents.

**Finding:** **Complies.** The applicant estimates that under the existing R-10 Single-Family zoning designation the subject site could be subdivided into approximately sixteen single-family residential lots. An R-8 designation would allow the property to be subdivided into approximately nineteen lots. The increased density will result in a corresponding decrease in individual lot costs and final per unit costs. Such cost reductions lie at the heart of the city's policy of providing the regional home building industry with resources necessary to provide an adequate supply of flexible and affordable single-family housing opportunities to Oregon City residents. Additionally, Metro's 2040 Recommended Alternative document, which considers the technical findings documented in Metro's *Concepts for Growth* report, recommends the region wide average lot size for new single-family homes be 6,550 square feet, or 6.5 units per acre.

**Policy #3**

*The City shall encourage the private sector in maintaining an adequate supply of single and multiple family housing units. This shall be accomplished by relying primarily on the home building industry and private sector market solutions, supported by the elimination of unnecessary government regulations.*

**Finding:** **Complies.** The applicant submits that the requested R-8 zoning map designation should be approved because it will provide flexible and affordable housing opportunities that are consistent with Metro's *Concept for Growth* report, the Recommended Alternative for residential lot sizes, and the Oregon City Comprehensive Plan concerning a variety of housing types at a range of prices and rents.

**(F) Natural Resources, Natural Hazards**

Goal: Preserve and manage our scarce natural resources while building a livable urban environment.

**Finding:** **Complies.** The applicant indicates that there are no natural resources designated on the site. Therefore, the goals and policies in this section are not applicable to this request since the Comprehensive Plan does not identify any protected natural resources on the subject site.

The subject site is currently zoned R-10 and is developed with one home. The proposal to re-zone the site from R-10 to R-8 would not significantly alter the amount of coverage of development allowed on the site. The subject sites do not appear on any of the following maps: Mineral and Aggregate Resources, Fish and Wildlife Habitat, Flood Plain, Steep Slopes, or Seismic Conditions.

The area is located in an area indicating Wet Soils – High Water Table. Future development analysis will include a Geotechnical Investigation to identify soil types and appropriate development techniques for the site.

The Oregon City Comprehensive Plan identifies Beaver Creek and tributaries as follows:

*Description: This resource is a large stream with several tributaries which include Caufield Creek, and Little Beaver Creek and Camus Creek. Beaver Creek cuts across through a canyon at 3S-*



2E-17A, tl 1002. This property is steep and weeded. It is also located within the urban growth boundary. It is highly unlikely that this property will ever and should ever be developed. Access is very limited and a close inspection of this area was not possible due to the steep terrain.

*Potential Impacts: Development or access to this area of the Beavercreek canyon area may cause serious environmental damage. Access and development should be limited with the criteria as described in the proposed Water Resource Ordinance. All other uses should be minimized.*

The site is located within the Oregon City Water Quality Overlay District. The applicant has submitted a Water Resource Review for the site identifying the resource on the adjacent property. Future development of the site will be required to comply with Oregon City Municipal Code Section 17.49 concerning Water Resource Areas, which provides for the preservation and management of the city's scarce natural resources

**Policy #1**

*Coordinate local activities with regional, state and federal agencies in controlling water and air pollution.*

**Finding:** **Complies.** Future development applications will need to meet agency requirements that protect water and air quality. No increases in air or water pollution are anticipated due to the change in zoning from R-10 Single-Family to R-8 Single-Family.

**Policy #7**

*Discourage activities that may have a detrimental effect on fish and wildlife.*

**Finding:** **Complies.** The subject site is not located within an identified fish and wildlife habitat area, as identified in the Comprehensive Plan. The subject site is in a recently logged area and is adjacent to a tributary to Beavercreek. The R-10 and R-8 zoning designations allow the development of single-family housing, thus the proposed change will not increase the likelihood of having a detrimental effect on fish and wildlife, and when developed in conjunction with existing Water Resource Overlay District requirements, should not have a detrimental effect on fish and wildlife.

**Policy #8**

*Preserve historic and scenic areas within the City as viewed from points outside the City.*

**Finding:** The site is not within a historic or scenic area and is not situated so as to affect views of such areas from outside the city. This policy is not applicable.

**Policy #9**

*Preserve the environmental quality of major water resources by requiring site plan review, and/or other appropriate procedures on new developments.*

**Finding:** The applicant has submitted a Subdivision, Variance to cul-de-sac length, and Water Resource Review application for this site to run concurrently with the proposed Zone Change. Through the Water Resource and Subdivision review, the policies of this section will be implemented.

**Policies adopted through Ordinance 90-1031**

*Oregon City . . . shall comply with all applicable DEQ air quality standards and regulations.*

**Finding:** **Complies.** The proposed R-8 Single-Family allows the development of homes on 8,000 square foot lots, which usually does not represent a threat to air quality. However, future development of the site shall comply with all applicable DEQ air quality standards and regulations.

*All development within the City of Oregon City shall comply with applicable state and federal air, water, solid waste, hazardous waste and noise environmental rules, regulations and standards. Development ordinance regulations shall be consistent with federal and state environmental regulations.*

**Finding:** The proposal will be processed under the appropriate procedures for new development in order to comply with this policy.

**(G) Growth and Urbanization**

Goal: Preserve and enhance the natural and developed character of Oregon City and its urban growth area.

**Finding: Complies.** The proposal will affect approximately 4.97 acres of R-10 zoned property, which allows 10,000 square foot lots. The subject site is located adjacent to the Deer Meadows and Millennium Park subdivisions, which are zoned R-8 Single-Family. The Gaffney Lane Neighborhood, extending north from Meyers Road, west of Molalla Avenue, and east of Clairmont is comprised of a mix of R-10, R-8, R-6 Single-Family, RD-4 Two-Family, RA-2 Multi-Family, Limited Office and Commercial (Exhibit 7). Adequate public facilities have been provided to the property and additional housing types and sizes will contribute to the developed character of Oregon City by providing a neighborhood with multiple housing opportunities at multiple price ranges.

**(H) Energy Conservation**

Goal: Plan urban land development that encourages public and private efforts toward conservation of energy.

**Finding: Complies.** The applicant indicates that energy conservation will be addressed in the construction of individual single-family dwellings. Individual single-family dwelling should include proper insulation, heating, and window materials required to ensure adequate energy-conservation.

The site is located on the proposed Oregon City Bus Line identified in the Transportation System Plan and is near Clackamas Community College, which services as a hub for Tri-Met bus service. Increasing density along transportation corridors and within close proximity to public transportation, schools, and shopping opportunities potentially encourages the use of non-auto and public transportation options and reduces vehicle miles traveled.

**(I) Community Facilities**

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

**Finding: Complies.** Community facilities include sewer, water, storm water drainage, solid waste disposal, electricity, gas, telephone, health services, education, and governmental services. The applicant states that urban services are available or can be extended and made available to the site. The recreational availability is addressed in Section J below.

**Policy #5**

*The city will encourage development on vacant buildable land within the City where urban facilities and services are available or can be provided.*

**Finding: Complies.** The subject site, which contains one house, has the necessary urban services for low-density residential development stubbed to the site or can be extended to the site and it appears these services are adequate for the subject site.

**Policy #7**

*Maximum efficiency for existing urban facilities and services will be reinforced by encouraging development at maximum levels permitted in the Comprehensive Plan and through infill of vacant City land.*

**Finding:** **Complies.** The existing urban facilities and services can be provided to the site and the proposed change from R-10 to R-8 will not impact the ability to provide the necessary services to the site. The applicant is requesting to develop 8,000 square-foot minimum lots and would allow development that will maximize the existing urban facilities while remaining compatible with the surrounding land uses and development.

**(J) Parks and Recreation**

Goal: Maintain and enhance the existing park and recreation system while planning for future expansion to meet residential growth.

**Finding:** **Complies.** The applicant states that the Comprehensive Plan does not identify the subject site for future acquisition or development as a public park or other recreational facility.

The Oregon City Parks Master Plan indicates that there currently is a desire to discourage the development and maintenance of mini-parks, thus no further parks of this type are needed except where high-density residential development occurs or where private developers are willing to develop and maintain them. The plan also indicates that open space should be acquired and integrated into the overall park system. This can be done by preserving hillsides, creek corridors, and floodplain areas that could also serve as conduits for trails.

The subject site is located within the Oregon City Water Quality Resource Area and will be protected per the standards of OCMC Section 17.49.

The subject site is located less than a half mile from the new Wesley Lynn Park and the existing Hillendale Park. The site is also one mile from the intersection with Highway 213 and the Clackamas Community College campus, which represents recreational opportunities.

**(L) 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.

**Finding:** **Complies.** Through an analysis of the TIS it is apparent that traffic operations at the Warner-Parrott/Warner-Milne/Leland/Linn intersection are reaching failing conditions today and will essentially fail by year 2003 with and without the proposed project. The City should consider implementing planned improvements from the TSP (R-35, R-44, R-72) into the next Capital Improvement Program.

The modest increase of a zone change from R-10 to R-8 is not expected to substantially affect the planned 20-year transportation system identified within the City's TSP. Additional future analysis for the zone change is not recommended and there is no reason to deny the requested zone change base on traffic impacts. The incremental impact from additional units should be captured under SDC assessments and the applicant has signed a Non-Remonstrance agreement with the City in association with the property being annexed into the City in 2001 (AN 01-04).

**Policy #6**

*Sidewalks will be of sufficient width to accommodate pedestrian traffic.*

**Finding:** Sidewalks will be included in future site redevelopment and will be constructed to City standards.

**RECOMMENDED CONCLUSION AND DECISION**

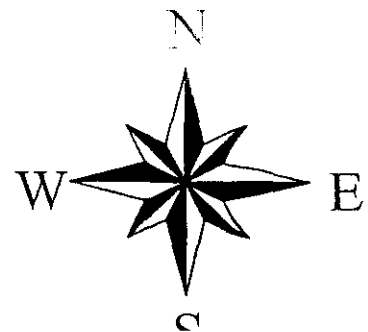
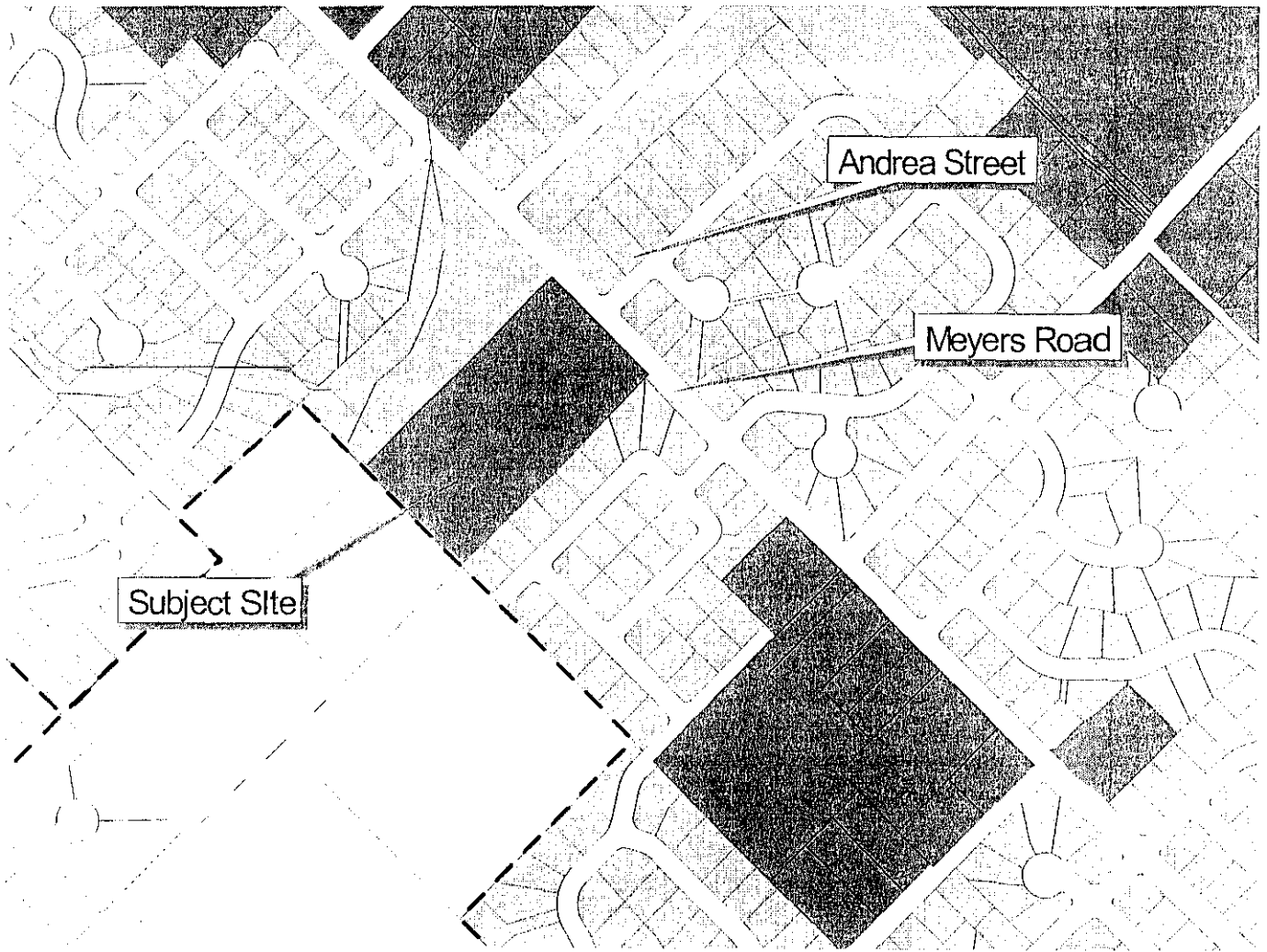
Staff would recommend that the Planning Commission forward the proposed Zone Change, Planning File ZC 02-04, with a recommendation of approval to the City Commission for a public hearing on May 21, 2003.

**EXHIBITS**

The following exhibits are attached to this staff report.

1. Vicinity map
2. Applicant's narrative
3. Comments:
  - a. Oregon City Police Department
  - b. David Evans and Associates
  - c. Oregon City Public Works
4. Letter from Mr. Hoffman of 13159 Century Drive, Oregon City, OR and dated March 15, 2003
5. Application material (On File)
6. Traffic Study excerpt (Full study on File)
7. Oregon City Zoning Map

# Map 3S-2E-8CA, Tax Lot 4590 19605 South Meyers Road



ZONE CHANGE APPLICATION  
"KING SALMON COURT"

DATE: February 3, 2003

APPLICANT: Oregon City Excavation & Development, Inc.  
16670 South Thayer Road  
Oregon City, OR 97045  
Contact: Brett Eells

OWNERS: Oregon City Excavation & Development, Inc.  
16670 South Thayer Road  
Oregon City, OR 97045  
Contact: Brett Eells

CONSULTANT: Land Tech, Inc.  
8835 SW Canyon Lane  
Suite #402  
Portland, OR 97225  
Contact: Matt Wellner

REQUESTS: With this submittal the applicant requests a zoning district classification of R-8 to be placed upon each of the following parcels.

LEGAL DESCRIPTION: Assessor's Map 32E 8CA, Tax Lot 4590

PARCEL SIZE: Approximate Total - 4.97 Acres

ZONING: Proposed zone R-8 / Existing zone R-10

LOCATION: 19505 South Meyers Road, Oregon City, Oregon

## I. APPLICABLE REGULATIONS

Oregon City Municipal Code Chapters:

17.06 Zoning of Annexed Areas

17.68 Zoning Map Amendments

## II. DISCUSSION

This application requests: (1) an order granting the applicant's request to change the zone of tax lots 4590 of tax map 3 2E 8CA, from R-10 to R-8 on the City's zoning map. The narrative which follows, together with the attached supporting information, have been submitted to demonstrate the applicant's compliance with the applicable provisions of the Oregon City Municipal Code for zoning map amendments.

### A. Description of Proposed Action

The subject site is adjacent to Meyers Road to the north. West of the site is an existing BPA easement and an open space tract associated with the Settlers Point subdivision. South of the site is the UGB and a vacant parcel within Clackamas County outside the UGB where one detached single-family dwelling can be constructed. East of the site is the existing "Millennium Park" subdivision.

### B. Description of Surrounding Uses

Existing adjacent development north, east and west is all within the UGB and zoned R-8. In the vicinity of the subject site, parcels that have been annexed into the City of Oregon City have been zoned R-8. The applicant has provided a City of Oregon City zoning map with this application that demonstrates the current zoning designations of parcels within several hundred feet of the subject site.

The applicant contends that this LDR community will continue this gravitation towards the R-8 development due to the fact that it provides larger than average lots while also supplying the higher density required to meet the goals of the City of Oregon City and Metro. With this submittal, the applicant is requesting a zoning classification of R-8 to be placed upon the subject site.

C. Discussion of Applicable OCMC Requirements

17.06.050 Zoning of annexed areas. All lands within the urban growth boundary of Oregon City have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The planning department shall complete a review of the final zoning classification within sixty days after annexation.

RESPONSE:

The subject site is within the urban growth boundary and has been annexed into the City of Oregon City under the Low Density Residential plan designation. The planning department has reviewed the subject site, as annexed under the R-10 zone. The applicant is requesting a rezone of the subject site to R-8. The R-8 zone is a residential zone also found within the Low Density Residential plan designation.

A. A public hearing shall be held by both the planning commission and city commission in accordance with the procedures outlined in Chapter 17.68.

RESPONSE:

The applicant's request for a zone change on the parcel associated with King Salmon Court will be heard and approved by both the planning commission and city commission prior to approval of the proposed R-8 subdivision.

B. Lands within the urban growth boundary and designated low-density residential on the comprehensive plan map shall, upon annexation, be eligible for manufactured homes (infill of individual lots and subdivisions).

RESPONSE:

This section does not currently apply. The applicant has proposed a zone change upon the subject property. The future proposed development is intended for the construction of detached single-family dwellings.

C. Lands designated low-density residential may receive a designation consistent with Table 17.16.050. The hearings body shall review the proposed zoning designations and consider the following factors:

1. Any applicable comprehensive plan goals and policies of the dual interest area agreement;
2. Lotting patterns in the immediate surrounding area;
3. Character of the surrounding area. If the land is constrained by steep slopes or other natural features (wetlands, vegetation, etc.), R-10 shall be designated.

In those cases where only a single city zoning designation corresponds to the comprehensive plan designation and thus the rezoning decision does not require the exercise of legal or policy judgment on the part of the decision maker, Section 17.68.025 shall control. The decision in these cases shall be a ministerial



*decision of the planning director, made without notice or any opportunity for a hearing. At the time of filing a petition for annexation, the filing fee listed in 17.50.480 shall be paid to the city recorder to defray the costs of publication, investigation and processing.*

**RESPONSE:**

Three zoning designations are found under the Low Density Residential plan designation. Thus, staff, the planning commission and the city commission must review the proposed zone change application. The subject site has been annexed into the City of Oregon City under the R-10 zone. There are no natural hazards identified by the City located on the subject site. Wetlands exist 50 feet to the northwest of the subject site. The enclosed preliminary plans demonstrate the location of the adjacent wetlands and the setback proposed for protection of the wetlands. The plans also show that the site slopes to the west to an existing creek, approximately 75 feet from the most westerly corner of the property, where a buffer is shown (Tract B). The applicant has proposed no modification to these features, and no modification to these features is necessary for future full development of the site. Therefore, no adverse effects will be placed on any of these features.

The subject site does not have any limiting characteristics associated with wetlands, vegetation or steep slopes. Included with the applicant's original submittal is an existing conditions plan that demonstrates the subject site's current environment. This material displays that the subject site should not receive an automatic R-10 zoning overlay due to site characteristics such as wetlands, vegetation or steep slopes.

There are no Comprehensive Plan goals or policies specific to the subject site that would limit the zoning overlay such that the applicant's request could not be approved. The applicant's proposal complies with the goals and policies of the Comprehensive Plan. Development of the subject site under the R-8 zone would follow the rules and regulations of the City of Oregon City CDC and Comprehensive Plan the same as development of the subject site under the requirements of the R-10 zone. However, development of the subject site under the R-8 zone would bring the City of Oregon City one step closer to meeting the goals for increased density within the incorporation.

**17.68 Zoning Changes and Amendments**

Section 17.68.020 of the Oregon City Municipal Code states that requests to amend the City's Zoning Map shall be evaluated according to the following criteria:

- 1. The proposal is consistent with the goals and policies of the Comprehensive Plan.*

The following goals and policies of the Comprehensive Plan are applicable to this request:

- a. Citizen Involvement**

*Goal - Provide an active and systematic process for citizen and public agency involvement in the city's land use decision making process.*

#### Policies

1. Encourage and promote a citywide citizen participation program that helps neighborhoods to organize so that they may develop and respond to land use planning proposals.
2. Provide neighborhood groups and citizens with accurate and current information on policies, programs and development proposals that affect their area and institute a feedback mechanism to answer questions from the public.
4. Encourage citizen participation in all functions of government and land use planning.

#### Comment

This application has been submitted in accordance with zoning map amendment process described in the Oregon City Municipal Code. The application addresses relevant state statutes, administrative rules and plan policies that govern the requested map amendment. The request may be approved if it is found to be in conformance with the applicable policies of the city's Comprehensive Plan.

Under the applicable city ordinance, a request to change a zoning designation must be processed as a zoning map amendment. The ordinance provides that the Planning Commission shall render a recommendation to the City Council on a request for zone change after prior notice and a public hearing.

City ordinance states that notice of a public hearing must be sent to all property owners of record within 300 feet of the subject property at least twenty days before the hearing. Notice must also be published in a newspaper of general circulation at least ten calendar days before a public hearing.

The applicant is required to post a sign on the subject property that describes the proposed zoning map amendment at least 14 days prior to the date of the public hearing.

Finally, copies of the zoning map amendment application, evidence relied upon, applicable criteria, and staff report must be available for inspection by interested parties at least 14 days prior to the date of the hearing.

Applicant submits that by participating in the process described above the application will have complied with the requirements contained in statewide planning Goal 1, Citizen Involvement, as well as the relevant policies described in Part B, Citizen Involvement, of the Oregon City Comprehensive Plan.

b. **Housing Element**

*Goal - Provide for the planning, development and preservation of a variety of housing types at a range of price and rents.*

**Policies**

3. The City shall encourage the private sector in maintaining an adequate supply of single and multiple family housing units. This shall be accomplished by relying primarily on the home building industry and private sector market solutions, supported by the elimination of unnecessary governmental regulations.

**Comment**

The applicant estimates that under an R-10 zoning designation the subject site could be subdivided into approximately sixteen single-family residential lots. An R-8 designation, however, would allow the property to be subdivided into approximately twenty lots. The increased density will result in a corresponding decrease in individual lot costs and final per unit housing costs. Such cost reductions lie at the heart of the city's policy of providing the regional home building industry with resources necessary to provide an adequate supply of flexible and affordable single-family housing opportunities to Oregon City residents. Additionally, Metro's 2040 Recommended Alternative

document, which considers the technical findings documented in Metro's *Concepts for Growth* report, recommends the region wide average lot size for new single-family homes be 6,550 square feet, or 6.5 units per acre.

The applicant submits that the requested R-8 zoning map designation should be approved because it will provide flexible and affordable housing opportunities that are consistent with Metro's *Concept for Growth* report and the Recommended Alternative for residential lot sizes.

c. Commerce and Industry

*Goal - Maintain a healthy and diversified economic community for the supply of goods, services and employment opportunities.*

Comment

The goals and policies described in Commerce and Industry, of the Oregon City Comprehensive Plan are not applicable to this request because the subject site and the surrounding area are limited to residential uses.

d. Historic Preservation

*Goal - Encourage the preservation and rehabilitation of homes and other buildings of historical and architectural significance in Oregon City.*

Comment

No homes or other buildings of historical or architectural significant exist on the subject site.

e. Natural Resources

*Goal - Encourage the preservation of natural resources in Oregon City.*

Comment

No natural resources are designated on this site. Therefore, the goals and policies described in this section of the Oregon City Comprehensive Plan are not applicable to this request since the

comprehensive plan does not identify any protected natural resources on the subject site.

f. Growth & Urbanization

*Goal - Preserve and enhance the natural and developed character of Oregon City and its urban growth area.*

Comment

The goals and policies described in the Growth and Urbanization section of the Oregon City Comprehensive Plan are not applicable to this request since the subject site is presently within the city's Urban Growth Boundary.

g. Energy

*Goal - Plan urban land development, which encourages public and private efforts towards conservation of energy.*

Comment

Energy conservation will be addressed in the construction of individual single-family dwellings. Individual single-family dwellings should include proper insulation, heating, and window materials required to ensure adequate energy conservation.

h. Community Facilities

*Goal - Serve the health, safety, education, welfare and recreational needs of all Oregon City residents through the planning and provision of adequate community facilities.*

Policies

5. The City will encourage development on vacant buildable land within the city where urban facilities and services are available or can be provided.

7. Maximum efficiency for existing urban facilities and services will be reinforced by encouraging development at maximum levels permitted in the Comprehensive Plan and through infill of vacant City land.

Comment

Matters relating to the availability and present capacity of urban facilities and services to serve the proposed development are discussed in Section 2, below.

- i. Parks

*Goal - Maintain and enhance the existing park and recreation system while planning for future expansion to meet residential growth.*

Comment

The Comprehensive Plan does not identify the subject site for future acquisition or development as a public park or other recreational facility.

- j. Willamette River

*Goal - Maintain the adopted Greenway Boundary and required procedures to ensure the continued environmental and economic health of the Willamette River.*

Comment

The subject site is not within the boundary of the Willamette River Greenway. Accordingly, the applicant's request to have the site designated R-8 on the City's zoning map is not subject to the goals and policies of this element of the city's Comprehensive Plan.

- k. 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.*

Comment

A traffic study is included. This report addresses full development of the subject site.

2. *Public facilities and services, i.e., water, sewer, storm drainage, transportation, schools, and police and fire protection, are presently capable of supporting the uses allowed by the proposed zone, or may be made available prior to the issuance of a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.*

Comment

a. Water

Future water service to the subject site will be provided via an existing water line that will have to be extended into the subject site. Based on the information and comments the city's engineering and public works staff provided to applicant's representatives during the required pre-application conference, the applicant submits that there is sufficient capacity in the existing system to provide water service to the subject site at the densities allowed under the requested R-8 zone.

b. Sanitary Sewer

Sanitary sewer service to the subject site is available via an existing sanitary sewer line located in Meyers Road. Based on the information and comments the city's engineering and public works staff provided to applicant's representatives during the required pre-application conference, the applicant submits that there is sufficient capacity in the existing system to provide sanitary sewer service to the subject site at the densities allowed under the requested R-8 zone.

c. Storm Drainage

The applicant has proposed to construct a storm facility within development of the subject site. Storm water will be detained and treated on-site and will outfall to the creek to the west of the

site, the applicant submits that there is sufficient capacity in the existing storm water system to serve the subject site densities allowed under the R-8 zone.

**d. Transportation**

As was previously discussed, a traffic impact analysis is included with this request.

**e. Schools**

**i. Elementary School**

Using a commonly accepted multiplier of .36 elementary students per single-family dwelling unit, the proposed subdivision could be expected to generate approximately seven additional elementary students.

**ii. Middle School**

Using a commonly accepted multiplier of .10 students per single-family dwelling unit, the proposed subdivision could be expected to generate approximately two additional middle school students.

**iii. Senior High School**

Using a commonly accepted multiplier of .08 senior high school students per single-family dwelling unit, the proposed subdivision could be expected to generate approximately two additional students at the senior high school.

**Comment**

Although the applicant has not yet had the opportunity to speak with the superintendent of schools, based upon the above stated numbers a comparison with the superintendent's discussion of nearby developments of approximately the same size, the applicant has determined that the number of students to be added to the school district will cause little to no impact upon the school system.

**f. Police**

A representative from the Oregon City Police Department was not present at the pre-application conference attended by applicant's representatives; however the Oregon City Police Department historically committed to serve properties within the City limits.



g. Fire

Adequate fire service will be provided to the proposed development. The applicant has proposed a paved public street surface with a minimum width of 32 feet. In addition, as stated within the pre-application conference notes, no property will be further than 250 feet from a fire hydrant. Therefore, the requirements of the fire code will be complied with.

3. *That 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.*

Comment

This narrative has previously discussed the traffic impact analysis is included with this request. The report concludes that applicant's proposal to subdivide the property will not significantly impact the surrounding transportation system. The report concludes that applicant's proposal to designate the subject site R-8 will not significantly impact the surrounding transportation system.

4. *Applicable statewide planning goals shall be addressed where the Comprehensive Plan does not contain specific policies or provisions, which control the requested zone change.*

Comment

The goals and policies contained in the comprehensive plan address all of the statewide planning goals that are applicable to this request.

#### IV. CONCLUSION:

The proposed development will provide the citizens of Oregon City with affordable, high quality housing opportunities with sufficient public facilities and services. The applicant's request to have the subject site designated R-8 on the City's Zoning Map meets all relevant code criteria contained in Sections 16 and 17 of the City Municipal Code and approval by the Planning Commission is requested.

**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**  
March 10, 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**

- CICC
- NEIGHBORHOOD ASSOCIATION (N.A.) CHAIR
- N.A. LAND USE CHAIR
- 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 45-day notice, released

RETURN COMMENTS TO:

COMMENTS DUE BY: April 9, 2003

Tony Konkol  
Planning Division

HEARING DATE: May 12, 2003 (Type IV)  
HEARING BODY: Staff Review: \_\_\_ PC: X CC: XX

IN REFERENCE TO

FILE # & TYPE: ZC 03-01: PC Hearing 5/12/03; CC Hearing 5/21/03  
PLANNER: Tony Konkol, Associate Planner  
APPLICANT: Brett Eells / Trisha Clark  
REQUEST: Zone change from R-10 to R-8. (Related files include VR 03-06; WR 02-15, TP 02-05)  
LOCATION: Map # 3S-2E-8CA, Tax Lot 4590.

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:

The demand for Police Services is driven primarily by population growth. The increased density and therefore population, will adversely affect a police dept already strained to respond to the demand for services.

Signed London Huius  
Title Dir. of Public Safety

**PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATERIAL WITH THIS FORM.**

Exhibit 3a



DAVID EVANS  
AND ASSOCIATES INC.

April 28, 2003

Mr. Tony Konkol  
City of Oregon City  
PO Box 351  
Oregon City, OR 97045

**SUBJECT: REVIEW OF TRAFFIC IMPACT STUDY  
MYERS ROAD DEVELOPMENT – TP 02-05/ZC03-01**

Dear Mr. Konkol:

In response to your request, David Evans and Associates, Inc. (DEA) has reviewed the revised Traffic Impact Study (TIS) submitted by Charbonneau Engineering for the proposed Myers Road Development located in Oregon City adjacent to Myers Road at Andrea Street. The material is dated January 2003.

The originally proposed 17-unit subdivision of single-family detached homes has been modified to 20 units requiring a zone change. Access to the proposed site would be provided via a new road referred to as King Salmon Ct. in the site plan that forms the fourth leg to the existing Myers Road/Andrea Street intersection.

### **Findings**

The applicant's revised TIS adequately addresses issues identified in my January 6, 2003 review comments associated with their original TIS for this proposed development. The applicant did not mention the need for a zone change to accommodate the revised development proposal. However, the modest increase from 17 to 20 planned units is not expected to substantially affect the planned 20-year transportation system identified within the City's TSP. I do not recommend additional future year analysis for the zone change and see no reason to deny the requested zone change. The incremental impact from additional units should be captured under SDC assessments.

The applicant's trip generation estimates are accurate. Their methods in analyzing transportation impacts are appropriate. I concur with their findings and recommendations.

It is apparent from the applicant's analysis that traffic operations at the Warner/Patterson and Milne/Leland/Linn intersection are reaching failing conditions today and will essentially fail by year 2005 with and without the proposed project. The City should consider implementing planned improvements from the TSP (R-35, R-44, R-72) into the next Capital Improvement Program.

Exhibit 3b

Mr. Tony Konkol  
April 28, 2003  
Page 2

If you have any questions or need any further information concerning this review, please call me at 503.223.6663.

Sincerely,

**DAVID EVANS AND ASSOCIATES, INC.**

Mike Baker, PE  
Senior Transportation Engineer

MJBA:pao

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Planning

**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**  
March 10, 2003

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- ADDRESSING
- POLICE
- TRAFFIC ENGINEER**
- Mike Baker @ DEA

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- ODOT - Sonya Kazen
- ODOT - Gary Hunt
- SCHOOL DIST 62
- TRI-MET
- METRO - Brenda Bernards
- OREGON CITY POSTMASTER
- DLCD *45-day notice included*

RETURN COMMENTS TO:

Tony Konkol  
Planning Division

COMMENTS DUE BY: **April 9, 2003**

HEARING DATE: May 12, 2003 (Type IV)  
HEARING BODY: Staff Review:     PC:   X   CC:   XX  

IN REFERENCE TO

**SEE ATTACHED**

FILE # & TYPE:  
PLANNER:  
APPLICANT:  
REQUEST:  
  
LOCATION:

ZC 03-01: PC Hearing 5/12/03; CC Hearing 5/21/03  
Tony Konkol, Associate Planner  
Brett Eells / Trisha Clark  
Zone change from R-10 to R-8. (Related files include VR 02-06; WR 02-15, TP 02-05)  
Map # 3S-2E-8CA, Tax Lot 4590.

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:

**SEE ATTACHED**

Signed  
Title

*[Signature]*  
*PAV ORG MGR*

**PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATERIAL WITH THIS FORM.**

Exhibit 3c

MEMORANDUM  
City of Oregon City

DATE: March 19, 2003

TO: Joe McKinney, Public Works Operations Manager  
SUBJECT: Comment Form for Planning Information Requests

File Number ZC 03-01

Name/Address: King Salmon Court – 19 lot sub division

19605 S. Meyers Rd.

---

**Water:**

Existing Water Main Size = 12" DI

Existing Location = Meyers Road

Upsizing required? Yes  No  Size Required See Water Master Plan inch

Extension required? Yes  No

Looping required? Yes  No  Per Fire Marshal \_\_\_\_\_

From: Meyers Road thru sub-division

To: If possible, to connect to future sub-divisions

New line size = minimum 8" ductile iron

Backflow Preventor required? Yes  No

Pressure Reducing Valve required for 70 psi or higher.

Clackamas River Water lines in area? Yes  No

Easements Required? Yes  No

**See Engineer's comments**

Recommended easement width          →          ft.

Water Divisions additional comments No  Yes  Initial eli Date 3/19/2003

**Consult Water Master Plan. Comments made on attached plan sheet 4 of 5: If there will be a dead-end H2O main, then relocate fire hydrant at the end of the line instead of a blow-off. No split water services allowed. All lots shall have a 1" copper service line to the water meter. Comments made on attached plan sheet 5 of 5: Is there potential to turn the dead-end H2O main to complete a looped system with surrounding properties?**

MEMORANDUM  
City of Oregon City

DATE: 5/7/2002  
TO: Joe McKinney, Public Works Operations Manager  
SUBJECT: Comment Form for Planning Information Requests

FILE NO. PA02-22  
NAME: 19605 S Meyers Rd.

---

**Sanitary Sewer:**

Existing Sewer Main Size= 8"

Existing Location= Meyers Rd. and Andrea St.

Existing Lateral being reused?      Yes                 No   X  

Upsizing required? See Sanitary Sewer Master Plan

Extension required?      No                 Yes   X  

Pump Station Required? See Sanitary Sewer Master Plan

Industrial Pre-treatment required? If non-residential Contract Tri-City Service District

Easements Required?      Yes   ?        No           

Recommended Easement Width   ?   feet

Sanitary Sewer additional comments?      No                 Yes   X        Initial   CC  

To early in the process to determine if any Easement are required







**Charles Hoffman**  
13159 Century Drive  
Oregon City, OR. 97045  
503-518-3188 page 503-795-9977  
fax 503-518-3189

3/15/03

File No.ZC 03-01 rezoning from R-10 to R-8

I am for not granting the request to change zoning from R-10 to R-8  
It would add to the already too densely populated area and add traffic to  
Meyers Road which is already overloaded. The infrastructure to support  
more housing is already overloaded. The applicant's motivation is to  
make more money, but they do not have to live with the problems more  
dense housing creates, while the surrounding neighbors do.

Also, the applicant was able to get the location annexed into Oregon  
City by saying his septic system was failing on a rental house located on  
said property, and wanted to tie into the sewer system.  
To date a year and a half later, he has not done this, which makes any  
other claims that they need zoning changes suspect.

Please do not approve the rezoning.

Thank you

Charles Hoffman

**TRAFFIC ANALYSIS REPORT**  
**FOR**  
**MEYERS ROAD DEVELOPMENT**

**S. MEYERS ROAD**  
**CITY OF OREGON CITY**

PREPARED BY

**Charbonneau Engineering LLC**

9370 SW Greenburg Rd., Suite 411, Portland, OR 97223  
(503) 293-1118 • FAX (503) 293-1119



EXPIRES: 12/31/03

**JANUARY 2003**

**PROJECT 03-05**

Exhibit 6

## **SITE DESCRIPTION, STREETS, AND CRITICAL INTERSECTIONS**

The proposed development will consist of 20 single-family detached housing units. Currently the site contains a single family house that it will be demolished. The proposed development is situated within an existing residential area on the south side of Meyers Road. Site access will be provided to Meyers Road directly opposite Andrea Street. The driveway will function as a public street with sidewalks and a posted speed of 25 mph. Frontage improvements including sidewalk will be constructed on the west side of Meyers Road.

**Meyers Road** is a two lane street classified as a collector street with a posted speed is 25 mph in the study area. The street contains two 12 foot wide travel lanes and has good pavement surfacing. There are intermittent sidewalk sections along Meyers Road adjacent to the more recent developments. Sight distance is excellent at the proposed access point looking to/from the north and exceeds 1,000 feet. Sight distance to the south is adequate at 300 feet and is restricted due to the street's vertical crest. The alignment is tangent. Figure 'c' shows the existing lane configurations and intersection control at intersections near the site.

As indicated by the City the following intersections were analyzed in conjunction with this development.

- Warner-Milne Road/Warner Parrott Road & Linn Avenue/Leland Road.
- Leland Road/Clairmont Way & Meyers Road.
- Site access to Meyers Road.
- Highway 213 & Meyers Road.

The intersection of **Warner-Milne Road/Warner Parrott Road and Linn Avenue/Leland Road** is signalized with protected left-turn phasing on each approach. The northbound, southbound, and eastbound approaches to the intersection consist of a left-turn lane and a shared through/right-turn lane. The westbound approach has a left-turn lane, a through lane, and a shared through/right-turn lane. All approaches to the intersection have bike lanes marked. Sidewalks exist on the northwest and southwest corners of the intersection. All lanes have a width of approximately 11 feet.

Directly north of the site, Leland Road intersects with Clairmont Way and Meyers Road. The intersection of **Leland Road/Clairmont Way & Meyers Road** is four-way stop controlled. Each approach consists of a single lane per direction. Lane widths are standard at 12 feet. There are no sidewalks.

The intersection at **Highway 213 & Meyers Rd.** is configured as a tee design with traffic signal control. There is a separate northbound left turn lane and southbound right turn lane on Hwy. 213.

**Andrea Street at Meyers Road** is controlled by stop signing on Andrea Street. There are no separate turn lanes at the intersection.

Currently there are sidewalks provided on both sides of the side streets intersecting with Meyers Road north and south of the project development site (including Gerber Woods Drive, Gaffney Lane, Deer Meadows Road, Andrea Street, Moccasin Way, and Frontier Parkway). The sidewalk system is considered adequate in providing pedestrian connectivity to the neighborhood elementary school (Gaffney Elementary School) that will serve housing development. There are elementary school bus stops on Meyers Road at Gerber Woods Drive, Deer Meadows Road, and Autumn Lane. Oregon City High School has bus stops on Meyers Road at Gerber Woods Drive and at Autumn Lane. A pedestrian crosswalk is marked on Meyers Road at Gaffney Lane.

According to the Oregon City School District administration office, students located within the proposed Meyers Road housing development that attend the public school system will use Gaffney Elementary School, Gardiner Middle School, and Oregon City High School. Typically the district provides school bus service to all students that live over one mile from their school location.

### TRIP GENERATION

Vehicle trip generation rates from the 1997 I.T.E. *Trip Generation* (6<sup>th</sup> Edition) were applied in projecting the development's generated trips. Code #210 has been used in determining the trip rates for 20 units of single-family detached housing units. Over a 24-hour weekday period, a total of 236 trip ends are projected to be generated due to the proposed development. Twenty-three (23) trips are projected to be generated during the weekday AM peak hour, and 25 trips are projected to be generated during the weekday PM peak hour. Table 1 summarizes the projected trip generation.

**Table 1. Projected trip generation for Single-Family Detached Housing.**

ITE Land Use	Units	Weekday						
		ADT	AM Peak Hour			PM Peak Hour		
			Total	Enter	Exit	Total	Enter	Exit
Single-Family (#210) Generation Rate <sup>1</sup> Site Trips	20	11.80 236	1.15 23	25% 6	75% 17	1.25 25	64% 16	36% 9

<sup>1</sup> Source: *Trip Generation*, 6th Edition, ITE, 1997. Fitted curve equations used. ADT:  $\ln T = 0.920 \ln X + 2.707$ . AM:  $T = 0.700X + 9.477$ . PM:  $\ln T = 0.920 \ln X + 0.527$ .

## TRIP DISTRIBUTION

Trip distribution in and out of the site is assumed to follow the existing trends for the area in the future with no significant changes in traffic circulation patterns. The trip distribution has been based primarily on:

- site and access orientation
- street classifications
- relative location of commercial and residential areas
- traffic count data
- engineering judgement

Figure 4 exhibits the distribution used for the site generated trips.

## TRAFFIC OPERATION ANALYSIS

Manual turn counts during the weekday AM and PM peak hours have been performed within the past year at the study intersections as listed below.

<u>Intersection</u>	<u>Count Date</u>
Highway 213 at Meyers Road	January 2003
Andrea Street at Meyers Road	January 2002
Clairmont at Meyers Road	January 2003
Warner Milne at Leland/Linn	September 2002

The 2002 existing weekday AM and PM peak hour traffic is shown in Figure 1. In-process traffic is shown in Figure 2 and has been derived from data furnished by the City and Lancaster Engineering. For this project traffic from the new High School and the Glen Oak Meadows residential development have been incorporated into the analysis.

Year 2005 background traffic conditions at the time of build-out (Figure 3) are based on the in-process traffic plus traffic growth. The growth rates were based on traffic count data comparisons between the City's TSP and the recent traffic counts. A two-year growth period was applied to match the projected buildout term. Year 2005 total traffic conditions, shown in Figure 5, are the result of the summation of background traffic and site generated traffic.

A level of service (LOS) analysis of the existing, background, and total traffic conditions has been performed for these intersections. Traffix Software (Version 7.5), using the 2000 *Highway Capacity Manual* (HCM) methodology, has been applied in the intersection analyses. A summary of the findings for each intersection analyzed are as follows. Reference Table 2 for a complete summary of these LOS results. The Traffix software LOS summary reports are included in the Appendix.

**Table 2. Summary of capacity analysis for study intersections.**

Intersection	Type of Control	Peak Hour	Traffic Scenario											
			2003 Existing				2005 Background				2005 Total			
			Crit. Mov't	LOS	Delay	V/C	Crit. Mov't	LOS	Delay	V/C	Crit. Mov't	LOS	Delay	V/C
Warner Parrott / Warner-Milne & Leland / Linn Av	Signal	AM	-	E	55.1	0.95	-	E	71.6	1.04	-	E	73.1	1.05
		PM	-	D	50.5	0.94	-	E	60.7	1.00	-	E	61.8	1.01
Leland Rd / Meyers Rd & Clairmont Wy	4-way stop	AM	-	B	12.0	0.55	-	C	20.5	0.83	-	C	21.7	0.85
		PM	-	B	13.0	0.59	-	C	18.3	0.75	-	C	19.1	0.77
Site access / Andrea St & Meyers Rd	Stop-Control	AM	WB	B	10.6	-	WB	B	12.3	-	EB/WB	B	13.3	-
		PM	WB	B	11.2	-	WB	B	12.9	-	WB	B	14.2	-
Hwy 213 & Meyers Rd.	Signal	AM	-	D	36.4	0.93	-	D	53.6	1.04	-	D	54.4	1.05
		PM	-	C	26.8	0.62	-	C	30.4	0.72	-	C	30.5	0.73
	1st Hr		C	32.5	0.89		D	47.6	1.01		D	48.4	1.01	
	2nd Hr	AM		C	22.3	0.74		C	28.7	0.85		C	28.9	0.85
	Ave.				0.82			0.93				0.93		
	1st Hr		C	26.2	0.59		C	29.5	0.70		C	29.6	0.70	
	2nd Hr	PM		C	26.3	0.60		C	29.4	0.70		C	29.5	0.70
	Ave.				0.60			0.70				0.70		
Signal (SIGCAP results)	AM	-	E	27.5	0.93	-	F	42.6	1.04	-	F	43.5	1.05	
	PM	-	C	20.3	0.62	-	C-D	22.9	0.72	-	C-D	23.1	0.73	

Notes: 2000 Highway Capacity Manual methodology used in analysis. EB - Eastbound, WB - Westbound, Crit. Mov't - Critical movement or critical approach.

The signalized intersection of **Warner-Milne Rd./Warner Parrott Road & Linn Avenue/Leland Road** is currently operating at LOS 'E' in the AM peak hour and LOS 'D' during the PM peak hour traffic. Under background and total traffic conditions the signal will operate at LOS 'E'. This intersection will be impacted by 11 site generated trips in the AM peak hour and 11 site generated trips in the PM peak hour. As the resulting traffic increases at this intersection are insignificant (0.63% in the AM peak & 0.45% in the PM peak) and considering that the City's TSP has identified the intersection as a possible roundabout design, no mitigation is recommended in association with the Meyers Road development project.

The 4-way stop intersection of **Leland Road/Clairmont Way & Meyers Road** is currently operating at an overall LOS 'B' during the AM and PM peak hours. Under background and total traffic the intersection is projected to operate at LOS 'C' for the AM peak hour traffic and LOS 'C' for PM the peak hour traffic. No mitigation is necessary based on the capacity analysis.

The 2-way stop intersection of **Meyers Road & Andrea Street** is currently operating at LOS 'B' during the weekday AM and PM peak hour. With the site access placed opposite Andrea Street at Meyers Road LOS 'B' conditions will be maintained under stop sign control.

The signalized intersection of **Highway 213 & Meyers Road** is currently operating at LOS 'D' during the weekday AM peak hour traffic and a LOS 'C' during the weekday PM peak hour traffic. Under the background and total traffic the intersection is projected to maintain LOS 'D' during the weekday AM peak hour and a LOS 'C' during the weekday PM peak hour. Therefore, no mitigation is necessary in association with the development project. The LOS analysis for the Highway 213 at Meyers Road intersection was performed using Traffix (HCS methodology) and considered the peak two-hour periods for the AM and PM peak periods as is customary by ODOT.

Generally, LOS 'A', 'B', 'C', and 'D' are desirable service levels ranging from no vehicle delays to average or longer than average delays in the peak hours. Level 'E' represents long delays indicating signalization warrants need to be reviewed and signals considered only if warrants are met. Level 'F' indicates that intersection improvements, such as widening and signalization, may be required. By definition, and according to the 2000 *Highway Capacity Manual (HCM)*, the following delay times shown in Table 3 are associated with the LOS at stop controlled (unsignalized) and signalized intersections.

**Table 3.** Level of Service criteria defined in the 2000 *Highway Capacity Manual*.

Level of Service (LOS)	Unsignalized Control Stopped Delay (sec/veh)	Signalized Control Stopped Delay (sec/veh)
A	≤ 10	≤ 10
B	> 10 and ≤ 15	> 10 and ≤ 20
C	> 15 and ≤ 25	> 20 and ≤ 35
D	> 25 and ≤ 35	> 35 and ≤ 55
E	> 35 and ≤ 50	> 55 and ≤ 80
F	> 50	> 80

## **VEHICLE QUEUING ANALYSIS**

Traffic queuing was analyzed at the study intersections. Figure 6 illustrates the queues projected on the approaches for each intersection in terms of number of vehicles during the AM and PM peak hours.

For the stop controlled intersection of Meyers Road and Andrea Street the maximum queue lengths were established using the Gard method (I.T.E., November 2001). The results were calculated based on the regression equations provided in I.T.E. In support of these calculations a queuing summary table has been included in the report. The queues were predicted to be insignificant in the peak hours at this location.

For the signalized intersections the 95<sup>th</sup> percentile design queues were determined based on the Traffix software (HCS) methodology. The results shown on Figure 6 include the intersections at Highway 213/Meyers Road and Leland/Linn at Warner Parrott/Warner Milne Roads. The queue lengths projected were considered average for the peak hour conditions analyzed.

## **PEDESTRIAN, BICYCLE, AND TRANSIT ISSUES**

Currently there is no sidewalk on the west side of Meyers Road at the immediate site frontage. However, sidewalk will be included in the frontage improvements of the development. The proposed development will have minimal impact on pedestrian, bicycle, and transit travel modes. North and south of the site property Meyers Road has minimal shoulders with limited sidewalk segments located adjacent to the more recently development areas. No bike lanes are present on Meyers Road near the project site.

Tri-Met routes #32 and #33 provide the closest proximity bus service to the site. Approximately one mile from the site, route #33 runs along Warner-Milne Road and Linn Avenue. Approximately one mile northwest of the site route #32 runs along Central Point Road through the Warner Parrott Road/Warner-Milne intersection. Pedestrian access to Central Point Road is possible via the current development of South Hampton Estates and its internal road system.

## **SIGNAL AND LEFT-TURN LANE WARRANTS**

The unsignalized intersection of Leland/Clairmont Way & Meyers Road has been checked based on the signal warrant conditions in the *Manual on Uniform Traffic Control Devices* (MUTCD). A signal is not warranted under the existing, background, or total traffic conditions.



The site access on Meyers Road was evaluated for a left-turn lane warrant. This intersection does not warrant a left-turn lane under the existing, background, or total traffic conditions. The warrant curve for the left turn lane warrant is contained in the appendix.

## SAFETY

There are no sight distance deficiencies at any of the critical intersections analyzed in this study.

Traffic accident data was researched from reports furnished by the City. The reports covered a three year period (1998-2000) for the intersections listed in Table 4. It is noted that all of the intersections have accident rates below the threshold level of 1.0 accident per million entering vehicles per year. Therefore, the accident analysis indicates that no safety mitigation is necessary.

**Table 4.** Accident rate results for study intersections.

Intersection	Accident History (# yrs.)	# Accidents	Annual # of Accidents	Annual Traffic Entering (veh/yr)	Accident Rate per M.E.V.*
Warne Milne Rd & S Leland Rd	3	1	0.333	7651778	0.044
S Meyers Rd & S Leland Rd / Clairmont Way	3	0	0.000	2436151	0.000
S Meyers Rd & Andrea St	3	0	0.000	1665494	0.000
Cascade Hwy S ( Hwy 213 ) & S Meyers Rd	3	10	3.333	9258834	0.360

## SUMMARY & RECOMMENDATIONS

The proposed development is located on the south side of Meyers Road and will have traffic access opposite the existing intersection with Andrea Street. The development is planned for 20 single-family housing units.

Over a 24-hour weekday period, a total of 230 trip ends are projected to be generated due to the development. Twenty-three (23) trips will be generated during the weekday AM peak hour and 25 trips will be generated during the weekday PM peak hour. Table 1 summarizes the projected trip generation.

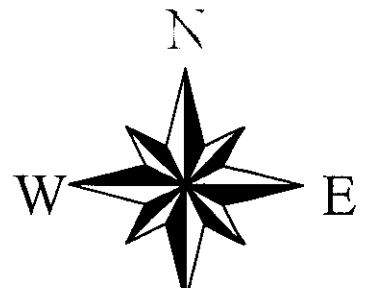
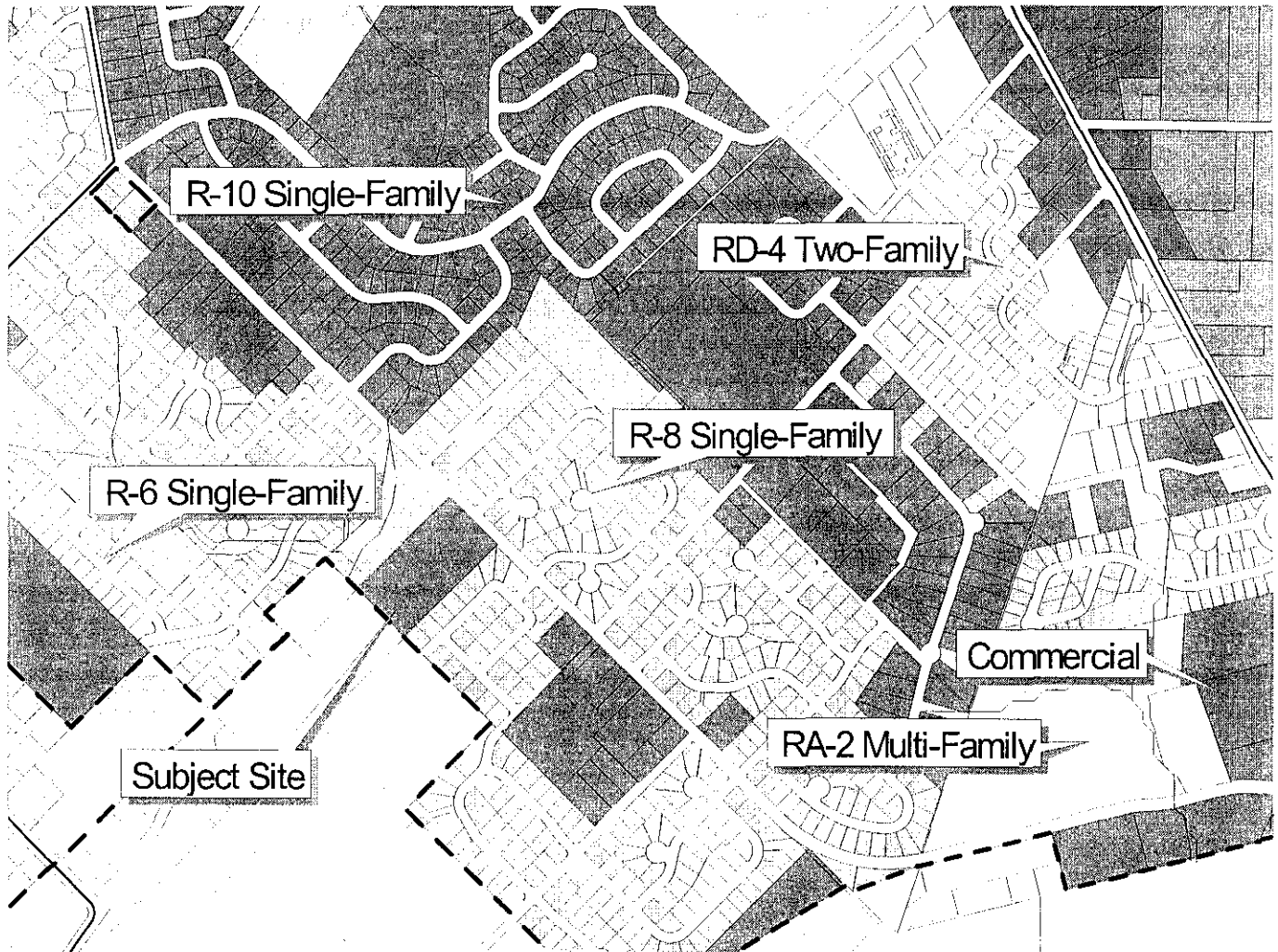
The level of service (LOS) analysis reveals only the intersection of Warner Parrott/Warner Milne/Leland/Linn currently is operating at LOS 'E' conditions. As the intersection LOS will not change and the intersection will be impacted by less than a 1% traffic increase due to the proposed development, no mitigation is recommended. The other three study intersections analyzed will operate at acceptable LOS conditions through the year 2005 total traffic scenario.

The site access at Meyers Road and Andrea Street will be controlled by stop signing. The driveway will require one inbound lane and one outbound lane and will construct sidewalk on both sides of the access to Meyers Road. A separate left turn lane on Meyers Road at the site access is not warranted.

Based on the above findings, from a traffic operational and safety standpoint, the following elements should be undertaken in conjunction with the development.

- Sidewalk and frontage improvements along Meyers Road will be required at the site access location. These improvements must be constructed to City standard.
- It will be necessary to implement standard traffic control devices (stop signing and pavement markings) at the site access on Meyers Road. Any improvements should be made in accordance with the *Manual On Uniform Traffic Control Devices (MUTCD)*.
- It is essential to maintain adequate sight distance at the site access for safety reasons. Care must be taken to keep landscaping, signing, parking, buildings, or other objects from obstructing this sight distance.

# Oregon City Zoning Map

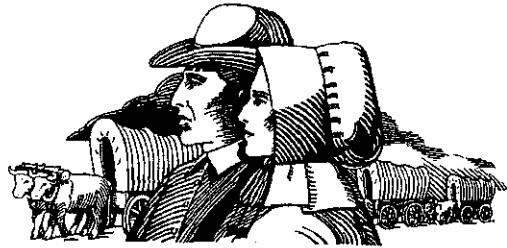


# CITY OF OREGON CITY

## Planning Commission

320 WARNER MILNE ROAD  
TEL (503) 657-0891

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



**FILE NO.:** VR 03-06

Complete: March 10, 2003  
120-Day: July 6, 2003

**APPLICATION TYPE:** Type III

**HEARING DATE:** May 12, 2003  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

**APPLICANT:** Oregon City Excavation and Development, Inc.  
Brett Eells  
16670 South Thayer Road  
Oregon City, OR 97045

**REPRESENTATIVE:** Land Tech, Inc.  
Matt Wellner  
8835 SW Canyon Lane, Suite 402  
Portland, OR 97225

**REQUEST:** The applicant is seeking a Variance Hearing before the Oregon City Planning Commission 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.

**LOCATION:** The property is located at 19605 South Meyers Road on the Clackamas County Tax Assessor Map as 3S-2E-8CA, Tax Lot 4501 (Exhibit 1).

**REVIEWER:** Tony Konkol, Associate Planner

**PROCESS:** The Planning Commission shall make the decision on all Type III permit applications. Once the Planning Commission makes a decision on the Type III application, that decision is final unless appealed to the City Commission in accordance with Section 17.50.190. If appealed, the City Commission decision is the City's final decision on the Type III application.

**RECOMMENDATION:** Approval

IF YOU HAVE ANY QUESTIONS ABOUT THIS DECISION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 657-0891.

**BACKGROUND:**

The applicant has submitted for a Zone Change from R-10 Single-Family to R-8 Single-Family (Planning File ZC 03-01), a water resource review (WR 02-15), and a 19-lot Subdivision (Planning File TP 02-05) with a variance to the required cul-de-sac length. There are no other street stubs that would alleviate the need for an increased cul-de-sac length as a result of decisions made with previous subdivisions. For example, Century Drive in the Millennium Park subdivision directly to the east could have been extended to the site boundary to provide an additional point of connection and reduce the length of the cul-de-sac for this project (Exhibit 1).

The applicant states that on the southwest side of the site is an existing development that was not required to provide a stub to the parcel and has no potential for redevelopment. In addition, there is an existing creek/wetland located off-site along the northwest side of the parcel and the Urban Growth Boundary to the south, leaving no potential for access other than the frontage on Meyers Road to develop the 630-foot deep parcel (Exhibit 2).

**BASIC FACTS:**

1. **Zoning/Permitted Use:** The property is currently zoned “R-10” Single-Family Dwelling District and is designated as “LR” Low Density Residential in the City’s Comprehensive Plan. The applicant has applied for a Zone Change (ZC 03-01) to “R-8” Single-Family Dwelling District for the property.
2. **Project Description:** The applicant is seeking a Variance Hearing before the Oregon City Planning Commission 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.
3. **Surrounding Uses/Zoning:**
  - North:** Directly north of the site is Meyers Road, a Minor Arterial in the Oregon City Transportation System Plan. North of Meyer Road is the Deer Meadow’s 1 subdivision, which is zoned “R-8” Single-Family Residential.
  - South:** South of the subject site is outside the Oregon City City Limits and the Urban Growth Boundary. The parcel is under Clackamas County jurisdiction and there is a stream running north to south through the middle of the site. This parcel has a 25-foot access easement through the subject site to Meyers Road. A second parcel outside the UGB has a stubbed street from the Millennium Park subdivision to the north property line.
  - West:** West of the site is a wetland/creek area that is an open space tract associated with the Settlers Point Subdivision, which is zoned “R-8” Single-Family and was developed as a Planned Unit Development. There is also an existing Bonneville Power Administration easement through the open space.
  - East:** East of the site is Millennium Park, which was developed as a 33-lot “R-8” Single-Family Dwelling subdivision.
- **Comments:** Notice of this proposal was sent to property owners within three hundred feet of the subject property and various City departments and other agencies regarding the proposed development plan. No comments were received from any City departments or other agencies.

Mr. Charles Hoffman of 13159 Century Drive, Oregon City, Oregon 97045 provided written testimony concerning the proposed variance on March 15<sup>th</sup>, 2003. Mr. Hoffman indicated that the proposed variance is to add more housing to the area and this would add to an already too densely populated area and that the applicant’s only motivation is to make more money. Mr. Hoffman also

indicates that the property was annexed into the city because of a failing septic system and that on the date of the letter the subject site had not been hooked-up to the city sewer system (Exhibit 3).

The comments received were incorporated into the analysis and findings sections below.

#### **DECISION-MAKING CRITERIA:**

##### **Municipal Code Standards and Requirements**

**Title 16, Land Divisions:** Chapter 16.12.100, Street Design: Cul-de-sac  
**Title 17, Zoning:** Chapter 17.50, Administration and Procedures  
Chapter 17.60, Variances

#### **ANALYSIS:**

Section 17.60.020 *Variances—Grounds* states that a variance may be granted if the applicant meets six approval criteria:

- A. That the literal application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this title; or extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site;**

The applicant indicates that Section 16.12.100 states that the maximum length for a cul-de-sac is 350 feet. The subject site is approximately 630 feet in depth, extending from Meyers Road to the rear of the property (Exhibit 4). On the southwest side of the site is an existing development that was not required to provide a street stub to the parcel and has no potential for redevelopment. In addition, there is an existing creek/wetland located off-site along the northwest side of the parcel and the UGB is located to the south of the site. Due to these constraints, the site has no other potential means of access other than the frontage on Meyers Road.

In order to accommodate adequate frontage for all lots within the subdivision, the proposed cul-de-sac must be a minimum of 500 feet in length (approximately 520 feet). Denial of the proposed variance would make development of approximately 1/3 of the site's total area not feasible due to lack of access. A combination of site geometry and a lack of alternative access burden the site in a manner that is extraordinary to the property. Therefore, denial of the proposed variance would deprive the applicant the right to develop the property to the allowed residential density, the same right that has been enjoyed by adjacent parcel owners (Exhibit 2).

Staff concurs that the lack of access from the Millennium Park subdivision and the topography and water resources to the south and west of the site has left the property with an extraordinary circumstance that does not apply to other properties in the surrounding area and are unique to this site.

Therefore, the applicant satisfies this criterion.

- B. That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;**

The applicant states that the proposed variance will not affect adjacent properties. The proposed variance is an interior variance that would have no impact on adjacent properties due to the fact that there will be lots between them and the street. The variance will not decrease the minimum lot dimension nor setback requirements of the zone. Approval of the variance would allow for development of the site to occur at the same per acre density as surrounding developments. The subject site is approximately 4.97 acres,

which would allow 27 housing units if the proposed R-8 single-family zoning designation were approved and approximately 22 housing units could be built if 20% of the total acreage used for public improvements, which is the average, was removed. The applicant has proposed the cul-de-sac to develop a 19-lot subdivision at the R-8 single-family zoning designation, which is the identical zoning designation of the surrounding area.

Staff concurs that the proposed variance to increase the cul-de-sac length will not damage the adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by the cul-de-sac length maximum.

Therefore, the requested variance satisfies this criterion.

**C. The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased;**

The applicant states that the conditions that require a variance of the standard are not self-imposed. The current owner has not modified the site's geometry. Previous land development actions in the area were not required to provide the subject site with a secondary means of access other than Meyers Road. Denial of the proposed variance would make development of approximately 1/3 of the site infeasible due to a lack of access. There is no alternative available to alleviate this hardship.

The applicant purchased the property in 2000 and the existing requirements of the cul-de-sac length were adopted by ordinance 98-1007 in 1998, indicating the applicant should have known of the restriction at the time the site was purchased.

Staff would recommend that the benefits associated with full development of the site to maximize the infrastructure in place and the lack of an alternative access to the site needs to be considered. There are existing water and sewer systems that would be utilized by the applicant. The site is located on the proposed Oregon City bus route and is in close proximity to Clackamas Community College, a hub for public transportation. Denial of the variance would not efficiently utilize the existing infrastructure or remaining vacant lands available for urbanization within the UGB as identified in the Oregon City Comprehensive Plan.

Therefore, the requested variance satisfies this criterion.

**D. No practical alternatives have been identified which would accomplish the same purposes and not require a variance;**

The applicant states that every effort to identify an alternative solution to the proposed variance has been made. These attempts include the use of flagpoles, private streets, and street stubs to nowhere. With every attempt it was determined that the cul-de-sac had to be longer than 350 feet and a variance must be requested. The proposed variance is the minimum variance necessary to alleviate this hardship.

Staff concurs that several attempts to provide an alternative design were attempted and failed. The applicant proposed to provide a street stub to Millennium Park, intending for future re-development of the neighboring site to provide a connection. A connection to the site outside the UGB was also analyzed, however, due to site constraints associated with steep slopes and water resources on the property, the proposed connection would use the only developable area on the property as roadway.

Therefore, the applicant satisfies this criterion.

**E. That the variance requested is the minimum variance which would alleviate the hardship;**

The applicant states that the proposed cul-de-sac is the minimum length necessary to provide all lots within the development with adequate frontage. No other variance has been required. The proposed variance is the minimum necessary that will alleviate the hardship.

Therefore, the applicant satisfies this criterion.

**F. That the variance conforms to the comprehensive plan and the intent of the ordinance being varied.**

The applicant states that the approval of the proposed variance would allow the site to be developed with detached single-family dwelling under the allowed maximum density. Detached homes are an allowed use of the governing zone and Comprehensive Plan. Cul-de-sac length is not identified in the Comprehensive Plan as an area of concern. Therefore, the proposed variance is in conformance with the Comprehensive Plan.

Staff was determined that the proposed variance for the length of the cul-de-sac is minor and allows the full development of a site that is not affected by physical constraints, in compliance with required densities, and the best use of the available public utilities. One aspect of the Comprehensive Plan and Transportation System Plan indicates a desire for street and pedestrian connectivity. Through analysis of the alternative designs for this site, a secondary access is not feasible. The Comprehensive Plan also indicates a goal to encourage development on vacant buildable land with the city where urban facilities and services are available and the maximum use of these urban facilities and services should be reinforced by encouraged development at maximum levels permitted in the Comprehensive Plan and through infill of vacant city land.

Therefore, the applicant satisfies the criterion.

**STAFF RECOMMENDATION:**

In conclusion, Staff has determined that the requested Variance before the Planning Commission, VR 03-06, from which the applicant is seeking 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 can satisfy the variance approval criteria in Chapter 17.60.

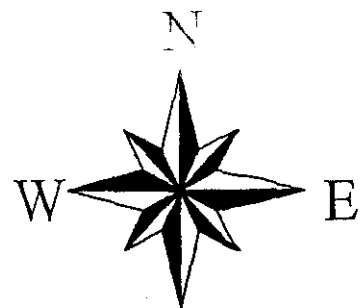
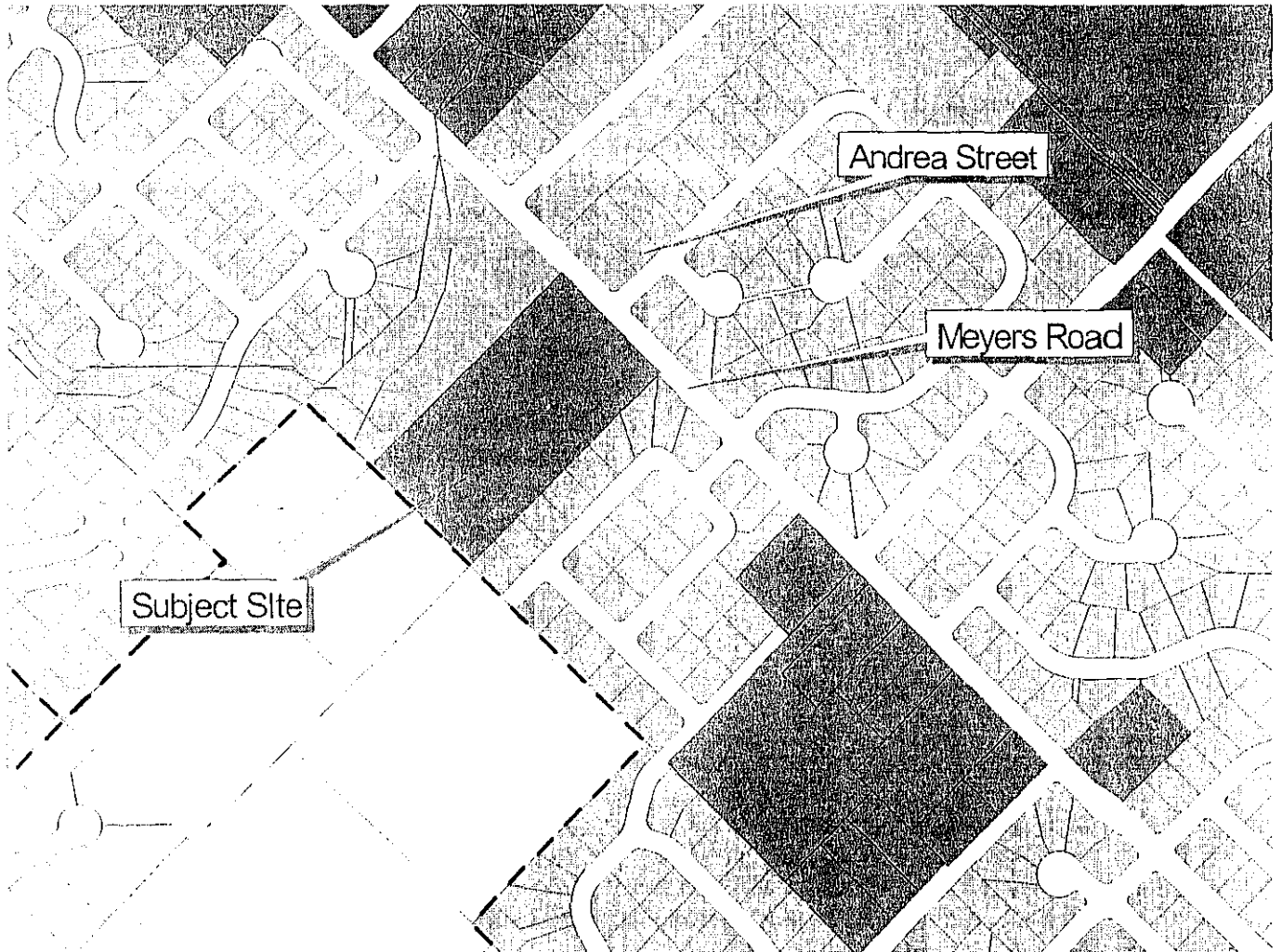
Therefore, Staff would recommend approval of file VR 03-06 by the Planning Commission for the property located identified by the Clackamas County Tax Assessor Map as 3S-2E-8CA, Tax Lot 4501.

**EXHIBITS:**

1. Vicinity Map
2. Applicant's Narrative
3. Letter from Mr. Hoffman of 13159 Century Drive and dated March 15, 2003
4. Site Map



# Map 3S-2E-8CA, Tax Lot 4590 19605 South Meyers Road



G. Family day care provider, subject to the provisions of Section 17.54.050;

H. Site-built manufactured homes. (Ord. 94-1014 §2(part), 1994; Ord. 92-1026 §1(part), 1992; prior code §11-3-3(A))

RESPONSE: The King Salmon Court subdivision is intended for the construction of detached single-family dwellings. Therefore, the proposed development is a permitted use of the R-8 zone.

*17.10.040 Dimensional standards.*

*Dimensional standards in the R-8 district are:*

*A. Minimum lot areas, eight thousand square feet;*

*B. Minimum average lot width, seventy feet;*

*C. Minimum average lot depth, one hundred feet;*

*D. Maximum building height, two and one-half stories, not to exceed thirty-five feet;*

*E. Minimum required setbacks:*

*1. Front yard, twenty feet minimum depth,*

*2. Interior side yard, nine feet minimum width for at least one side yard; seven feet minimum width for the other side yard,*

*3. Corner side yard, twenty feet minimum width,*

*4. Rear yard, twenty feet minimum width,*

*5. Solar balance point, setback and height standards may be modified subject to the provisions of Section 17.54.070. (Ord. 91-1020 §2(part), 1991; prior code §11-3-2(C))*

RESPONSE: All lots within King Salmon Court meet or exceed the minimum dimensional requirements of this section. Building envelopes have been shown on all other lots to identify building setbacks and buildable area.

***17.60 VARIANCES***

RESPONSE: A variance is necessary due to the fact that the proposed cul-de-sac's length is in excess of 350 feet as required by section 16.12.100.

*17.60.020 Variances--Grounds.*

*A variance may be granted only in the event that all of the following conditions exist:*

- A. That the literal application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the surrounding area under the provisions of this title; or extraordinary circumstances apply to the property which do not apply to other properties in the surrounding area, but are unique to the applicant's site;*

RESPONSE: Section 16.12.100 states that the maximum length for a cul-de-sac is 350 feet. The subject site is approximately 630 feet in depth, extending from Meyers Road. On both the east and west side's of the site is existing development that has provided no street stub to the parcel, and has no potential for redevelopment. In addition there is an existing creek/wetland located off-site along the northwest side of the parcel. South of the site is the UGB. Therefore, the site has no other potential means of access other than its frontage on Meyers Road.

In order to accomplish adequate frontage for all lots within the subdivision the proposed cul-de-sac must be a minimum of 500 feet in length. Denial of the proposed variance would make development of approximately 1/3 of the site's total area not feasible due to a lack of access. A combination of site geometry and a lack of alternative access burdens the site in a manner that is extraordinary to the property. Therefore, denial of the proposed variance would deprive the applicant the right to develop his property to the allowed residential density. The same right that has been enjoyed by adjacent parcel owners.

*B. That the variance from the requirements is not likely to cause substantial damage to adjacent properties, by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*

RESPONSE: The proposed variance is an interior variance that would have no impact on adjacent properties. The length of the street is of no consequence to adjacent properties due to the fact that there will be lots between them and the street. Approval of the variance would allow for development of the site to occur at the same per acre density of surrounding developments.

*C. The applicant's circumstances are not self-imposed or merely constitute a monetary hardship or inconvenience. A self-imposed difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased;*

RESPONSE: The site's geometry is existing and has not been modified by the current owner. Previous land development actions in the area were not required to provide the subject site with a secondary means of access. Denial of the proposed variance would make development of approximately 1/3 of the site not feasible due to a lack of access. There is no other alternative available to alleviate this hardship.

*D. No practical alternatives have been identified which would accomplish the same purposes and not require a variance;*

RESPONSE: The applicant made every effort to identify an alternative solution to the proposed variance. These attempts made use of flagpoles, private streets and street stubs to nowhere. With every attempt it was determined that the cul-de-sac had to be longer than 350 feet and a variance must be requested. The proposed variance is the minimum variance necessary to alleviate this hardship.

E. *That the variance requested is the minimum variance which would alleviate the hardship;*

RESPONSE: The proposed cul-de-sac is the minimum length necessary to provide all lots within the development with adequate frontage. No other variance has been requested. The proposed variance is the minimum necessary that will alleviate the hardship.

F. *That the variance conforms to the comprehensive plan and the intent of the ordinance being varied. (Prior code §11-8-2)*

RESPONSE: The proposed variance is to the allowed length of a cul-de-sac. Approval of the proposed variance would allow the site to be developed with detached single-family dwellings under the allowed maximum density. Detached homes are an allowed use of the governing zone and comprehensive plan. Cul-de-sac length is not identified in the Comprehensive Plan as an area of concern. Therefore, the proposed variance is in conformance with the Comprehensive Plan.

### III. COMPREHENSIVE PLAN:

#### a. Citizen Involvement

*Goal - Provide an active and systematic process for citizen and public agency involvement in the city's land use decision-making process.*

#### *Policies -*

1. *Encourage and promote a citywide citizen participation program that helps neighborhoods to organize so that they may develop and respond to land use planning proposals.*
2. *Provide neighborhood groups and citizens with accurate and current information on policies, programs and development proposals that affect their area and institute a feedback mechanism to answer questions from the public.*
3. *Encourage citizen participation in all functions of government and land use planning.*

Comments: The application has been submitted in accordance with the subdivision process described in the Oregon City Municipal Code. The application addresses relevant state statutes, administrative rules and plan policies that govern the proposed development. The request may be approved if it is found to be in conformance with the applicable policies of the City's Comprehensive Plan.



**Charles Hoffman**

13159 Century Drive  
Oregon City, OR. 97045  
503-518-3188 page 503-795-9977  
fax 503-518-3189

3/15/03

File no VR 03-06 variance to increase cul-de sac length.

I am for not granting the request for a variance to increase the length of a cul-de-sac. The purpose would be to add more housing and would add to the already too densely populated area, adding more traffic to Meyers Road which is already overloaded. The infrastructure to support more housing is already overloaded. The applicant's only motivation is to make more money from building, but they do not have to live with the problems more dense housing creates, while we, the surrounding neighbors, do.

Also, the applicant was able to get the said location annexed into Oregon City by saying his septic system was failing on a rental house located on said property, and wanted to tie into the sewer system. To date, a year and a half later, he has not done this, which makes any other claims that he needs zoning changes or variances, suspect best.

Please do not approve the variance,

Thank you

Charles Hoffman

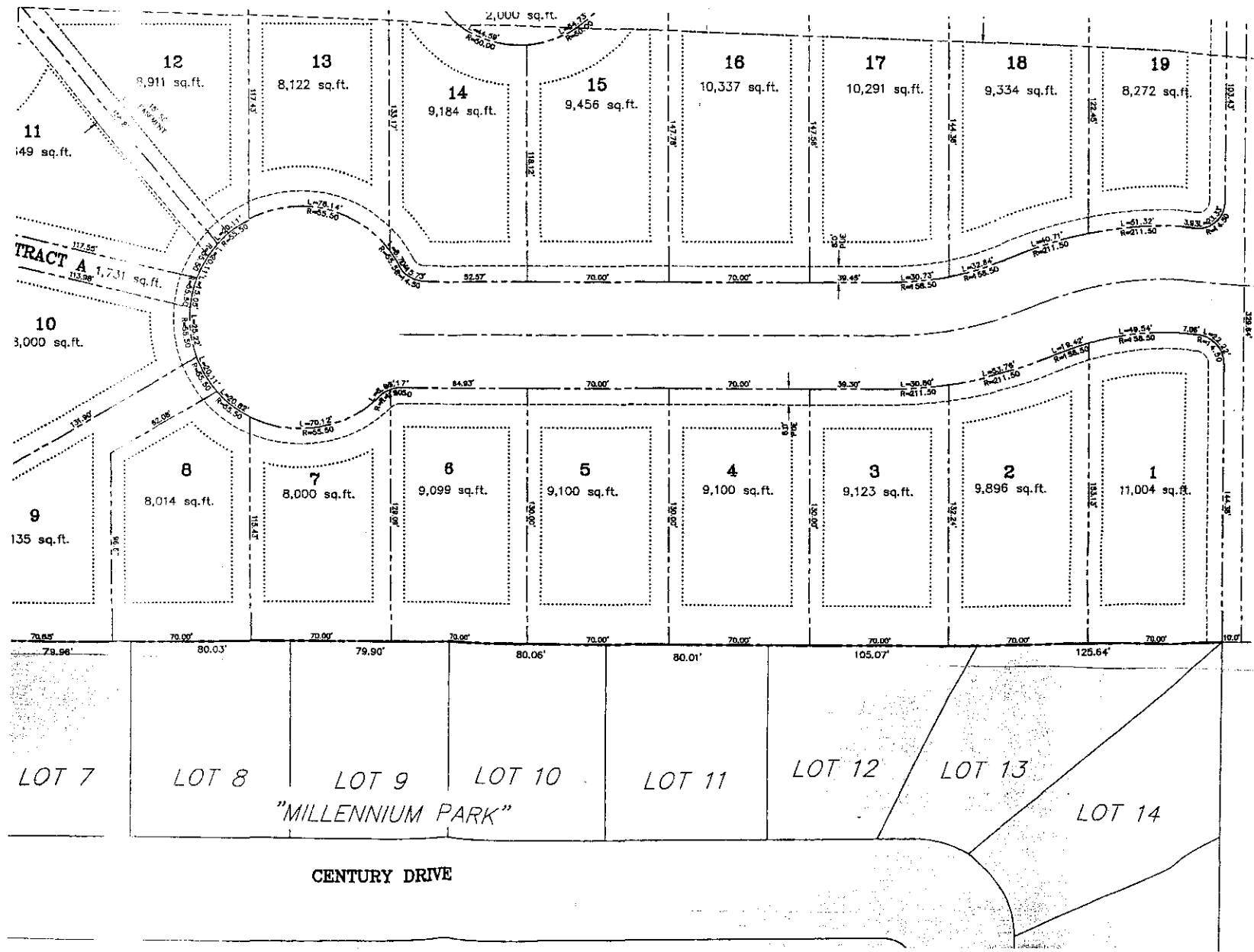


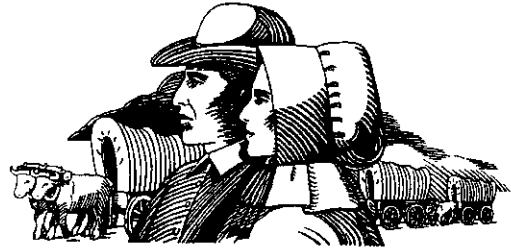
Exhibit 4

# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
FAX 657-7892



# PLANNING COMMISSION WORK SESSION AGENDA

City Commission Chambers - City Hall

May 21, 2003 at 5:30 P.M.

## JOINT PLANNING COMMISSION / CITY COMMISSION WORK SESSION

### WORKSESSION:

- 5:30 p.m. 1. **Role of Planning Commission**
- Interaction with City Commission, staff, and the public
  - Developing / Implementing City Policy
  - Quasi-judicial Hearings
2. **Comprehensive Plan / Map**
- Status
  - Implementing Ordinances
3. **Future Growth**
- Ability of City to provide services (Police)
  - Annexations and Urban Growth Boundary expansion
4. **Economic Development Strategy**
5. **Planning Commission Concerns**
- 6:30 p.m. 6. **Adjourn**

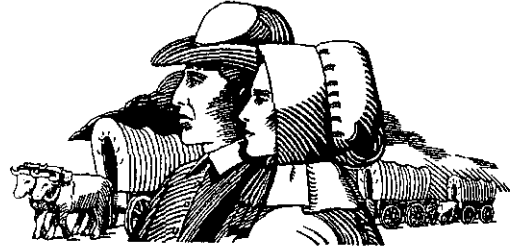
NOTE: HEARING TIME AS NOTED ABOVE IS TENTATIVE. FOR SPECIAL ASSISTANCE DUE TO DISABILITY, PLEASE CALL CITY HALL, 657-0891, 48 HOURS PRIOR TO MEETING DATE.

# CITY OF OREGON CITY

## PLANNING COMMISSION

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OREGON CITY, OREGON 97045  
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# AMENDED PLANNING COMMISSION WORK SESSION AGENDA

Please note the change of location:  
City Hall Lunch Room

May 21, 2003 at 5:30 P.M.

## PLANNING COMMISSION WORK SESSION

The City Commission will not be present due to a Special Budget Meeting.

### WORKSESSION:

- 5:30 p.m. 1. **Role of Planning Commission**
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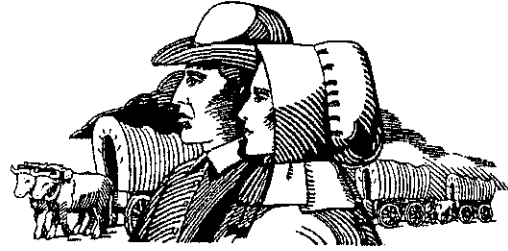


# CITY OF OREGON CITY

## PLANNING COMMISSION

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5. Planning Commission Concerns
- 6:30 p.m. 6. **Adjourn**

5/16/03

Rene -

you will not  
need to attend  
this meeting.

thanks

Tony

2003 MAY 16 PM 3: 53  
CITY OF OREGON CITY  
RECEIVED