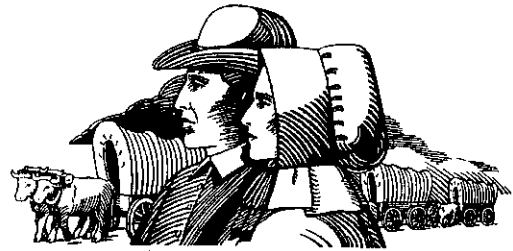


# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD OREGON CITY, OREGON 97045  
TEL (503) 657-0891 FAX (503) 657-7892



## AGENDA

### City Commission Chambers - City Hall

April 28, 2003 at 7:00 P.M.

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

### PLANNING COMMISSION MEETING

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:01 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 7:02 p.m. 3. **APPROVAL OF MINUTES:** *February 24, 2003; March 10, 2003; March 24, 2003; April 8, 2003; and April 14, 2003.* (Minutes are available on the Oregon City Web Page ([www.orcity.org](http://www.orcity.org)) under PLANNING)
- 7:05 p.m. 4. **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.
- CU 03-01 (*Quasi-Judicial Conditional Use 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
- 8:25 p.m. 5. **NEW BUSINESS:**
- 8:30 p.m. 6. **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  
February 24, 2003**

**COMMISSIONERS PRESENT**

Chairperson Carter  
Commissioner Lajoie  
Commissioner Mengelberg  
Commissioner Orzen  
Commissioner Tim Powell

**STAFF PRESENT**

Chris Cocker, Consulting Senior Planner  
Sean Cook, Associate Planner  
Dan Drentlaw, Planning Director  
William Kabeiseman, City Attorney  
Tony Konkol, Associate Planner  
Nancy Kraushaar, City Engineer  
Christina Robertson-Gardiner, Associate Planner

**COMMISSIONERS ABSENT**

None

**1. CALL TO ORDER**

**Chair Carter** called the meeting to order at 7:05 p.m., and introduced Tim Powell as the newest Planning Commissioner member.

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

None.

**3. HEARINGS:**

**Chair Carter** gave the parameters and procedures for the hearings on the agenda this evening, all of which were quasi-judicial in nature. Due to the many agenda items this evening, she said the Planning Commission (PC) would hear the first two items and then have a brief recess to prepare for the following hearings.

**WR 02-16 (Quasi-Judicial Water Resource Hearing), MJF Development: Mike Flurry; Request for a Water Resource Overlay District determination for the properties located at 19398 South Leland Road, Clackamas Map 3S-2E-7D, Tax Lot 301 and the southeastern portion of 19400 South Leland Road, Clackamas Map 3S-2E-7DB, Tax Lot 3000.**

**Kabeiseman** asked if any members of the Planning Commission wished to: 1) abstain; 2) declare a conflict of interest; or, 3) report of site visits or ex-parte contacts, and if all members of the PC were familiar with the application. There was nothing to report, nor were there any challenges against the Planning Commission (PC) or any individual members of the Planning Commission to hear this case.

**Tony Konkol** gave the staff report. He said the applicant is requesting a water resource determination. The applicant has not proposed any development in association with this water resource review, although the applicant has submitted informational addendums, including a concept layout for this site. Should future development impede into the delineated vegetated corridor of the water feature on the site, a water resource review with the City will be required. (Full copies of the application, the staff report, and all related documents are available in the public record.)

**Konkol** said proper noticing was done regarding this request and hearing. No comments were received from neighbors. The comments which were received from the Oregon City Engineering Dept. have been incorporated into the staff report.

**Konkol** said the water quality resource area of Oregon City is completely over the property at 19400 and over a majority of the property at 19398 (tax lot 301). There is a small section on the flag (which connects the back tax lot 301 to Leland Road) that is not in the water quality resource area. However, the remainder of both sites are.

The Oregon City local wetland inventory identified a stream going over the southwest corner of tax lot 3000, proceeding on to tax lot 301, and then in a southeasterly direction on the northeast property line of tax lot 301. There is also a pond on the site, the exaction location of the which is shown on an exhibit within the staff report but which is not shown on the overhead which was displayed.

A water resource report delineating the water feature for tax lot 301 was provided from Terra Associates, dated Nov. 12, 2002 (exhibit 4 in the staff report). The applicant indicates that there is an intermittent stream on tax lot 301 (a wetland on the north/northwest side of the pond), and that the pond would be considered a jurisdictional water between the connection between the pond and the intermittent stream.

The applicant submitted a letter from DSL which concurs that there is an intermittent stream on tax lot 301.

The applicant has not indicated the elevation for the bank full, which is used to determine where the vegetative corridor would start, nor has the applicant indicated the depths of the vegetative corridor on any exhibits that were presented to staff. Thus, staff has determined that for the applicant.

The applicant also submitted three addendums:

1. An addendum from Terra Associates dated Nov. 19, 2002 (exhibit 6) which indicates that the watershed is approximately 85 acres. One of the requirements for an intermittent stream is that the drainage be less than 100 acres.
2. An addendum from Terra Associates dated Nov. 21, 2002 (exhibit 7) which indicates that there is an intermittent stream on tax lot 3000 (in the south/southwest corner), which is shown by a blue line crossing tax lot 3000.
3. An addendum from Sisul Engineering dated Nov. 20, 2002 (exhibit 5) which indicates that accounting for development that has occurred suggests a more accurate acreage for the drainage would be 71 acres, thus indicating that it is less than 100 acres and could qualify as an intermittent stream.

The City met with Mr. (Jay) Lorenz of Terra Associates earlier this day. **Konkol** said there is a culvert on tax lot 301 that is undersized. It appears to cause some backing up onto the property. For terms of determining where the two-year flood elevation of this property is to determine the bank full stage, staff has indicated and agreed with Lorenz that he could proceed with the analysis of removing those undersized pipes from the calculations since any future development of the site would require upsizing those pipes so the stream could function properly. Therefore, since those hindrances would be removed in the future, staff will allow him to proceed with calculations as if they were already removed.

Based on the findings contained in the staff report and staff's having visited the site, it has been determined that the wetland delineation for this property could be approved with the following conditions:

1. The applicant shall provide the Bank Full State or Bank Full Flow to the City to determine where the required vegetated corridors shall begin.
2. The applicant shall protect the existing drainage swale/intermittent stream, pond, and wetlands. The applicant shall provide the following vegetated buffer widths along the water resource as follows:
  1. A 15-foot wide buffer from the edge of the bank full flow shall be provided for the drainage swale/intermittent stream;
  2. A 50-foot wide buffer from the edge of the bank full flow shall be provided around the pond; and
  3. A 50-foot wide buffer from the edge of the delineated wetland shall be provided.

**Chair Carter** asked, regarding the southwest section of tax lot 3000, if the lot encompasses the whole section up to the neighborhood to the southwest of it. **Konkol** said it is only a small section of that, identifying the property line to the north/northwest of the blue line on the display.

**Chair Carter** asked if the 5.31 acres is the total of the two lots together. **Konkol** said that is the total of tax lot 301. He said staff did not do a delineation of the entire site of tax lot 3000 at the request of the property owners of both site. They only looked at the southwest corner where the stream is located.

**Lajoie** asked what the condition of the man-made pond is—in other words, is it a cement pond or a natural pond? **Konkol** said it is a natural pond which appears to have perhaps been a watering hole at one time. He said the embankment is natural (not cemented), although there is a cement control structure where the stream come in and goes out. Thus, there is some type of a control flow device on it.

**Jay Lorenz**, Terra Associates, 12525 Willows Road, Kirkland, WA 98034, spoke on behalf of the applicant. He reiterated **Konkol**'s comment that they had done the wetlands delineation study following the methods that are approved by Oregon City ordinances. The report was submitted to the Oregon Division of State Lands, who concurred with the findings.

**Lorenz** said that, based on conversation with staff, the applicant agrees and accepts the Conditions of Approval (COA's) as recommended by staff.

When **Chair Carter** asked him to describe the pond a little further, **Lorenz** said that the size of the pond is in the wetland delineation report (figure 4, exhibit 9). **Konkol** added that the staff report identifies it as being approximately 5,800 square feet. Regarding the depth, **Lorenz** said it is fairly flat bottomed so it is a foot or two of water, depending on the time of year. He said the landowner's son (who lives on the property) explained that a couple of other springs feed into it via some piping. However, it was constructed as an offshoot of the original channel. In other words, as high water comes through in the winter time, the overflow of the high water spills out and fills up the pond. He noted that there are apparently a few fish in the pond. Also, with the spring-fed water, there is water in it year-round and although the stream dries up in the summer time, the pond remains wet.

In public testimony, **Michael Silva**, 19431 S. Provisioner, spoke as a neutral party—neither for nor against. He said his property backs up to the lot in question, his backyard backs up to the intermittent stream, and he is also quite close to the pond. He said he is not against progress. He simply wanted to note the wildlife in the area, including raccoons, deer, and fish, so he wanted to make sure the greenway was protected. He acknowledged the applicant's agreement to the Conditions of Approval, including the 50-foot requirements, and said that is not too narrow a greenway.

**Chair Carter** asked if staff feels that 15 feet on each side of the intermittent stream is sufficient to protect the stream, although she agreed that 50 feet around the pond is sufficient. **Konkol** said Code says that 15 feet is sufficient for an intermittent stream that drains less than 100 acres. It is applied across the board and staff does not have discretion to alter that.

**Mengelberg** asked for confirmation that this is 15 feet on either side of the stream, for a potential of 30 or more feet, and **Konkol** said yes. He noted that this is specifically for tax lots 3000 and 301, and excludes prior development on other tax lots.



Because of a mix-up in the submission of testimony sheets, **Steve Van Haverbeek**, 19437 Provisioner Court, was allowed to testify at this time. He agreed with the staff recommendation for the buffer zone around the pond and the wetland, noting that he thinks the pond has a higher slope on one side which would prevent any building.

He asked if the 15 feet on each side is to the edge of the proposed lots or if that would be as close as a building could be located. **Konkol** explained that the vegetated corridor is first established. Then, should the applicant decide to proceed with development, he must keep the proposed lots outside of the vegetated corridor. He noted, however, that there is an option. Should a Planned Unit Development (PUD) be proposed on this parcel, which would be a Type III application, the applicant could request to come into that vegetated corridor and replace it elsewhere on the site or go through some type of mitigation. The PUD, as well as the water resource, would be a Type III decision heard at the Planning Commission level. However, he said usually the vegetated corridor is delineated and the tax lots are built outside of it.

**Chair Carter** closed the public hearing and moved to deliberations.

**Mengelberg** said she was encouraged that the staff, DSL, and two adjoining property owners are comfortable with this application and the COA's, so she would be willing to support the proposal.

**Orzen** agreed, but asked why this was brought to the PC before a proposal for development was submitted. She said they usually come in the reverse order. **Konkol** said it was at the discretion of the property owner, who has the option to come forward without proposing development. If they come forward without an associated and concurrent land use application, it automatically becomes a Type III for water resources. If they had come in with a subdivision proposal, it would have been a Type II land use decision for the subdivision, which is a staff level decision, and the water resource decision would have run concurrently with that Type II decision. The water resource is not designated as a type of review in municipal code, as such without a type associated with it, it automatically goes to the PC for a hearing.

Neither **Lajoie** nor **Powell** had further comments.

**Chair Carter** also agreed, adding that it is very nice to have the residents affected come forward and be in approval of such a proposal and that it is nice to have the applicant get the delineation established before they work on potential development because it makes for a cleaner process.

**Orzen** moved to approve WR 02-16 for a water resource determination as recommended with the Conditions of Approval by staff. **Mengelberg** seconded the motion, and it passed unanimously.

**VR 02-10 (Quasi-Judicial Variance Hearing); Great American Development; Joe Spaziani; Request for a Variance to increase the maximum cul-de-sac length by 50 feet for the property identified as Clackamas County Map 3S-1E-12A, Tax Lot 2300 and located southwest of Partlow Road and southeast of South End Road.**

**Konkol** presented the staff report on this application, explaining that the applicant is requesting a variance to increase the maximum cul-de-sac distance allowed from 350 feet to 400 feet for the subject property. This parcel was recently approved by the City Commission on Feb. 5, 2002, for a zone change from R-10 Single-family to R-8 Single-family, as recommended by the Planning Commission (PC) on Jan. 27, 2003, and for which the second reading was done on Feb. 19, 2002. There are two roads stubbed into the subject site from the north and from the south (Pine Place and Mahogany Drive). On the south is Filbert Drive, a neighborhood conductor which connects into South End Road on the north/northwest side of the property. To the north of the

property are several properties zoned R-10 on Longstanding Court and a subdivision zoned R-8. There is an R-10 subdivision to the east of the subject site, and an R-8 subdivision to the south with one parcel zoned R-10. In addition, the City currently has an application pending for a Planned Unit Development (PUD) on the parcel to the west of South End Road and to the north of Rose Road.

Several comments were received after noticing of the property. Most of the comments expressed concern about the lack of connection from the subject site to South End Road.

Under the analysis of 17.060.020 for Variance, Section A states that the literal application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other property owners in the surrounding area. **Konkol** said the applicant indicated that there is a desire in the Oregon City Municipal Code to reduce intersections with South End Road and also that previous development did not provide additional stubs into this site from either the north or the south in between the existing stub and South End Road, which would alleviate the need for a cul-de-sac to fully utilize this property to its full development potential.

After reviewing this application in association with the subdivision application which is running concurrently with this application, staff has determined that it appears that a connection could be made on the north property of the subject site. The connection would not pose a safety hazard, as determined by the City staff in consultation with the City Engineer. Since the extraordinary circumstance that the applicant is indicating would be not allowing access to South End Road, in this case staff is saying that appears that access could be provided. Thus, there is no an extraordinary circumstance on the property; thus, they have not met criteria A for the variance.

Criterion B indicates that the variance is not likely to cause substantial damage to adjacent properties. Section 16.12.350.A for Minimum Improvements states in part that "Applicants and all subsequent land owners shall be responsible for improving the city's planned level of service on all public streets... Applicants are responsible for designing and providing adequate vehicular, bicycle and pedestrian access to their developments and for accommodating future access to neighboring undeveloped properties that are suitably zoned for future development."

Providing a connection on the north property line would serve as an alternate ingress and egress to the site, allowing for better circulation. Also, the property zoned R-10 just north of the site with frontage on South End Road could be partitioned in the future, providing an accessway on that north property line would allow for that parcel, once partitioned, to utilize the local street for ingress and egress rather than gaining access from South End Road, thus eliminating driveways accesses onto South End Road, putting them on a local street.

Criterion C says, "The applicant's circumstances are not self-imposed or merely constitute a monetary hardship...." **Konkol** said at the pre-application meeting with the application there was discussion about connecting to South End Road. Staff indicated that a cul-de-sac appeared to be acceptable under the assumption that the cul-de-sac would run straight out, bisecting the property directly in half. It would create a limited distance in between Filbert and the middle of the property, and it would create an offset intersection with Rose Road to the north.

Staff has since indicated to the applicant the desire to look at putting a connection in on the north property line, resulting in approximately 450 feet between Filbert Lane and the north property line of this subject site, and approximately 300 feet between the subject site's northern property line and Longstanding Court. After further review and in concurrence with the City Engineer, this would not pose a hazard and would, in fact, actually be somewhat more desirable for circulation as well as creating an intersection that is not offset with Rose Road.

To date, this application has been continued twice, once on Jan. 16, 2003 and once on Feb. 3, 2003. The City has requested additional information from the applicant to look at where this road could potentially line up on the north property line. To date, the applicant has not provided this information to staff.

Staff did go to the site and mark off approximately where the northern property line is in relation to Rose Road. Staff located an existing property line pin located on the south property line against South End Road. The frontage distance was walked off north along South End Road to determine where the north/northwest property pin is approximately located. Based on the information obtained through the site visit, it appears that a connection in line with Rose Road could be achieved.

Criterion D indicated that no practical alternative has been identified. As indicated, staff has asked the applicant to provide additional information for that connection on the north property line, which has not occurred. He said the City Engineer, being the decision maker, may find that a lesser distance will not pose a safety hazard. In this case, they have. Thus, an alternative has been identified. Due to a lack of information, a variance may be required for a lot or lots if this new connection. However, staff is unable to determine that at this time.

Criterion E states that "the variance requested is the minimum variance which would alleviate the hardship." Through the connection, a variance would not be required for a cul-de-sac since a connection would be made. As stated, a variance to a lot *may* be required but this cannot be determined at this time for lack of information by staff.

Criterion F states that "the variance conforms to the comprehensive plan and the intent of the ordinance being varied." The Transportation Section of the Comprehensive Plan states that a minor arterial (South End Road) may have direct access from local streets. Also, Goal 1, Objective 2 of the Oregon City Transportation System Plan (TSP) states "a goal of providing an interconnected and accessible street system that minimizes vehicle miles traveled in inappropriate neighborhood cut-through traffic." A cul-de-sac does not meet this goal of the TSP, which calls for interconnected and accessible street systems and reducing inappropriate cut-through traffic. Staff has determined that the variance does not conform to this section of the TSP, an ancillary document to the Comprehensive Plan.

In conclusion, staff has determined that the requested variance, VR 02-10, for which the applicant is seeking to increase the maximum allowed cul-de-sac length of 350 feet to 400 feet does not satisfy the approval criterion in Chapter 17.060. Therefore, staff would recommend denial of this variance.

There were no questions of staff by the Commissioners.

**Eric TenBrook**, a lawyer with Black, Helterline, Attorneys, 805 SW Broadway, Suite 1900, Portland, OR 97205, spoke on behalf of the applicant, Great American Development. He noted that Tom Sisul of Sisul Engineering would also speak for the applicant.

**TenBrook** submitted into the record a letter with attachments and distributed copies to the Commissioners. (Note: Full copies of the application, staff reports, and related documents and exhibits are available in the public record.) **Konkol** noted that staff would enter it as Exhibit A and identify it as the Black, Helterline letter dated Feb. 24, 2003.

**TenBrook** said staff says in their staff report that the standard is that no other alternatives are available. However, he said it is actually that no other alternatives requiring a variance are available. He pointed out that this is the applicant's position, and that a proposal by staff for a connection that is non-standard requires a variance as well. There is first the standard which is found in Code Section 16.12.050 that requires a 500-foot

spacing unless the decision-maker finds on evidence that there is no safety hazard. **TenBrook** said staff has stated that there is no safety hazard, but the presumption in the TSP about spacing is that it is for a safety requirement. He said the applicant has not asked for this standard, but they believe that the standard, when read in conjunction with the standard in Code (16.04.050 regarding Variances) states that varying from any standards requires going through the variance process. He said they believe that to get the alternative spacing that staff is asking for to go under the 500 feet in Code would require a variance as well. In other words, replacing one variance with another is not a basis on which to deny the variance for a cul-de-sac.

He reiterated that they are asking for a variance of 50 feet from the standard, which is not a significant difference. Additionally, the TSP, which was adopted in 2001 after the ordinance upon which the 500-foot spacing was placed, provides for a minimum standard of 400 feet spacing between access points coming onto a minor arterial such as South End Road. He showed on a visual aid that there is about 760 feet total between Filbert and Longstanding Court. The TSP specifically states that anything below those standards essentially has to go through a variance process, so once again there is another standard adopted later by the planning process which recognizes that a variance is required. Thus, his argument that denial of one variance for replacement with the possibility of another variance is not an alternative that the Code is envisioning. He said the Code is envisioning alternatives where no variance is required.

**TenBrook** then said that tax lot 9900, to the northwest, is substantially damaged. The section on variance standards specifically says that substantial damage is such that reduces access, not that one must supplant or improve the access. So as to the variance standards in Chapter 17, it is a reduction in access that causes substantial damage. This project with a cul-de-sac will not affect any existing access to tax lot 9900. That access goes directly out onto South End Road. He said staff is saying that perhaps a South End Road connection would benefit by providing new access, but he would reiterate that no existing access would be reduced and, therefore, the standard in 17.60.020 would not be affected and is not a basis for denial of the variance.

With respect to exceptional circumstances or that there are benefits that other properties would enjoy in the surrounding areas, **TenBrook** said that cul-de-sacs in general abound in this area, and he noted several on the overhead. He said if those cul-de-sacs had been constructed for possible connectivity, there might have been an opportunity to provide more traffic connectivity. However, a landowner must take what he has and then see what the TSP and the Comprehensive Plan say about traffic flow. In this case, they are not talking about a new concept in using a cul-de-sac, because there are many existing ones nearby. Rather, they are talking about a variance of 50 feet in length and its effect. He said it is unique to this property mainly because of pre-existing development, of which this is about the last piece of an infill development. Regarding the cul-de-sac itself, he said it is the minimum necessary to achieve the desired result. It essentially provides for good lap configuration and access on the cul-de-sac because of the existing development and the fact that a 300-foot connection point would be necessary.

Finally, he addressed staff's comment that there is an inconsistency within the Comprehensive Plan and the TSP, saying that he wanted to refute that quite strongly. He said the exhibit in the staff report (exhibit 6) states that a minor arterial may have direct access for local streets, but right above that the second item says "Should provide direct collection and distribution of local traffic through local collector streets." He said Filbert Drive is a neighborhood collector. The consistent development plan that was left to this property owner was to have access to Filbert Drive to the south and also Partlow Road to the northwest. The preferred consistent standard is "Should go through local collectors" (emphasizing "Should").

**TenBrook** then asked Tom Mobley of Lancaster Engineering to talk about the traffic impact, noting that this wasn't really in the record for this file as the variance got split off from the zone change, but he said traffic studies were done for this.

**Tom Mobley**, Lancaster Engineering, 800 NW 6<sup>th</sup> Avenue, Suite 206, requested permission to enter the traffic impact study for this development into the record. He also had a letter dated this date (Feb. 24, 2003) which talks about the difference in trip generation between the two zoning designations that were considered at the City Commission hearing earlier this month, and which also included some discussion about access management and the role of collectors and arterials, etc. **Konkol** said the Lancaster Engineering report dated October, 2002, identified as Spaziani Zone Change and Residential Traffic Impact Study would be entered as Exhibit B, and the letter dated Feb. 24, 2003, Reason: South End Estates Variance Request, File No. VAR 02-10 would be Exhibit C.

Referring to page 2 of the letter, **Mobley** talked about some of the access management issues and connectivity. He noted, as identified earlier, that part of the road is collector status (Filbert to the south is a neighborhood collector), and South End Road is a minor arterial. The applicant's proposal for the cul-de-sac is that traffic from the subdivision will use local streets to reach the collector (either Filbert or Partlow) and in turn use that to access the minor arterial. He said there was testimony at the City Commission meeting about a traffic count that the City conducted on Filbert recently which showed an average daily traffic of about 700 vehicles per day, which is quite low for a neighborhood collector and is more in line with a typical residential local street. He said that indicates that there is a fair amount of carrying capacity left on Filbert and it would still remain within its intended functional classification.

**Mobley** said some of the neighbors' complaints seem to indicate that excessive speeds were more of a problem than the actual traffic problem and he said it was his understanding that the applicant has agreed to help install some traffic-calming features on Filbert to help minimize the speeds, which would improve existing conditions as well as negate the impacts of additional traffic from this subdivision.

**Mobley** said one of the goals in the TSP is to reduce travel and reduce inappropriate cut-through traffic, but in this case it is neither inappropriate nor is it cut-through traffic. This subdivision is infill so it would be part of the neighborhood, and it is part of the role of the collectors on either side to carry traffic from the neighborhood to the arterials.

**TenBrook** summarized by saying that the applicant wanted to stress that neighbors have an issue with speed of traffic on Filbert and he understands their concerns about additional traffic possibly exacerbating that problem, but his volunteering to help put in traffic-calming devices is an acceptable solution according to the TSP.

Additionally, **TenBrook** said, the applicant does not see the addition of a new road through here as a solution to the Filbert problem. Instead, it creates a new problem by adding another throughway. Regarding connectivity, the TSP says in describing and discussing implementation of the goals, "A transportation system with good connectivity is characterized by a smoothly transitioning purpose-oriented hierarchy of roadway lengths that minimize auto-direction travel... Without connectivity, an auto trip to a nearby auto destination should be served on local and collector level streets and the user should not have to use an arterial." **TenBrook** said staff's alternative proposal, rather than changing to a 50-foot extension of the cul-de-sac extension for this particular development, is to have a direct connection from a local street to a minor arterial rather than using the planned neighborhood collectors from Filbert and Partlow Road off Pine Place.

In conclusion, **TenBrook** said they believe the standards have been met and the denial bases have been rebutted. Therefore, the applicant asked that the PC would approve the variance as requested. He added that the applicant was willing to have a condition imposed that traffic calming devices be installed on Filbert Drive at the client's expense in consultation with the City Planning and Engineering staff.

**Mengelberg** noted that the development would appear to add 31 lots and she asked how many trips this will generate. **TenBrook** said about ten trips per dwelling unit per day, or about 310 trips total per day.

**Powell** asked if the applicant agrees or disagrees with staff that a through-lane would not impact them significantly (as indicated in the staff write-up). **TenBrook** said they haven't done a full analysis, but part of the TSP standard for access management is a safety consideration. In other words, spacing distance has a safety component to it, not just merely a queuing or speed. Staff has said there is none, but the applicant is saying that, although they don't know factually, it is not a basis for denial because it would still require variance from the existing City standard, whether it is the 400 feet spacing cited in the TSP or the City standard cited in the Land Division ordinance—any connection to any arterial 500 feet unless the decision-maker says there is some safety hazard.

**Chair Carter** asked **Konkol** about the variance that would be required if there were to be a road onto South End Road, to which **Konkol** said staff would have to more fully analyze it. However, he referenced 16.12.050 Street Design (see staff report on page 5), which says, "As far as is practicable, streets other than local or constrained streets shall be aligned with existing streets... The minimum distance between streets intersecting a collector or arterial shall be five hundred feet between center lines, unless the decision-maker finds that a lesser distance will not pose a safety hazard." He said he thinks there is some degree of interpretation here, and the decision-maker could be staff as opposed to the PC.

**Mengelberg** asked staff to identify the tax lot that might be damaged, which **Konkol** did. He explained that the property is zoned R-10 Single-family and it potentially has enough square footage, assuming property dedications of a local street on the southwest side and a dedication of property along South End Road to be divided into two 10,000-plus square foot lots, of which staff tries to minimize access onto South End Road or minor arterials of which an access could be provided to that local street instead of going out to South End Road. Staff's opinion is that this would be better for those two parcels.

**Powell** asked the City Engineer if there are other places along South End Road where there are less than 500 feet between streets, and if there are major problems in those locations. **Kraushaar** said there are a few areas less than 500 feet but no major problems have been identified.

**Mengelberg** asked staff how many parcels around this area have yet to be developed. Regarding directly adjacent properties, **Konkol** said several of the lots along Longstanding Court to the north could be divided. It would require demolition of homes but they mathematically could be divided so there could potentially be more development (roughly double) on all those lots. There are limited parcels left on South End Road that would provide direct access to South End, so, for the most part, it is developed out, minus "this piece."

Before moving to public testimony, **Chair Carter** noted that it is very uncomfortable for the PC to receive so much additional documentation during a hearing because it does not allow time for a complete review before being asked to make a fair judgment.

In opposition, **Kathy Hogan**, 19721 S. Central Point Road, said she was representing the neighborhood association. She said she believes this is for monetary gain for the applicant. Further, she believes this is a self-imposed hardship because they waited until they were annexed in on the island annexations. Therefore, when Hazel Grove/Westling Farm and some of the others came in, there couldn't be the connectivity, which is why the cul-de-sacs were imposed. Regarding Longstanding Court, she said the cul-de-sac there is because that was County at the time. She said the cul-de-sacs are becoming a problem within the neighborhood and the traffic impact is quite heavy. She said a street going straight out to South End would be beneficial, particularly because it would be somewhat curvy and it would slow down the speed.

**Mengelberg** asked if **Hogan** was saying she would be in favor of staff's suggestion of having a direct connection to South End Road. **Hogan** said the preference of the whole group who attended the last neighborhood meeting was for a direct connection to reduce additional traffic on the existing streets, particularly on Filbert Drive.

**Mengelberg** asked what they think about the applicant's willingness to provide traffic-calming devices, but **Hogan** said no one else was in attendance from the neighborhood and she couldn't speak on their behalf. She noted that it would have been nice had the developer come to discuss such with them at the neighborhood association meeting.

**Mengelberg** asked where we were in the 120-day rule, considering that this application has been delayed several times. **Konkol** said a decision was needed this evening unless the applicant was willing to grant an exception to the 120-day rule.

In rebuttal comments, **TenBrook** apologized for the lawyers for having submitted so much into the record this evening, but he noted that part of it was written response (arguments, not evidence) at the client's request for appeal bases. Regarding evidentiary matters, the Lancaster Report was submitted as part of the omnibus zone change variance and the subdivision request, which were all joined together initially and were then split. He said they learned late that Lancaster's report was not part of this record. However, it was clear that traffic was an issue, which was why they needed to present it here.

Regarding the variance standard, **TenBrook** pointed out again that the standard needs to be read in the context of the other provision with respect to variances that are in the Land Division ordinance. He said it is not merely the "unless" language that is in the alignment standard, but it is also the language cited in his letter which deals with the fact that all variances from any standard have to go through the Chapter 17 wickets. Therefore, in talking about an alignment standard of 500 feet, it is "shall" unless there is no safety hazard. But that is still a variance from the 500-foot standard. So it is not an alternative which would not require a variance. It is an alternative which would require a variance and is, therefore, not a basis for denial.

With respect to the neighbors' concerns, he said that during the zone change process the issue of calming devices on Filbert was raised post-hearing with the neighbors' representative, who was told that the applicant would be discussing this with staff, so this is not a new issue.

Finally, **TenBrook** said the applicant was willing to leave this open to the next PC meeting in two weeks to allow time to digest these new materials. **Konkol** asked for clarification that they were granting an extension to the 120-day rule, and **TenBrook** said yes, to the next PC meeting, which he understood would be held in a couple of weeks.

**Chair Carter** closed the public hearing for deliberations.

**Mengelberg** said she personally was not comfortable making a decision without studying the additional information. Everyone agreed.

Regarding the 120-day rule, **Kabeiseman** noted that, assuming that the PC would make a decision at the next meeting, they would need a little more than two weeks to make sure that any appeal(s) could be filed and the City Commission hearing could occur within the 120 days. Therefore, if they were to re-open the public hearing, they might consider asking if the applicant would be willing to go a little beyond two weeks.

**Chair Carter** re-opened the public hearing, at which time **TenBrook** said the applicant was willing to work with staff to determine a date that works with the 120-day waiver.

**Kabeiseman** added that the subdivision application is tied into this same timeline, and **TenBrook** agreed that they would have to extend both.

**Mengelberg** moved to continue this hearing to the next PC meeting, currently scheduled for March 10<sup>th</sup>, at 7:00 p.m. **Powell** seconded the motion, and it passed unanimously.

**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.**

Due to the large number of attendees interested in the next hearings, **Chair Carter** declared a brief break to excuse those who were finished with their business and bring in the key players to begin the next hearings. She then re-read the parameters and procedures for the following hearings, all of which were quasi-judicial in nature. She noted that the time for individual public testimony would be limited to three minutes per person instead of five minutes in an effort to let everyone who wished time to testify.

**Kabeiseman** asked if any members of the Planning Commission wished to: 1) abstain; 2) declare a conflict of interest; 3) declare any financial interest in the property or the application, or anything else that could or would result in a financial detriment to them, or, 4) report of site visits or ex parte contacts, and if all members of the PC were familiar with the application.

**Chair Carter** disclosed that she does own commercial property on Molalla Avenue near the location, where she currently operates two businesses. However, she does not feel that she would gain or be hurt financially by this application.

**Mengelberg** said she had visited the site and had also visited the Wal-Mart store in Woodburn. She was also contacted by the Chair and requested to find out more information about available commercial property in Oregon City, which resulted in a report that she gave to the applicant and staff (Exhibit D) that highlights all of the vacant commercial property for sale or lease in Oregon City as of this date, which totals 98,812 square feet in various locations. She also noted that, in her capacity as a County employee, she said she was involved in



brown fields work and she oversaw a project that did a brown field evaluation. This site was looked at, so she prepared a copy of that report, which was conducted in 2001. It does an unofficial assessment of potential contamination issues on the former auto wrecking site and it has some estimates of clean-up costs that would bring the site to a default clean level. She also looked at the DEQ web site and found a listing of Dale's Auto Wrecking site, which outlines the potential issues on the site. In addition, she talked with Christopher Blakeman, who is the Clackamas County Brownfield coordinator, and he suggested that the applicant contact DEQ (specifically Rod Struck, 229-5562) to make sure that any cleanup is done according to State standards.

As the Chair of the Citizen Involvement Council of Oregon City, **Powell** said he was responsible for putting together a land use chair's meeting to discuss the proposal a couple of months ago. He did attend that meeting, at which time they discussed the process but not necessarily the substance.

**Orzen** said she is the secretary of the Citizen Involvement Committee and she knew of, but did not attend, the meeting. She said Ms. Robertson spoke at the PC's last meeting about the process which would take place during this hearing, but she (Orzen) left the room. She said she received a post card from Wal-Mart asking for acceptance/support of their project, which her husband threw away. (**Chair Carter** still had hers, and **Kabeiseman** asked that she bring it in so staff could put a copy of it into the record.)

**Lajoie** said he has visited the site and the surrounding area.

**Chair Carter** said, due to the nature of her work, she has daily contact with many people and the Wal-Mart application has been on the forefront of everyone's topic of discussion. She has tried to minimize those discussions to the point that she really hasn't known what the application was until she got her packet, and everyone mostly just stated their opinion, which is not part of the public record until they come and state it publicly. Also, she was involved for two years as a defendant in a law suit in which Davis, Wright, Tremaine was the plaintiff's attorney.

**Kabeiseman** then asked to enter a Wal-Mart mailing into the public record (unidentified verbally on the tape) after confirming that the Commissioners had all seen it.

There were no challenges against the Planning Commission (PC) or any individual members of the Planning Commission to hear this case.

**Kabeiseman** explained in more detail that this is a quasi-judicial hearing in which the decision must be made based on the record that is prepared before the Commission (material in evidence and verbal testimony). There are four different applications (a Comprehensive Plan change, a Zone Change, a Site Plan and Design Review, and a Water Quality Resource assessment) which are being processed concurrently. They may have unique requirements (i.e., a Site Plan and Design Review only becomes effective if the Comprehensive Plan and Zone Change are made). The criteria are set out in the staff report and have been taken from the City's Municipal Code. In addition, the Comprehensive Plan change has additional criteria in the Comprehensive Plan itself. Testimony should be directed to and limited to explaining how the application and information that is available meets or does not meet those criteria. (Note: Copies of the application, the staff report, and all related documents are available in the public record.)

**Drentlaw** reiterated that this application has been bundled into two in terms of discussions and testimony. The first bundle is the Comp Plan and the Re-zone, which is the staff report received this evening, and what the applicant would be speaking to. The second bundle would be the Site Plan review and the Water Resource assessment, assuming the discussions were to get that far.

Regarding a housekeeping issue, **Drentlaw** noted that more than 45 (later, more than 60) people have signed up to speak and, given the great turnout, he said staff will attempt to find a larger venue in which to hold the next meeting, perhaps at the high school or Pioneer Community Center. He said the staff report would probably be about 30 minutes in length, after which the applicant would have about 30 minutes to present their proposal.

**Robertson** then distributed some additional exhibits:

- Exhibit A – A memo from Richard Attanasio of DEA to Nancy Kraushaar and Dean Norlin dated Feb. 3, 2003, regarding the preliminary hydrology report. This was inadvertently omitted from the staff report that was distributed the previous week.
- Exhibit B – Public comments staff has received from Feb. 7<sup>th</sup> to date, including many e-mails and some letters.
- Exhibit F – A copy of the applicant's presentation.

**Chris Cocker**, of David, Evans and Associates, spoke on behalf of staff to make this presentation on the staff reports for PZ 02-01, PZ 02-02, ZC 02-01 and ZC 02-02, and used overheads as part of the presentation.

**Cocker** cited the addresses as 470, 502-504, 506-508, 510-512, 602, 604, 606, and 702 Hilltop Avenue in Oregon City (south of Wendy's). The sites comprise about 1.96 total acres (8 lots). The site currently has apartments, duplexes, and single-family units, totaling 22 residential units on the properties. He noted that the Hilltop access to Molalla Avenue is currently a right-in and right-out turn, so there is no southbound traffic coming off Hilltop Avenue onto Molalla Avenue. To make a southbound turn onto Molalla, residents must go through the neighborhood and come out at Warner-Milne, turning at the light to get back to Molalla.

**Cocker** said the Comprehensive Plan map has designations of the 1.04 acres of high density residential currently on the property and .92 acres of low-density residential. The applicant is requesting Commercial designation on all of these properties. Both of the areas in question have four lots each.

Referring to the zoning map, **Cocker** said the properties on the west side of Hilltop are RA-2 - Multi-family zoning. Further east they are R-10 Single-family dwelling. The applicant's request is for C, or General Commercial designation.

Regarding the adjacent properties and uses, **Cocker** said that south and east of the site are Commercial designated sites, including a Wendy's at the corner of Hilltop & Molalla and the Dale's Auto Wrecking site just to the east. North of the site is residential property, mostly single-family on the north side of Hilltop. To the east is the Newell Creek Basin, which is comprised of County properties. These are fairly steep and are vacant at this time.

**Cocker** said there have been a number of public comments entered into the record during the period of time this has been considered, many of which are good comments that should be considered.

Regarding the approval criteria, **Cocker** showed the list of criteria to be met for approval of the Comprehensive Plan amendment and the Zone Change request. He noted for clarification that the two applications are not based on the approval or the denial of a specific proposed use. The findings are based on the review of the appropriateness of the change from residential to commercial land use. For both the Comp Plan amendment and the Zone Change, staff reports consider the potential impacts of both a likely proposed and a reasonable worst-cases scenario, either of which might be a result of the proposed change from residential land to commercial land.

The applicant has addressed some of the necessary criteria. In some cases, they found that the information did not go far enough to comply with the specific criterion. In other cases, a total lack of information and comparison resulted in the findings of non-compliance.

**Cocker** said the staff reports are fairly lengthy and he wouldn't cover every point of the criterion. Instead, he would focus on a number of the findings that are not compliant. He had provided a numeric list of the items within the staff reports that were found to be non-compliant. The 15 non-compliant items in the Zone Change staff report are Comprehensive Plan-related criteria and are identified again as part of the 26 non-compliant items within the Comprehensive Plan amendment in the staff report. (He noted that on his list, the ones in red are the ones he found to be non-compliant and the ones in black he found to be mostly compliant, although they might have one or two small criteria that they had issues with—in particular, Cumberson Industry.)

Beginning with the broader categories of non-compliance, **Cocker** said they seemed to fall into the following general categories:

- A community or public need.
- Effect on transportation facilities.
- Effect on adjacent properties.
- Housing.
- Protection of the public health, safety, and welfare.

He said the proposal's non-compliance to the elements of the Comprehensive Plan tends to evolve around one or more of these issues. In addition, staff has found that the proposal is not compliant with either the City's Transportation System Plan (TSP) or the Molalla Avenue Boulevard and Bikeway Improvement Plan.

At this point, **Cocker** moved to some of the supporting information which had been provided and focused on some of the items that are not being met with the proposal.

Referring to the bottom of the list, under Chapter O of the Comprehensive Plan, there is "Comprehensive Plan Maintenance and Update." Items listed there have to do with public need:

- Item 2 asks if there is a public need to be fulfilled by this change.
- Item 3 asks if the public need is best satisfied by the particular change being proposed.
- Item 5 asks if the factual information based on the Comprehensive Plan supports the change.

Focusing on Item 5 for a moment, **Cocker** said he knows one legal argument says that the factual information in the Comp Plan includes only that information that has been adopted, most of which is now 22 years old. **Cocker** said he is not sure that meets anyone's "straight face" test since things have obviously changed greatly in the past two decades. He said there is more recent and relevant data available to consider, such as the 2002 Census Data, last year's Oregon City Housing Inventory, and some other information that has not officially been adopted as part of the Comp Plan.

The other side of the need to use more up-to-date information says that the goals and policies of the 22-year old Plan were meant to be upheld and maintained through time with relative data updates. However, this staff report looks at both—the old information as well as the new.

Under public need, **Cocker** said there is also consistency with the Comprehensive Plan, which must be shown for the various elements of the Plan, including the Commerce and Industry and the Housing elements.

The goal of the Housing element states that:

- It is “to provide for the planning, development, and preservation of a variety of housing types at a range of prices and rents.”
- Policy 2 goes further, saying, “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.”
- Policy 3 says, “The City shall encourage the private sector in maintaining an adequate supply of single- and multi-family housing.”

**Cocker** said the applicant has failed to demonstrate that the remaining housing stock will be sufficient for the public need. The application is surprisingly quiet regarding housing stock preservation. The project ultimately results in the removal of 22 housing units on the subject properties. The applicant reasoning is based on the assumption that, given its proposed size, the retail project cannot “provide the necessary parking, circulation, and access.” Therefore, the public need is being satisfied by adding additional commercial land.

The project by itself cannot be a reason for public need. The public need must evaluate other factors along with the potential economic benefits.

As an example, the applicant has not demonstrated sufficiency of replacement housing for the housing to be removed. The applicant makes a case that there was sufficient land for housing, as identified in 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, in 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 with results of 2002 data. These documents indicate housing stock shortages in the Affordable Housing price points. Metro’s target capacity projections also point to potential shortfalls. The City will need a minimum of 1,500 infill housing units over the next 15 years.

If we must ignore the more recent and relevant data that now exists, the applicant makes the point that there was sufficient land for housing in 1982. There is no conclusion, however, that there is a public need for commercial land. In fact, the 1982 Plan actually indicated that there was a need for 232.2 acres of commercial land, and at the time there were 317 acres available. This means that there was a surplus of 85 acres of available commercial property at that time.

Next **Cocker** moved toward the issues of public need and commerce and industry.

He said the commerce and industry element outlines the overall goal, which says, “Maintain a healthy and diversified economic community for the supply of goods and services and employment opportunities.” **Cocker** said the proposal would meet some of the policies under this, including Policy 8.a, which says:

- “Encourage continued retail growth by
- a. Designating land for retail use in areas along or near major arterials and transit lines.”

On the other hand, he said other commerce and industry policies would not be met, such policy 11.a.6, which reads:

“Uses in commercial districts shall be designed to protect the surrounding residential properties. Commercial districts that result in numerous small lots with individual street access points shall be discouraged.”

**Cocker** said this policy ties the public need question to other topics that are not supported by the information in the application. These include the effect on the transportation facilities, the effect on adjacent properties, and the protection of the public health, safety, and welfare.

The applicant states that the project will result in the provision of "valuable goods and services to the greater Oregon City area and will provide good employment opportunities." When asked to provide more information about the public need, the applicant indicated that a market study had been performed, but did not provide any more detailed information. The "public need" findings must do more. They must weigh the need for the new retail services in Oregon City versus the need to maintain infill, multi-family, and single-family housing.

The applicant cannot say that the project will improve the public health, safety, and welfare by virtue of "maintaining a healthy and diversified economic community." There is more to it than that. City staff has determined that the reasonable worst-case scenario could put an additional 400 a.m.-p.m. trips on the streets.

Or, what about the potential removal of what appears to be affordable-type housing? The City has no information regarding the potential displacement of residents in seemingly affordable housing. As an example, the applicant may have been able to show sufficiency of affordable housing by finding out whether there is an adequate current vacancy rate in similar housing with affordable pricing within the area. This could have potentially shown that the housing question is a non-issue. As it stands, staff has no information to confirm or deny whether it is or is not an issue.

**Cocker** then moved to community facilities, transportation, and the effect on adjacent properties. Criteria requires addressing quite a number of points, so he summarized some of the questions that were raised by those criteria, as follows:

- How will the proposed change affect the community facilities, natural resources, transportation, and adjacent properties?
- What about sufficiency of transportation facilities to support proposed change?
- What are the effects on the adjacent properties?
- Will an adequate transportation system be in place to support the public health, safety, and welfare?

**Cocker** said Mike Baker, the consulting Oregon City Traffic Engineer, was in attendance to answer any questions they might have regarding his review of the traffic analysis that has been provided. However, Cocker would provide a summary of some of the key points as they relate to the Comprehensive Plan amendment and the Zone Change request.

The Comprehensive Plan's transportation element goal is to "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."

The Zoning Code, Section 17.68 – Zoning Changes and Amendments, requires compliance:

- Policy B, which says 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."
- Policy C, which says, "Land uses authorized by the proposal are consistent with the existing or planned function, the capacity and the level of service of the transportation system serving the proposed zoning district."

**Cocker** said a couple of questions that arise are:

- How will the system function on opening day?
- What will occur in the analysis required in the 20-year window?

He said the proposal would moderately increase the number of a.m.-p.m. trips for the likely project and significantly increase the number of a.m.-p.m. trips with the reasonable worst-case scenario, and would result in accelerating the timeline for a projected level-of-service failure in the surrounding traffic system. These questions are addressed in more detail in the traffic impact analysis and the City review.

The reasonable worst-case scenario is necessary to evaluate whether the existing public facilities are capable of supporting the uses allowed by the commercial zone. Traffic facilities raise the most serious questions. In this case, the Wal-Mart use could be accommodated with this expected opening-day traffic, provided that specific Site Plan and Design Review conditions of approval were met.

This, however, is not the question that needs to be answered. The Traffic Engineer and the findings that need to be made to approve these two applications require that a 20-year projection be considered (the requirement that is reflected in the City's TSP).

Another issue that must be addressed is, What happens if the Wal-Mart application goes away and the City is left with two additional acres of commercial property? The change will result in increases in the amount of commercial property not originally planned for. In addition, there will be less housing stock than planned for and built.

Looking at the 20-year projections, the system, without significant changes, is destined for intersection level-of-service failures in a number of locations. This is projected both with and without the Wal-Mart project. The Wal-Mart project does accelerate the timeline within which those failures would occur. Staff suspects that the proposed use would result in a significant increase in the number of regional trips that were originally planned for the adjoining 13 acres of commercial property. Adding more commercial property will further exacerbate this situation and further shorten the timeline for the TSP failures.

If the Wal-Mart application did not go forward for some reason, the City's Traffic Engineer has indicated that, in his view, the reasonable worst-case scenario could result in 400 additional a.m.-p.m. trips. Those trips would have a significant effect on access to Molalla Avenue and to the residential neighbors to the north. Currently, there is a right-in/right-out access to and from Hilltop Avenue, as noted earlier, where it intersects with Molalla Avenue. Direct access from Hilltop Avenue to southbound Molalla will never occur, given the existing intersections on Molalla that are in close proximity.

What will happen to the neighborhood streets with the proposed project? What will happen given the reasonable worst-case scenario? Neither of these questions has an answer, given the information that staff has to date.

Would either scenario have an impact on the residential neighborhood? The logical answer is yes. However, the next question is, Could those impacts be mitigated? There is not currently enough information to say for sure.

**Cocker** continued, saying that in addition to non-compliant criteria in the transportation element's goals and policies, the proposed land use changes do not fit with the TSP and the Molalla Avenue Boulevard and Bikeway Improvement Plan. Both of these documents are adopted under the Comprehensive Plan.

Some key items, questions, or non-compliance issues are included in the question, "Does an expanded, near 15-acre 'big box' type development fit with the land use goals in this corridor?" The applicant indicates that the two-acre parcel is necessary to provide their smallest prototype Wal-Mart business.

Will this business fit with the picture of the "community business land use" as outlined in the Improvements Plan? The TSP requires development and enhancement of a multi-modal travel system, including the minimization of vehicle miles traveled and, overall, a 10% reduction in vehicle miles traveled in the next 20-year planning horizon. The change in land use could increase a.m.-p.m. peak hour trips by as much as 400 trips. Part of the goal on multi-modal travel options requires minimization of neighborhood cut-through traffic.

Areas of non-compliance with the amendment requests are identified within the staff reports and, due to these items, staff is recommending denial of both applications.

**Chair Carter** referred to the comment that there are 22 housing units, several of which are high-density apartment complexes or duplexes, and she asked how many actual home units there are—in other words, how many physical dwellings. **Cocker** said there are 22 total living units in the total.

**Greg Hathaway**, an attorney with Davis, Wright, Tremaine, 1300 SW 5<sup>th</sup> Avenue, Portland, OR 97204, spoke on behalf of the applicant, Wal-Mart, in this request for a Plan amendment and zone change. He began by explaining why Wal-Mart needs this Plan amendment and zone change to allow for the Wal-Mart development.

**Hathaway** reiterated, as Cocker indicated earlier, that they are asking for an amendment just on a 1.96 acre strip, which does have these residential units. But, he said, that 1.96 acre strip is very important to add to the commercial property next door in order to create one larger piece of Commercial to accommodate the proposed 138,000 square foot facility. The actual strip itself would be used for parking, for access, and for landscape buffering along Hilltop Avenue. The reason it is needed is to accommodate a larger store, and the reason they need a larger store is that the store they are proposing is the smallest store Wal-Mart constructs for a discount facility such as is being proposed in Oregon City. He added that they need at least that size of store to be able to compete with some of their competitors in Oregon City, including Fred Meyer, which is very close by and is about 160,000 square feet in size. Therefore, it is very important for Wal-Mart, to locate in Oregon City, to have a certain size store which meets its needs, which in turn Wal-Mart thinks meets the community's needs, and which also allows for what they believe to be a fair competition between those businesses within the community that are competitors of Wal-Mart.

**Hathaway** said they (the applicant) think that the testimony this evening and in continued hearings will demonstrate that if the Planning Commission (PC) allows for the Plan amendment and zone change to Commercial to allow for consolidation with the commercial piece next door, it will allow for a consolidated commercial development of that property, which currently is in a use that does have some environmental issues attached to it (as noted earlier). Therefore, as they talked about public need a little later on, they would be talking about some of the community benefits that the community derives, in their opinion, based upon the actual commercial development of this property, ranging from cleaning up this site to being able to have a consolidated development, and employment opportunities within Oregon City (perhaps as many as 200-250 jobs).

However, regardless of those public benefits, **Hathaway** agreed that they must still meet the legal tests, and they think they can. In fact, they think they have already attempted to demonstrate compliance with the requirements identified by staff. In addition, he believes, based on their review of the staff report, that there are areas in which the applicant can add additional information that would be helpful to the PC's review in making sure the applicant has complied with the various tests. He said if they can get across the Plan amendment and zone

change hurdle, then they can get to the actual site development itself with regard to how they could put this use on this particular piece of property to make sure it meets all the design standards and to make sure it is done in a way that will not adversely impact the neighborhood to the north.

So, **Hathaway** said, they understand their responsibility and, assuming that this hearing will be continued to at least one more session, they would take the opportunity between now and the next hearing to address some of the issues that have been identified in the staff report. They would also take the opportunity to review the information that has been provided this evening regarding the environmental issues, as well as some of the other available commercial sites within Oregon City.

**Hathaway** then turned to the focus of their presentation this evening. He said it would follow to some degree the type of presentation that Cocker made because the staff report for the Plan amendment and the zone change contains a lot of criteria. But, he said, the various issues start to repeat themselves with regard to the real issues before the PC, and the applicant thinks they focus around the same issues that Cocker identified, which include:

- The issue of whether or not the applicant has met the public need to support a change in planning and zoning designations on this property.
- In making that change, are they making sure they are not making a worse situation than exists today with the transportation system in the surrounding area and within Oregon City.
- The need to make sure as they make this change that they don't adversely impact the residential neighborhood, which they think is a significant issue.
- The need to make sure that if they are going to convert these residential units into a commercial development (which will be a compact commercial development with the Wal-Mart store), that they have addressed the housing issues as identified by staff.

**Hathaway** then introduced Scott Franklin of PacLand, who would focus on giving a quick overview of how they are trying to take advantage of that strip in conjunction with the overall commercial development of the site. He would also address some of the potential impacts that were expressed as concerns if the planning zone were to be changed, and the effect on the residential neighborhood to the north.

**Scott Franklin**, PacLand, 10121 SE Sunnyside Road, Suite 215, Clackamas, Oregon, reiterated that the applicant is requesting a zone change of the area immediately south of Hilltop, which is a combination of multi-family and single-family zoning with commercial zoning on the property south of that location. The implications of these lots south of Hilltop relative to the overall project and the requirements that need to be addressed relative to the Comp Plan amendment and zone change request are important in that the project requires access to Hilltop in both the Molalla Corridor Plan on the west end of Hilltop, as well as a request from the City staff to make a connection to Hilltop, along what is identified as "Street B" in the staff report. The impact of each of these street connections is a result of requests by either City documents or City staff to make these connections to the Hilltop. He said staff identified in their staff report that the direct impacts to the Hilltop residential area can be mitigated based on the City's design standards, but they raised the particular issue relative to traffic.

**Franklin** said the Hilltop lots are important to the development itself. They make up a significant portion of the area on the north side of the store to be used a parking. The parking area there is heavily landscaped and provides pedestrian connection to the Hilltop residential area, and it is necessary for the development of the store. Regarding the impacts specific to the lots in that area, he said numerous discussions with staff concluded that the connection from Hilltop down to Beaver Creek Road, as requested by staff, is an access needed primarily to provide connectivity to the residential units up there. He said, though, that the project will generate very little traffic going up Hilltop since that is a very small component of the overall project.



**Hathaway** said that, even if they provide the connection as requested by staff from Beavercreek Road to Hilltop on the east side of the property, there shouldn't be any adverse impact on that residential neighborhood, which will be described in more detail in other testimony.

Before moving to the issue of transportation, **Hathaway** reiterated that Wal-Mart is planning to do a full project, which includes the Plan amendment, the zone change, and the site plan, because Wal-Mart is not interested in just re-planning or re-zoning that strip and then walking away. He said Wal-Mart intends to build the facility including that strip, and he encouraged the PC to look at the project as a whole rather than just the implications as they might apply to that strip alone in a worst-case scenario. He said they know that if they are going to get the change, they must demonstrate that this project will not make the transportation system any worse than it is today, which they believe they can do.

His point was that they believe the PC has the authority to approve the Plan amendment and the zone change tied specifically to the specific proposal. He said there is nothing in the Oregon City land use laws that would prohibit such and, in fact, the Transportation Planning Rule of the State of Oregon specifically identifies conditioning like that as a mitigation measure to make sure that, if you are going to amend plans that may have some significant impact, they are tied to a specific development. He said that if Wal-Mart is not going to build a store, they agree that there is no reason to change that strip to Commercial. They think it is better suited to Commercial because it allows for a larger compact commercial development, but Wal-Mart isn't interested in proceeding with this development without that strip. Therefore, they feel it would be appropriate to tie the approval of the Plan Amendment and zone change specifically to the Wal-Mart project and, more specifically, to the transportation impacts as generated by the project.

**Hathaway** then introduced Bruce Haldors to discuss the project, whether or not it complies to the standards, whether it adversely impacts transportation, and the worst-case scenario.

**Bruce Haldors** identified himself as a principal at the Transpo Group (a traffic engineering transportation consulting firm with offices in Kirkland, Spokane, and McMinnville), with his office being located at 11730 118<sup>th</sup> Avenue NE, Suite 600, Kirkland, Washington. He said he would like to explain the approach they took in doing the traffic analysis; their coordination with City staff and their reviewing engineer, and ODOT as well; describe and simplify understanding of the analysis itself; and describe the results and mitigation they have identified as it relates specifically to that zone change.

**Haldors** said the scope of the analysis was coordinated very directly with the City staff and their reviewing engineer, and ODOT. He said they did two sets of traffic analysis, one which is a traditional impact study which is required by both ODOT and the City of Oregon City, and one as it relates to the Transportation Planning rule.

He said they conducted a.m. and p.m. analysis and looked at the year 2004 (the project open year) and the 20-year horizon year, 2020. In addition to the traditional traffic impact analysis, at the request of City staff and the reviewing engineer they did some very detailed "micro-simulation" analysis, which is even a step above and beyond, and more detailed, than what is traditionally required as part of an impact analysis.

To assess the operations of the intersections, they looked at the intersection levels of service which traffic engineers use to assess operations from A through F, with F being the worst. They looked at volume-to-capacity ratios and queuing, since there are some shortly spaced intersections and traffic signals along both the project frontage as well as in the immediate site area.

From all that analysis, they identified what would be the immediate mitigation plan—what is necessary to mitigate the impacts of the project, in particular as it relates to the TPR.

He said the primary issue is what kind of traffic impact this potential rezone would have on the transportation network as a whole and as it relates to the ODOT and City of Oregon City standards. He said the fundamental result was that, when they compared the existing uses (the traffic generated by the single- and multi-family residential units) to the potential use related to the additional 17,000 square feet that would be available to develop as a result of that re-zone, all the intersections in the City were in compliance with the City and ODOT standards. Only one intersection, as a result of the baseline condition (without project or without rezone condition), would require some mitigation to bring it back to the Dept. of Transportation mobility standards.

In addition, they did the theoretical maximum-allowed traffic generation or actual maximum-use comparison in order to identify the maximum threshold potential beyond what the existing zoned possibilities could be. They looked at what the maximum use is under existing zoning, which provides allowance for day-care, which could potentially mean 24 family day-care units, which in turn could generate more traffic than what would traditionally be generated from a single-family home. Then, considering what might be beyond a somewhat "worst-case" under a commercial zone, they also looked at the feasibility of what might be squeezed onto those sites that would generate the most traffic under a commercial-allowed use. Those uses were two separate convenience markets with gas stations and a stand-alone convenience markets, for a total of three convenience markets and two gas stations.

The result was that, under the conditional versus the existing zoning (the conditional 17,000 square feet of additional retail versus the existing dwelling units), there would actually be less traffic during the a.m. peak hours as a result of the zone change, simply because there is not as much activity on a retail site in the a.m. peak hour as for single-family units with residents going to work, school, etc. During the p.m. peak hour, there would be an increase of 24 trips total (in and out). So there would be a net increase of 24 trips as a result of this conditional rezone, which is, in the context of the overall system, a very insignificant and minor amount of traffic increase as a result of that zone change.

Then, in comparing the maximum rezone (what is allowed under existing zoning—the family day-care) to what is allowed under commercial zoning (the three convenience stores and two gas stations), there was an increase of 52 a.m. peak hour trips and an increase of 97 p.m. peak hour trips. These figures, **Haldors** emphasized, are what their entire analysis is based on, so it is important to recognize that in their worst-case analysis, significantly more traffic would be added. Hence, any conclusions they might draw from this worst-case scenario would be valid and, in fact, probably overcompensate for the conditional rezone.

**Haldors** used an aerial photo to show the site relative to the transportation network and the distribution of that traffic. He noted that this was what was used as part of their analysis to assign the percentages of traffic arriving and leaving the area during the a.m. and p.m. hours. (He also noted that, in conversations with staff and the City Engineering, they recommended a distribution that was slightly different from the applicant's original recommendation for distribution.)

**Haldors** said the blue dots represent the eight City intersections at which the traffic operations were assessed. He said they noted the overall level of service according to the City standard and explained that these are required to be maintained at a level E. Anything below E would be required to be mitigated as a result of any impacts from the project.

The two orange dots represent the intersections along Highway 213, which are maintained and operated by ODOT and which have a slightly different standard. They have a mobility standard, which is essentially a volume-to-capacity ratio, and that standard is such that the volume-to-capacity ratio must be equal to or less than .99, with 1.0 representing an intersection at capacity.

In drawing conclusions from the analysis and determining what, if any, mitigation may be required as a result of the project, taking into consideration the rezone conditionally and the worst-case scenario of the existing zoning, the result was that they found that essentially there was no level-of-service degradation at the City study intersections as a result of this rezone, and that ODOT mobility standard it actually exceeded under baseline conditions (without any rezone).

The mitigation required to meet the mobility standard is two-fold and can be accomplished through two very basic, simple implementations that involve some signal timing changes at an intersection. Those would be: 1) moving the cycle length (the entire time that it serves all the movements at an intersection) from 130 to 135 seconds at Beavercreek and 213; and 2) at Molalla and 213, implementation of an overlap phase, which would allow a westbound movement to go concurrently with an imposing (??) movement, which would involve some signal head and signal time modifications to accommodate the traffic that would be generated as a result of the zone change under the worst-case scenario.

**Hathaway** said there are two different conclusions being reached from the staff report and Haldors' traffic analysis. He said the applicant believes that, based on the work the Transpo Group has done, they are able to demonstrate compliance with the test that they are not making it any worse, whether the PC would condition the zone change with this specific project, or even when considering a worst-case scenario, as Haldors described.

**Hathaway** said that they would continue to work with staff between this hearing and the next continued hearing to share these thoughts, ideas, and information with them to make sure everyone is in agreement with the worst-case scenario, if that is the approach that the PC chooses to take. They also want to continue to explore with staff the idea that the PC does have the authority to specifically condition this Plan amendment and zone change to this specific use because that is the reality and it is also, they think, the simpler way for all concerned to understand the traffic impact issue.

Regarding public need, **Hathaway** said he thinks Cocker has done a good job in the staff report to identify what he (Hathaway) calls "the formula" for determining whether or not the public need has been established by the applicant, because they do bear the burden of proof. He said Cocker described it as weighing the public need for a large retail commercial use versus the impact of removing some units from use. This "weighing" is what outweighs the other to truly determine whether or not there is a public need. The applicant feels that it is true from their evidence that there is truly a public need for a large retail commercial development at this particular location. However, they also recognize that by doing that, there will be an effect on the housing stock.

**Hathaway** said they would work between now and the next continued hearing to provide some additional information with regard to how they will deal with that issue. He said they may hear some testimony from the Younger family (owners of some of those units) who are talking about how they might help relocate the people who are in those facilities, or perhaps to even move those facilities to another location.

**Hathaway** also referred to Cocker's comments about the City's recent study involving the housing issue in Oregon City, specifically noting that staff says if the applicant were to show a vacancy rate in Oregon City today that there is available housing stock to accommodate the current residents who would be displaced by this rezone, that fact would weigh in favor of the public need to change this from Residential to Commercial. He said on page 14 of the staff report there is reference to a vacancy rate in Oregon City at 7.7%, and the City report indicates that with a vacancy rate over 5%, there is an adequate market adequate to serve the needs of the community. The applicant thinks that significant fact within the staff's report goes to the issue that has been raised by staff. However, he said they (the applicant) will continue to work with staff to generate some additional information with regard to the housing issue because they do think it is a serious consideration in the

weighing process to determine whether or not there truly is a greater public need in changing this from Residential to Commercial.

**Hathaway** said another significant issue that Cocker raised is that the public need issue isn't just whether there is a need for large retail commercial and if there is some greater public need of retaining the residential. He said there are other public benefits to be considered as a result of the change to commercial, as mentioned by Franklin. Some of the benefits they perceive to be of public benefit or community benefits as a result of this change that would allow for this development to take place include:

- Employment opportunities.
- Environmental cleanup.
- Provision of some access to Hilltop that staff is requesting, even though the store didn't generate that need.
- The addition of a pump station in the northeast corner of the property, which staff says is significant.
- Participation to a major degree by Wal-Mart in an effort to maintain the environmental quality of Newell Creek.

Again, **Hathaway** reiterated that the applicant will continue to study and bring more information to show why they think there is a greater public need to change this so they can accommodate this use and also benefit from some of the community benefits that come from this project.

Finally, regarding the Molalla Corridor Boulevard Plan (see pages 24 and 26 of the staff report), **Hathaway** said there is reference as to why staff believes that the applicant has not satisfied this planning vision for this area because there needs to be an emphasis on Mixed Use development and a pedestrian-friendly main street-type concept. **Hathaway** said it is important to point out to the PC that the applicant has worked hard with staff in designing this project because the site plan that Franklin showed them doesn't look anything like the site plan the applicant started out with. The plan they saw this evening is a result of the design changes encouraged by staff to address the kinds of issues included in the Molalla Boulevard Plan. He noted that staff has recommended approval of the Site Plan, so the applicant's position is that if they have met the design standards which facilitate pedestrians and main street-type development, then they have met the standards of the Molalla Boulevard Plan.

**Mengelberg** asked if someone could point out on the map where access to Hilltop would be provided. Is it on the new road that would be at the east end of the property and also at the corner near Wendy's? **Franklin** said access to the proposed project is through Molalla and through Beaver Creek, but the access onto Hilltop specifically is through a private access on the west end of Hilltop and then again through the public access required by the City. (This was an access that was initially not proposed by their project, but was a requirement of the City.)

**Cocker** clarified that the reason they do look at the worst-case scenario has to do with some of the findings they need to make. Specifically, the Transportation element, Policy B, talks about the public facilities that are capable of supporting the uses that are allowed in the zone. That in itself means that whatever zoning they are proposing and any of the uses allowed there need to be supported. Also regarding the worst-case scenario, he said that at one point they offered to do a collaborative agreement with the applicant to determine what makes up a worst-case, and he said they need to be reasonable worst-case scenarios would be. **Cocker** said they weren't taken up on the offer to get that agreement. So, staff doesn't necessarily agree with all the premises that were presented by the Transpo Group, including the idea that residential housing with 24 buildings would have up to 12 day-care students in each one of those buildings. ODOT also noted that they were not in agreement with these "reasonable worst-case assumptions." He said there might be some reason to discuss this further, but this is why staff is not necessarily in agreement with the Transpo Group.

**Mengelberg** asked for clarification as to whether staff thinks the numbers the Transpo Group has put forth are too low or too high. **Cocker** said the comparison being made in the worst case was for the existing Residential, if it were to redevelop as Residential-allowed uses, versus if it were worst-case Commercial. So they were comparing worst-case Residential to worst-case Commercial. Staff did not necessarily agree with the worst-case Residential being reasonable—that you would assume that all the existing buildings would turn into 24 units with up to 12 day-care students in each building.

**Hathaway** said the way they did their analysis was as a worst worst-case Residential, but it was also in comparison with worst, worst worst-case Commercial. So it was an equal comparison. This was not an effort on the applicant's part to try to skew this so the comparisons weren't reasonable. They were both based upon reasonable worst worst-case scenarios.

He reiterated that he thinks this is an area they need to discuss further with staff and ODOT to try and determine what the standard for a worst-case scenario is, but the applicant's concern is, How do you really determine that if what is at stake is whether or not the Plan amendment should be allowed to accommodate this development. That's why the simplest approach is to use the proposed project as the measurement and then condition it.

**Chair Carter** said her confusion is that if they are going to use the project itself, it sounds like the transportation numbers are only applying to the residential property that they want re-zoned. She said they must consider the entire impact of the whole project.

**Haldors** said they did consider it all. He explained that what he provided in the graphics inside the handouts just shows the net difference. If that parcel were to be re-zoned, it is the difference of the additional 17,000 square feet that would be allowed as a result of being able to have that property as commercial. He said that was additive in terms of looking at the entire 136,000 square foot building and all the trips that would be generated as a result of the project as a whole.

**Cocker** said if we follow Hathaway's advice here, agreeing to the assumptions is something that needs to still happen because it never did happen. The discussion with ODOT also needs to include the City Traffic Engineer so if that can happen, perhaps we can make some headway on this point.

**Chair Carter** said she is hearing them say that they don't think the traffic impacts are going to be applicable to their project, yet in looking at their design and the number of parking spaces, she can't help but ask how many cars they are putting on that lot and how many trips that will generate. She said when they are talking about approximately 6,800 trips per day, that is a gigantic impact.

**Haldors** reminded her that there were two sets of analysis done. One relates to the traffic impacts as a result of the project, and there has been some dialogue about the impacts as identified by both the applicant and the staff. There is also some mitigation proposed in the staff report. However, as it relates strictly to the TPR and the zone change, that is the net difference and is why they comply with all the standards set forth by the TPR, by the ODOT mobility standards, and the City levels of service. However, he agreed with Cocker that they need some time to get together to clear up some of the confusion.

**Chair Carter** said she is also confused by the fact that they already have some houses boarded up, regardless of what the vacancy rate is or is not, and they haven't even had their public hearing yet. Therefore, she asked for some explanation. **Hathaway** said Mr. Younger would have to respond about those properties that he or his family owns or controls, but with regard to Wal-Mart, he said Wal-Mart purchased some of those single-family homes for a very fair price and those people have sold their homes and moved elsewhere.

**Chair Carter** moved to public testimony in favor.

**Greg Niedermeyer**, 4702 SW Scholls Ferry Rd. #281 Portland OR 97225, trustee for the Jacobs, Jacoby Trust, which is located on tax lot 3400 as part of the planned development, said he wanted to focus on the issues of public need, reasons for some of the traffic problems on Hilltop, and housing.

Regarding public need, **Niedermeyer** said that in 1989 Oregon City passed Ordinance 89-1034, which specifically deals with the majority of the property in question. (He asked that Ordinance 89-1034, effective Nov. 11, 1989, be accepted into the public record.) That ordinance was a nuisance ordinance designed to allow the City to have a large commercial development on Mr. Younger's wrecking yard property and the adjacent property, tax lot 3400 (the Jacobs, Jacoby property). It specifically allowed foreclosure of Mr. Younger's property, including the adjacent residential property and relocation thereof, based on a very strong public need.

He read from the ordinance, "These properties include three tax lots, currently under two ownerships, used for single-family residence and a wrecking yard... Such acquisition and disposition is intended to assist in private, commercial, and industrial development on the amended area by facilitating the consolidation of the property into a single parcel."

He said the ordinance allowed for specific foreclosure and even estimated the cost. It also allowed for certain improvements along Molalla Avenue, specifically near the gas station and along our property (the Jacobs, Jacoby property) up to where the sign was, and where Mr. Younger's property begins. He noted that there is a sidewalk and a traffic light on both sides of the street, even though it is not developed. He said they had an LID on their property and they also have a loss land to the City at about one-quarter of its real value several years ago. He said they have already been promised that they are going to get this property developed by a consolidation in 1989, and he believes this amendment was ruled renewed one or two years ago to continue to allow foreclosure of Mr. Younger's property for a large development combining the parcels.

Regarding transportation, **Niedermeyer** said he didn't think the first plan (by Wal-Mart) called for the use of these lots. It was only when the City required the roadway easements—both of them—onto Hilltop and they backed off about 3 ½ acres of development above Newell Canyon to leave it for watershed area and to fill up with their drainage plant that the applicant lost more land than is being sought on Hilltop. They lost more than two acres for the dedicated streets the City wants, and when you consider the Hilltop effectively-granted land to Metro, there is even a greater loss because it probably won't ever be developed. So the City is probably taking four or five acres out of their parcel.

**Niedermeyer** said he confirmed with Mr. Younger earlier this day that he is planning on moving these structures, not destroying them. He also has the right to move the structures over by Wal-Mart where he has adjacent property that is adequate.

**Marvin Skyles** said he resides at 14788 S. Thayer Road and up until last year he also owned property along Molalla Avenue at 1169, which is about two blocks north of the proposed site. Speaking as part of the public, he wanted to address public need.

As a resident of the area for nearly 61 years, he said he has seen other developments come into the area. He said they were pleased when Danielson's moved in so close, they were pleased when Fred Meyer came in, and Albertson's as well, because they provided more choices for shopping.

He said he and his family like to shop at Wal-Mart and their current choices are to drive to Woodburn or to Southeast Portland. Regarding public need, he said they will use this store because it will be convenient.

He also said it will be good for the area because there is a lot of unemployment in the area and it will provide jobs.

Regarding the comments about transportation and traffic, **Skyles** said these are problems that can be solved because this is the type the PC does on a regular basis.

In summary, he said he is in favor of this project because he thinks it will provide jobs, it will be good for the City, and will be a personal convenience for himself and his family. Therefore, he encouraged the PC to approve these applications.

**Jim Beene**, 1300 SW 5<sup>th</sup>, Suite 3400, Portland, Oregon, said he would stay within his three minutes of verbal testimony but would also submit some written comments which were too lengthy to present in the time allotted. He spoke representing Letha and Rocky Younger, who have also agreed with the time limitations and would let Beene speak for them.

**Beene** said the Youngers started the wrecking yard operation on this property more than 50 years ago. He (Beene) has represented them for more than 30 years and he has been to dozens of meetings with Planning Commissions and City Councils and Urban Renewal groups, and they have had a number of contacts with this City. He said they had two lawsuits over two of the houses when they started to break apart because they were built on fill. His point was that for a long time they have been trying to get to some point where a better use of that property could be made, and he can't remember a Planning Commission or a City Commission that hasn't wanted to see something better happen there.

Regarding public need, he said there are many arguments in favor, the first being that thousands of people will shop there. There is also the City need for roads and, as was previously mentioned, the only reason Wal-Mart needs the extra land along Hilltop is because it is part of the City's requirement that they add extra roads and accesses, which are public needs.

**Beene** said the City has a need for a water treatment facility, not only for this property but for the Red Soils property and everything else that is still running through part of Younger's property. Part of that solution is coming together as a part of this plan. There is a huge need to put these things together and solve the problem, but they can't be done without some help from the City to work out the solutions.

**Beene** said Younger owns 16 of the 22 identified dwelling units. He has already talked with the tenants about making arrangements to move the houses and the facilities to other properties that he owns, and he is happy to work with them to take care of that kind of a problem.

**Beene** said he agrees that this can be conditioned on this project and he is pretty sure they can figure out ways to protect that so they will not have done something that should not have happened.

**Beene** said the worst-case scenarios are just that—they're crazy, worst-case scenarios. He said they ought to be able to figure out what is really going to happen and then condition it so that is what happens.

With his time expired, **Beene** quit and said he would submit the rest in writing.

**Chair Carter** took this opportunity to encourage anyone who might submit something in writing to do so right away so the PC can review it for consideration. **Konkol** also noted that there is an unlimited opportunity to

submit written materials so if people don't have time to verbally express all of their concerns, they can submit those in written form.

**Larry Morton**, 19153 S. Lot Whitcomb Drive, said he has owned and operated a small business in this town for almost 25 years. Unfortunately, he said, he has experienced for a very short period of time a very stifling environment which seems to be very negative toward small or large business. He said he hates to see this go on because this town needs more business in it.

Regarding the loss of housing, he would estimate that there have probably been about 1,000 homes built in the Oregon City area in the last five years and he doesn't think percentage-wise there has been anywhere near the same amount of commercial property brought into the City. He said we are turning more and more into a bedroom community and we already have a bad enough tax situation as it is.

Regarding making it sound like a negative to have another big box business in town, **Morton** said it appears people are determined to keeping them out of town. He said Home Depot seemed to have been chased off for quite awhile but it seems like their parking lot is pretty full every weekend and most weekdays. So it seems as though the residents in this area want this, and it seems to be thriving.

He said to hope and expect a lot of small businesses to go into that area for the price and the location of the property is unrealistic.

**Morton** said there seems to be a certain amount of talk in the local papers, with the ex-mayor mentioning that he didn't want a Wal-Mart in town because they weren't union. He said he doesn't think that should be any factor whatsoever in whether a business is allowed to come to this town or not. If it is, he thinks that reflects a level of prejudice, much like saying an Afro-American can't own a business in this town. He said if people don't want to work for Wal-Mart, they don't have to.

**Pete Matsky**, 500 NE Multnomah, Suite 278, Portland, OR 97232, said he is a financial advisor by trade and he has a degree in Economics and Management, International Trade. He said he believes Wal-Mart is good for the community for one principle reason—Wal-Mart is a good economic model. It is a good sound business, and we need good, sound businesses in our community. He said we have seen other large businesses that did not have good, sound models falter. K-Mart, for instance, and some of the other large retailers. He said you need a fundamentally sound model to be efficient to work, which is what Wal-Mart has and why he is in favor of them.

**Matsky** said he doesn't mind the practices of Wal-Mart, although he knows there is some anti-union feeling by some, but his point is that Wal-Mart is good not only for the community but from an economic standpoint and from a business standpoint. Therefore, he encouraged approval of the Wal-Mart applications.

**Ed Turpin**, 13911 S. Caufield Road, spoke to the road situation. He heard comments that there would be a lot of traffic, yet four blocks down the street the City has turned a four-lane highway into a two-lane highway, which makes for difficult vehicular travel.

Regarding the land use, **Turpin** said it is a wrecking yard and this gives us an opportunity to clean that up, not at City expense but at the expense of Wal-Mart.

Regarding taxes, having just recently been incorporated into the city, what he gets is higher taxes. He says he doesn't mind that because now he is in the City, but this is a chance for Wal-Mart to pay taxes—a large income for the City.



In summary, **Turpin** said he thinks an opportunity for more employment for the City's residents is a good thing, he personally enjoys going to Wal-Mart, and he hopes they approve the Wal-Mart applications.

**Duane Nielsen**, 16110 S. Hilltop Road, said the reason he is in favor of Wal-Mart is because his wife and many of her friends enjoy shopping at Wal-Mart, but they must drive to Southeast Portland to do so. He noted that while she is there, she also gets the tires rotated, takes the kids to lunch, and gets her hair done—all in that area. His point was that if we were to allow Wal-Mart to move in, a lot of that kind of business would move to the local area, and he would like to see the local businesses prosper.

In addition to the shopping that his wife and her friends will do, he thinks Wal-Mart is a powerful competitor and that they will bring in business from many people who live in the outskirts who currently go elsewhere to shop, which should be of great benefit not only to Wal-Mart but to the other local businesses.

**Nielsen** said he thinks it is a good idea because it will convert a large piece of the wrecking yard into something much more desirable, not just for the people now but it will also make it more attractive to people who might be considering where they might want to live and work. Therefore, he thinks it will bring in more people, which will increase our tax base.

Along that same line, he said we must consider the large amount of taxes that Wal-Mart will have to pay to the City, which will help cover the costs and needs of our schools and which will take some of the burden from the people.

In summary, **Nielsen** is in favor of the Wal-Mart applications.

**Gene Troen**, 16327 S. Hatton Road, said he is a member of the Oregon City School Board and wanted to speak regarding the tax impact of a Wal-Mart store in our City. He said he would very much encourage the PC to give approval to the Wal-Mart application for that reason. Much has been said recently about low tax receipts and the problems with that, and he said an elderly friend recently showed him a letter which said that as of March 31<sup>st</sup> her State-paid Medicare payments would be eliminated, her medical card would be cancelled, and her in-home care would be eliminated because of low funding in the state of Oregon. There has been much in the news recently about layoffs of State police, and we recently lost the resource officer that the City of Oregon City provided at our high school, which is a great loss. Earlier this year, 20 positions were eliminated by attrition within our school district when the Board made the decision to not fill those vacancies. Already this year, the decision has been made to shorten the school year by four days, and it is probably likely that another decision will be made to eliminate another six days from the length of this school year. He added that next year will probably be worse, with more layoffs and further shortening of the school year.

He said that in this state and in this city we must do more than we've done to increase tax revenues or these kinds of crises will continue, and he thinks it would be a real shame to lose the opportunity to lose a significant amount of property tax and income tax that would be generated by such a project.

Moving to testimony neither for nor against, **Debra Wadkins**, 13290 Clairmont Way, said she has been a resident in Oregon City for 23 years and she urged the PC to carefully consider the traffic impact, not only on Clairmont Way but throughout the City. She is also concerned about the loss of housing.

At the beginning of group testimony against the applications, **Robertson** noted that **Ms. Hosani** had submitted two memos and a cover letter in a packet, all dated Feb. 24, 2003, for inclusion in the public record. **Robertson** said Exhibit H will include a cover memo for the a memo from a traffic engineer and the traffic engineer's actual memo, and Exhibit I will include the same cover memo and the memo from DKS.

**Craig Danielson**, 1500 Molalla Avenue; **Carol Suzuki**, 1500 Molalla Avenue; and **Kelly Hosani**, Miller, Nash, 111 SW 5<sup>th</sup> Avenue, Suite 3500, Portland, OR 97204, introduced themselves, with **Hosani** saying she was representing Hilltop Properties. (She would be speaking for them all, using most of their combined time.) She said they have a number of concerns about the applications before the PC, which they had previously outlined in two letters which they have submitted into the record, not including the two just distributed. They have also prepared a summary of those concerns submitted into the record this evening, and they have submitted comments regarding the applicant's Transportation Planning Rule analysis. Her goal was to highlight two of their main concerns: traffic and public need.

Regarding traffic, she said it is clear to them that the proposed project would swamp the surrounding transportation system. It will make it just that much more difficult for people to get to their homes, their work, and their businesses in the area. It appears from the applicant's transportation analysis that the proposed project will cause intersections to fail that otherwise wouldn't, and intersections that would fail anyway to fail sooner. Without the appropriate applicant mitigation, this violates the State's Transportation Planning Rule, and a Comprehensive Plan Map amendment application must be denied at least on that basis.

However, because the transportation analysis submitted by the applicant still have considerable problems, as outlined by David Evans & Associates, ODOT, and our traffic engineer (DKS Associates), we don't even know the extent of these problems the applications will cause.

This is especially evident in the applicant's recent Transportation Planning Rule analysis. Some of the assumptions that the applicant made with respect to that analysis were so off the mark as to be non-responsive. She said we can't obtain any constructive information from that analysis.

**Hosani** said it is incumbent on the applicant to submit the proper traffic analysis. After over eight months and four tries, including the recent Transportation Planning Rule analysis, the applicant has been unable to submit the proper information.

She said the Hilltop group does not believe the City is obliged to spend any more resources to review yet more flawed traffic analyses from this applicant, and they believe at this point the City may simply deny the applications.

With respect to public need, the City's Comprehensive Plan requires that an applicant for a Comprehensive Plan Map amendment show a public need for the proposed change. In this case, it means the applicant must show a need for more commercial property in the Hilltop area and that the applicant's proposal best meets that need.

The applicant has never properly addressed either of these criteria, she said. Instead, the applicant has focused on how much it needs the zone change so it can build a bigger store with a bigger parking lot. The applicant has not addressed any of the evidence in the record showing that there is a shortage of affordable, higher-density residential dwelling units in the City, especially near transit streets where they can support lower-income residents. The land the applicant wants to re-zone is just the sort of land that can help the City meet this need.

The applicant also has not addressed any of the evidence in the record showing that there is already an adequate amount of commercial land in the City. Instead, the applicant has asked the PC to ignore this evidence, arguing that it is not relevant. It is relevant, and it is the applicant's burden to rebut it.

With respect to the public need issue, **Hosani** said they explained further their position on that in their Feb. 6<sup>th</sup> submittal.

On another note, she said according to Mr. Hathaway, the PC should condition the zone change on Wal-Mart's Site Plan because if Wal-Mart doesn't build there, in his words, "There's no need for the zone change." She said, if there is no need to change the zoning if Wal-Mart won't be using it for their store, that just underscores the fact that there is no public need for more commercial land in Hilltop. The need is a private need, and it is Wal-Mart's private need for a bigger parking lot.

**Hosani** also asked the PC to bear in mind that as of the last Urban Renewal Plan, the property that Wal-Mart proposed to site on is in the Urban Renewal district. Her understanding is that any taxes paid by Wal-Mart stay in the Urban Renewal district—they do not go into the City's general fund unless something else has been set up. Therefore, the PC needs to carefully consider where any taxes paid by Wal-Mart will actually go.

**Hosani** said she also heard the applicant almost blaming the City for making it ask for the zone change because the City has its access requirements and the City is making the applicant "chew up" its property to meet these requirements. She said it is Wal-Mart's access requirements and the City should not be blamed that it needs proper transportation access into, out of, and around it. The fact is that the site simply is not big enough to accommodate what they want to do.

She said it is also not the City's fault that Wal-Mart's smallest prototype store is 136,000 square feet.

In conclusion, **Hosani** said the applicant has not submitted accurate and complete information, and the applicant has not been responsive to approval criteria. These applications have eaten up enough of the City's resources, and they respectfully ask that the Commission deny the applicant's Comprehensive Plan Map and Zone Change applications.

**Carol Suzuki**, 1500 Molalla Avenue, said that as a resident, shopping center owner, and business operator in Oregon City, she does not oppose an appropriately designed retail development on the existing commercially zoned property being considered this evening. She does, however, oppose the re-zoning of adjacent residential property to a Commercial designation to accommodate more parking for a larger retail development.

She said the applicant has not shown a public need for more commercial property in Oregon City but has shown that the proposed development will increase traffic congestion.

She said in 1971 her family purchased the land that is now Hilltop Mall. At that time, national and regional retailers were not interested in coming to the Hilltop area of Oregon City as they didn't think the community would support a shopping center. Her family took a gamble and developed Hilltop Mall. They now have 30 businesses operating in their center and they share the hill with four large centers and numerous small centers.

In 1971, the intersection known as the Beavercreek Y was failing without their shopping center. They were allowed to build their center only after committing to widen Molalla Avenue by giving right-of-way, paying to widen the street, and paying for 100% of the signal. Whether their center was there or not, she said, that was needed.

She said she does not understand the applicant's refusal to mitigate traffic impacts that their development will place on Oregon City. Those who have come before have paid for this mitigation for themselves.

In 1991, they were required to donate to the City of Oregon City over 54,000 square feet of land for a right-of-way and drainage ditch easements plus \$40,000 in cash for City storm piping for the Beavercreek Road extension for a road that they did not want or need.

In addition, the signal they paid for at Beavercreek Y was relocated to an inferior location between Key Bank and McDonald's. The applicant's traffic analysis shows this signal will be blocked by stacking, making ingress and egress to Hilltop's center merchants difficult at best.

Their access has already been comprised with the placing of the Beavercreek Road signal at their loading dock rather than at the front entrance of their center, as originally agreed by the City. So she asked them to please not drop block their Molalla Avenue signal.

Oregon City, she said, has sufficient commercial land. She asked how existing commercial land could prosper or redevelop if new commercially zoned land is made available against zoning regulations. For example, Emporium will soon be closing its Oregon City Shopping Center. McLoughlin Boulevard and 82<sup>nd</sup> Avenue have many large vacant commercial properties that would benefit from redevelopment.

She argued that there is a point at which the community cannot support more commercial square footage. She asked, Will our land use plans encourage redevelopment of existing commercial sites or risk urban blight by increasing commercial zoning when there is no need?

As an Oregon City resident, **Suzuki** said she questions Wal-Mart's mailing. She said she lives less than two miles from the site and didn't receive a mailing but people in Canby—(12 miles away, east by Carver—all received the mailing.

**Suzuki** said Wal-Mart has continually said throughout this process that the store is meant to be local, not a regional draw. These mailers cast doubt on that.

In summary, she requested that the PC deny these applications.

Representing group 2, **Julia Laugerhausen**, 15050 S. Green Tree Drive, said she is against Wal-Mart basically in this general area. She said she was testifying as a resident and a homeowner in the area, noting that she has both a son and a daughter who have grown up in Oregon City and as adults continue to live in the area.

**Laugerhausen** said Oregon City is basically a bedroom community to the greater Portland area. She said she doesn't know how much the revenues from this Wal-Mart might help our school districts much based on the example that there are Wal-Marts in the Portland area and those schools are failing. This is a state-wide problem.

She said Home Depot has come into our area and they are doing fine down below the hill. To bring such an influence up on the hill to an already chaotic traffic-congested area doesn't seem to make any sense, nor does it make sense to bring an outer influence of people into this small community who only want to save money and don't care about Oregon City.

She urged the PC to keep Oregon City the nice town that it is. She said we've got Danielson's, Fred Meyer, and others who have been here for some time supporting our community, and she thinks Wal-Mart would only cause problems in that respect.

**Kathy Hogan**, 19721 S. Central Point Road, spoke at this time for the Hazel Grove/Westling Farm Neighborhood Association, who had submitted minutes from their meeting expressing their concerns about the traffic impact, the impact on the neighboring businesses, and other issues.

She said she thought the attorney did very well on the criteria because of the water resource and the traffic impacts, along with the other issues, and she really agreed with him.

**Denise McGriff**, 815 Washington Street, spoke representing the McLoughlin Neighborhood Association, who would like to go on record in opposition to this Plan amendment, Zone Change, Site Plan, Water Resource review, and anything they've applied for this evening. She noted that she would submit some additional information on behalf of their neighborhood association.

She chose to focus on a couple of items to reiterate the fact that this application really is flawed in many ways. She said many people have already testified and this neighborhood association concurs with that statement. Basically, she said, the application didn't address the criteria. In their submittal, they have reviewed the proposed state-wide planning goals—they were not really adequately addressed.

Regarding public need, **McGriff** said they feel this is the most significant criteria to be reviewed and, unfortunately, the applicant's submittal really only addresses the fact that the need that they are expressing is a private one. There is nothing in their submittal that indicates that this is anything other than a private and that they can't build this development without this. Therefore, it does not constitute a public need.

Another problem is that Oregon City will be required to shoulder the burden of the negative effects that this proposal will bring to the city. Unfortunately, Oregon City is already constrained by inadequate facilities and services and also the water resources that would be affected in Newell Creek Canyon. They do not think the solutions the applicant has proposed are adequate in any way to meet the need.

Regarding the question of whether the changes will adversely affect public health, safety, and general welfare, they sincerely submit that it will. The negative effects from this proposed development, no matter who it is, will have impacts on Newell Creek Canyon; it will adversely affect home-grown businesses; and the proposal does not really add any value to the existing Oregon City economy except that it will over-duplicate goods and services already available here.

**McGriff** said they would submit in writing further testimony that the factual base doesn't support this request and certainly the Comprehensive Plan criteria is not met in any way.

Finally, she said she is a bit disappointed that the applicants are continually asking the Commission to approve this by increment. They want to keep submitting and resubmitting more and more information until they feel they might get it right, which she feels is totally inappropriate. She thinks they have had plenty of opportunity to submit their information and that should be enough. Therefore, she strongly encouraged denial of this request.

**Robertson** noted that **Jepperson Carter** wanted to let the Commission know that Carol Suzuki's comments will be entered into the record for public testimony will be entered in the record as Exhibit J.

Under individual comments against the applications, **Richard Brown**, said he was trying to use criteria for public health, safety, and general welfare. He said he tends to be a little too educated in the methods of employment of Wal-Mart because he has been in the Teamsters Union, a very educated union, for quite awhile. He said they are in association with other unions in the area. They've also had contact with the Clerks Union and they know that because of the way that Wal-Mart does their business, they tend to be a poor employer. He cited the following examples:

- They have high turnover; they don't maintain a steady work force.

- He said he thinks the benefits the City might be looking for from this employer will be shifted. In other words, their scheduling is such that they probably will have to fall on the general fund for health care.
- They tend to prefer to hire spouses of existing employees who already have a health care program.
- They also have a tendency not to supply 40-hour work weeks. There was a recent law suit claiming they were having employees work off the clock and not claim overtime.
- There was an article about discrimination in the *Business Week*, March, 2003, regarding the discrimination in salaries between women and men, showing a large difference.

His point was to ask if this is the kind of neighbor Oregon City is looking for—a neighbor who is not out to do business for the community, but solely for themselves.

In conclusion, **Brown** said we ought to value what kind of neighbor we let into the neighborhood. He said he doesn't know anything about the taxes regarding what kind of revenues they would generate or where they would pay out. However, he feels the City should be warned about the type of company they are. He said they are a big, powerful company whose effects are even felt overseas. They are high dollar, you can't argue with them, and they have hardly any controls on them unless they get caught by the government.

**Chair Carter** thanked everyone for staying late and said this hearing would be continued on March 10<sup>th</sup>.

**Cook** said staff would try to locate a bigger venue and said they would post the location of that meeting both at City Hall and on the city's web site.

#### **NEW BUSINESS**

None.

#### **ADJOURN**

With no other business at hand, the meeting was adjourned at 11 p.m.

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Linda Carter, Planning Commission  
Chairperson

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Tony Konkol, Associate Planner

**CITY OF OREGON CITY  
PLANNING COMMISSION MINUTES  
March 10, 2003**

**COMMISSIONERS PRESENT**

Chairperson Carter  
Commissioner Lajoie  
Commissioner Mengelberg  
Commissioner Orzen  
Tim Powell

**STAFF PRESENT**

Chris Cocker, Consulting Senior Planner  
Sean Cook, Associate Planner  
Dan Drentlaw, Planning Director  
William Kabeiseman, City Attorney  
Nancy Kraushaar, City Engineer  
Tony Konkol, Associate Planner

**COMMISSIONERS ABSENT**

None

**1. CALL TO ORDER**

**Chair Carter** called the meeting to order at 7:05 p.m.

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

None.

**3. APPROVAL OF MINUTES (Jan. 13, 2003)**

**Mengelberg** moved to approved the minutes of 1/13/03 as submitted. **Lajoie** seconded the motion, and it passed 4:0:1. (**Orzen** abstained.)

**4. HEARINGS:**

**Chair Carter** noted that this hearing was being held in a different venue (Pioneer Community Center) and asked forbearance as everyone worked through the process in different surroundings. She gave the parameters and procedures for the hearings on the agenda this evening, both of which were continuances from the prior meeting and both of which were quasi-judicial in nature.

**VR 02-10 (Quasi-Judicial Variance Hearing); Great American Development: Joe Spaziani; Request for a Variance to increase the maximum cul-de-sac length by 50 feet for the property identified as Clackamas County Map 3S-1E-12A, Tax Lot 2300 and located southwest of Partlow Road and southeast of South End Road. (cont'd. from 2/24/03).**

**Chair Carter** reopened the hearing, and asked Konkol to make the staff presentation.

**Konkol** said he had presented to the Commissioners a letter from Kathy Hogan dated March 8, 2003, to be entered in the record as Exhibit A. He also distributed a memo from Black, Pembroke, & Helterline dated March 7, 2003, which would be entered into the record as Exhibit B.

**Konkol** said staff had prepared some supplemental information for the Planning Commission's consideration, which he then briefly summarized.

Regarding the safety issues that were discussed, **Konkol** said the City's City Engineer performed another site visit to clarify the sight distance from the proposed intersection of the subject site with South End Road to Filbert Land and Longstanding Court, which would be northeast and southwest, indicating that there is adequate sight distance for an arterial/local street intersection at that point.

Regarding the planning issues, **Konkol** said the TSP provides policies and guidelines for the development of the transportation system that are then implemented to existing development patterns of the City. Finding an adaptable balance between the adjacent land use needs and the mobility of the traffic and providing long-term system stability requires increased street connectivity.

The TSP does state, as the applicant pointed out, that "a transportation system with good connectivity is characterized by a smoothly transitioning purpose-oriented hierarchy of roadway lengths." The remainder of this sentence continues on to say that "The transportation system should minimize auto direction travel and provide users with transportation choices from among multiple travel routes and modes."

As a matter of policy, it is important as a transportation system design that utilizes a hierarchy of street classifications for connectivity. This does not mean a hierarchy street system is the only way that connections can be made, a local street does not have to access a neighborhood collector in order to access an arterial.

**Konkol** said staff is looking at the fact that there has been a lot of development around this proposed development and cul-de-sacs have been utilized to a great extent. Filbert Lane is a neighborhood collector, as are Salmonberry Drive and Parrish Road. He said staff is looking at transportation and connectivity issues that are greater than just the subject site and the properties abutting it—they must look at the transportation system as a whole, and providing connectivity is essential for a smoothly functioning transportation system.

He said the TSP does call for an 800-foot separation between neighborhood collectors on an arterial. That would mean a neighborhood collector then, ideally, another 800 feet before another neighborhood collector. The TSP also calls for a 400-foot separation of local streets to the arterial. So, ideally, the grid system would have a neighborhood collector, 400 feet later a local street, 400 feet later another neighborhood collector.

**Konkol** said it is evident that we do not have a perfect grid system functioning on South End Road. The McLoughlin School District is located to the south, and there are no stubs into that property. Longstanding Court is to the north, which is going to be a dead-end with no connection. This is the last remaining piece where a connection could ever be made, and staff, in working with the City Engineering Dept., has determined that a connection there would be feasible.

The City discourages the use of cul-de-sacs and one of the criteria of a variance is to show that an alternative cannot be provided. The applicant has not shown to staff upon request that an alternative does not exist, although it is the applicant's responsibility, upon submitting an application, to provide that information and to examine those alternatives to see if they do or do not exist.

In summary, **Konkol** said the neighbors had indicated a desire, as indicated in Hogan's letter, that they would like traffic calming on Filbert Drive and she would agree with staff and staff's finding that they would agree that traffic calming on Filbert Drive is appropriate. He said it is not staff's intention to revoke the opportunity of the traffic-calming offer, although they do not feel that traffic calming in lieu of a connection is appropriate for a well-functioning traffic system on South End Road.

**Mengelberg** asked, If there were access parallel to Rose Road, how would people get to the sites adjacent to South End and also internally? Is staff proposing a dog-leg across from Rose Road and then down? **Konkol** said yes, it would be similar to that, coming down to the connections.

**Powell** asked for clarification of the sight distance potential from Filbert Drive to Rose Road. **Konkol** said it would be approximately 460 feet from Filbert Drive to Rose Road and 300 to Longstanding.



**Powell** asked if variances would be required for that since it would be under 500 feet. **Konkol** said not necessarily because it is up to the decision-maker.

**Chair Carter** said she understood that Longstanding Court, because it is a cul-de-sac, doesn't have the same requirement as a street that would be a through-collector, and asked if that was correct. **Konkol** said it is a local street, however it is a dead-end that does not function as a local street. He reiterated that they must consider the whole of the picture and that, in working with the City Engineer and the Engineering Dept., it was determined that it does not pose a safety hazard due to the limited amount of traffic that will utilize it since it is a court/driveway serving 12 homes.

**Powell** said he thinks it is still a sight distance issue on South End Road. He admitted that there are some challenges with planning through there and his only concern would be a sight distance between that and Partlow, Rose Road, Filbert, and Longstanding Court. That would make at least four intersections within 1,000 feet. **Konkol** concurred, noting that there is currently an application for a Planned Unit Development (PUD) on the north side of Rose Road but it will not have access onto South End Road.

In applicant rebuttal, **Eric TenBrook** of Black, Helterline Attorneys, 805 SW Broadway, Suite 1900, Portland, OR 97205, spoke on behalf of the applicant, Great American Development Corporation and Joe Spaziani. He asked Mr. Sisul to put up some Code provisions and some TSP plan issues for reference as he responded to the latest staff report.

**TenBrook** said it is important to remember the reason for this hearing, which is to decide not whether to put in a connection to South End Road but whether to grant or deny this variance for a 50-foot dimensional change on a court (cul-de-sac). So the decision is whether or not the standard for a variance is met, as found in 17.060.020.

The first issue is whether this applicant would be denied rights enjoyed by other property owners. As staff has already noted, there are already several other cul-de-sacs in the area, so **TenBrook** said that staff's argument that this applicant can't have a cul-de-sac because everyone else has one rather mitigates against this provision.

**TenBrook** then noted that in Subsection D, the standard is not a question of whether the applicant submitted all the practical alternatives. In fact, he said, they submitted a practical alternative of traffic calming devices. The question is, No practical alternatives have been identified which would accomplish the same purposes and not require variance.

**TenBrook** said he wanted to demonstrate that there is some confusion about these standards and that it is the applicant's position that a variance is required for two different and independent reasons.

1. In 16.12.050, the standard reads, "A minimum distance to streets intersecting a collector arterial *shall be* 500 feet between center lines unless the decision-maker finds that a lesser distance will not pose a safety hazard", as cited by staff.

In particular, **TenBrook** noted that: 1) it is dated 1998; 2) the standard is a "shall" standard; and 3) it says "unless the decision-maker...." First, he said he thinks that the decision-maker is the Planning Commission (PC) making the decision this evening. He said, *If* they had a variance in for a street connection..., but in fact they are not asking for a variance for a "below 500-foot" street connection. What they are asking for is the standard that asks if there is a practical alternative that does not require a variance. **TenBrook** said he thinks it does require variance.

2. In 16.04.050, General Standard, it says, "Any variance from these dimensional requirements must be specifically requested through an application for a variance pursuant to Type 3 procedures providing a 17.50 and reviewed according to approval standards for variances in 17.60."

**TenBrook** said the issue here is that, if they were going to do this connection to street alignment standards—if they had asked for that—it would require not only that the decision-maker say there is no safety hazard, but all of the other 17.60 standards would apply to it. That is important because this is not a basis for denial of the variance the applicant requested, nor is the applicant required to submit this alternative in order to prove that they have met the standards.

**TenBrook** reiterated that the job before the PC was to determine whether or not the applicant has met the standards for their application.

Moving to the TSP, **TenBrook** addressed the issue of connectivity. He said staff says, “Good connectivity would be a road connection.” **TenBrook** said the TSP doesn’t talk about connectivity being just good road connections. Rather, in Goal 1, paragraph 2, it talks about an “inter-connected and accessible street system that minimizes vehicle miles traveled and inappropriate neighborhood cut-through traffic.” **TenBrook** said a connection coming from Rose Road from South End Road into a local street is not minimization of cut-through traffic. It only enhances that.

Moving to Goal 2 – Safety, Objective #3, **TenBrook** read, “Identify ways to minimize conflict points between different modes of travel.” And under the bullet points, “The City’s roadway system plan provides guidance to best facilitate travel within community by addressing two key issues: a roadway classification system and corresponding street design standards...access management policies.” Further, on the next page, paragraph 2, “A transportation system with good connectivity is characterized by smoothly transitioning purpose-oriented hierarchy. Good connectivity—auto trips to a nearby local destination—should be served on local and collector-level streets and the user should not have to use an arterial that was designed to serve longer regional trips.” (He noted that this was adopted after the 500-foot standard was adopted.)

**TenBrook** said his point was that a lot of planning time and money is spent on transportation system plans and street classification guidelines to design the system of connectivity, in which the idea is to keep the cars from local streets on neighborhood collectors and local streets as much as possible unless regional travel is necessary and to minimize cut-through traffic.

All of this then comes to the issue of how access management is done. From the bottom of the next page **TenBrook** read, “Roadways on the higher end of functional classification (i.e., expressways, major arterials, and minor arterials) tend to have high spacing standards while facilities such as neighborhood collectors and local streets allow more closely spaced access standards.” And on the next page, as adopted in 2001, “Access variances may be provided.” And (at the bottom of that page), “In cases where physical constraints and unique site characteristics limit the ability for access spacing standards listed in Tables 5.7 and 5.8 to be met, the City of Oregon City will retain the right to grant an access spacing variance.”

**TenBrook** reiterated: All of this to reduce standards requires a variance from either Chapter 16 (the 500-foot standard) or this Table 5.7 (a separate standard adopted in 2001). He then showed the table, which reads, “Local street: access to a minor arterial: 400-foot spacing.” He said there is no safety “unless the decision maker” language here.

He then read from the very bottom of the table, “A variance process for City standards similar to that described above for the ODOT Access Management Plan should consider land use on a case-by-case basis.”

Again, he said, the question is whether the PC can grant or deny a cul-de-sac based on the planning. But the planning done in 2001 consistently says, “Let’s discourage this process.” Yet now this is being raised as a reason to deny.

**TenBrook** referred to the bottom of L-7 in the Plan regarding arterial streets, "Arterial streets shall form a continuous street network and these should be given preferential treatment... The intersection of local streets directly with major arterials should be discouraged..." And on the next page, "Local Street: Access to the arterial, not major or minor, should be provided through collector street networks."

Again, **TenBrook** said, the consistent planning of this City has been to do it this way since the plan was adopted, since the ordinance was adopted in 1998 in Chapter 16, and in 2001, when the City spent a considerable amount of time on the transportation system in response to Metro regional transportation system planning to do it this way. He said we are not here to revisit that transportation system planning and make a connection to South End Road. Rather, we are here to decide if the standards get met. Holding this up to say that a South End Road connection means the applicant didn't present an alternative isn't a basis for denial. A South End Road connection is not consistent with the planning and would, in fact, require a variance from those standards, so it can't be used as a basis for denial.

**TenBrook** apologized for taking so much time in presenting this case but felt these points were important. He also noted that he will not be serving further on this case because he is being called to serve in the duty of our country, but he asked on the record that Konkol be in touch with Steve Shell in his firm regarding anything further on this matter beyond this evening's hearing.

**Powell** said he understood that the purpose this evening was discuss the variance on the 500 feet. He said he just wanted to clarify that what we have generally done in Oregon City is to offer other options if the proposed option doesn't seem to be the right option for the situation, and he said the PC relies a lot on staff in the early process.

**TenBrook** said he understood that and that he likes to work with staff in general, but these are difficult standards because there are several different sources of input. He said his client wants to provide some input as to the off-site developments that otherwise would require a proportionality finding by the City. He explained that, because there are off-site improvements, there must be a balance between the traffic calming things and if the offset is roughly proportional. The client offers that because he is aware of the concern of the neighbors, but he doesn't think they need to get into that proportionality finding with this offer.

**TenBrook** said there is a great issue of practicality for the applicant in that a connection down Rose Road to get across South End Road and into his dead-end development is clearly not a desirable neighborhood feature, nor is it a calming feature for his development. He said those are some practical reasons beyond the "standards" reasons why the applicant is particularly not excited about the prospect of this sort of dog-leg connection that crosses over to Rose Road.

**Powell** added the thought that sometimes what appears to be the best plan at one point in time may change over time, which in this case might be that a cul-de-sac might not work best for a particular piece of property even though there are cul-de-sacs all around it, particularly if it is the last piece of property in the group. He said he hoped that staff expressed that in the pre-app meetings, and he could see in the various pieces of related documentation that staff said early on the a cul-de-sac could work but then later said a cul-de-sac is not going to work. However, he couldn't tell what drove that change of mind. He did acknowledge, though, that in the last ten years the City has changed its approach and is now saying it doesn't want any more cul-de-sacs, so he must keep that in mind as well.

**Powell** said he could understand that the applicant might not want a connector to South End because it wouldn't make his development as appealing as a neighborhood. On the other hand, the applicant's proposal for a cul-de-sac may not be as appealing to the surrounding neighborhoods, which were there first. He said if speed is the

issue, the traffic-calming devices may be a solution, but if volume of traffic is the issue, there may be other considerations and a better solution.

Speaking in opposition, **Kathy Hogan**, 19721 S. Central Point Road, clarified that the letter submitted this evening (Exhibit A) was actually from the neighbors, who signed it and then asked her to deliver it to the City.

**Hogan** said the neighbors were concerned about the number of cars going through there, and that they would like to see the cars go straight out rather than adding additional volume to the existing traffic.

**Hogan** then asked if, during construction, the trucks would be going through "the one housing development" to get to their site or if they would be using the side streets. **Konkol** said he thought they would use the existing local streets. In that case, **Hogan** said having a connector right onto South End would be preferable to having heavy trucks on the local streets, possibly causing damage to them.

**Hogan** then said she thought this was a self-imposed hardship and for monetary gain because they might lose the house.

**TenBrook** asked for and was granted time for additional rebuttal to the last comments.

He read from the initial staff report recommending denial (page 4), "Staff has determined that a cul-de-sac utilizing Filbert Lane and the impacts on the neighborhood collector appear to be minor." He said he believes that to be consistent with the traffic report from Lancaster Engineering, which was in the original application packet and which was also submitted at the last hearing because it didn't get into the record when the two cases split off. He said he thinks the record shows that, in terms of actual traffic impacts, there is not this proportionality issue as far as any of the evidence of traffic. He said this was also reviewed and supported by the City's traffic engineers, who also found that there were minimal traffic impacts during the zone change.

Therefore, he doesn't believe that the amount of traffic is an issue. He said if there is an issue, it is that of speed on Filbert, and traffic impact is minimal or diminished in this case.

**TenBrook** then noted that the applicant would waive the seven-day submission of extra evidence.

**Chair Carter** closed the public hearing and moved to deliberations.

**Powell** returned to **TenBrook's** point in reading from page 4 of the original Type 3 document, which stated that "Staff has determined that a cul-de-sac would increase the traffic utilizing Filbert Lane and the impacts on the neighborhood collector appear to be minor."

He asked if the "neighborhood collector" referred to therein is Filbert Lane, and was told yes.

Then he asked if there is now a different opinion about that since the first report was written. **Konkol** said staff concurs with the applicant that there will be impacts and those impacts will be minor. He said staff is looking at this as a connectivity issue to offer different transportation routes other than just Filbert. He said they are looking at street networks that would provide some greater connectivity in that area.

Regarding the traffic calming, **Chair Carter** said it was her understanding that if the traffic were required to go out to South End Road, it would be an "either/or." If they get the variance for the cul-de-sac, they would be required to do traffic calming on Filbert. If they were denied the variance and had to come back with a road that went to South End Road, they wouldn't have to install the traffic calming.

**Konkol** said the applicant proposed the traffic calming as a remedy in lieu of a street connection.

When **Chair Carter** asked for clarification that the City was not making this requirement, **Konkol** said that was correct. The applicant offered this to City staff, who, in discussion, said they didn't think it was appropriate "in lieu of" because the traffic impacts of this development appear to be minimal.

**Powell** said he doesn't think the use of calming devices is traditionally something we do in Oregon City and, while he appreciates the offer, he wouldn't want to see the beginning of speed bumps on every residential street. In fact, he recalled that in the past neither the Police Dept. nor the Fire Dept. was in favor of them, and he asked staff what our current position is.

**Nancy Kraushaar**, City Engineer, said staff is looking at calming on City streets as different neighborhoods come to the Transportation Advisory Committee and ask for it. She said it appears that the best kind of traffic calming is designing the streets well to begin with so speed bumps don't need to be installed later. They are also looking at more median-type treatments so there isn't a bump to go over.

She said the Fire Dept. and the Police Dept. have given the opinion that traffic calming slows them down somewhat, but they feel like it doesn't make the ultimate difference in whether or not they are able to reach a scene in that split-second timing. So they have been amenable to considering traffic calming in certain locations.

She said they have also requested that, in terms of speed bumps, there is a new style called a table top speed bump, which we do not have in Oregon City. Those, for fire engines, are the least destructive compared to the old style, which tend to be damaging to the apparatus.

**Kraushaar** said she would say "the jury is out" on speed bumps. The table tops are a better design. Median treatments provide some benefits in that you are not bumping up and down, but you have an obstruction in the middle of the road, which people need to be cautious of. So the better alternatives for traffic calming have to do with the street design. So, in looking at new subdivisions, staff is trying to encourage curb extensions, anything that narrows streets, particularly in certain locations, so people don't have the opportunity to just race down a street but instead feel more compelled to slow down.

**Mengelberg** had no comments.

**Orzen** said she drove the neighborhood earlier this day and she noted that there are a lot of cul-de-sacs in that area. In fact, she said she almost had a hard time finding her way out of that area because of the lack of connectivity. So she could see where the streets going through will be a great boon to that area.

She said that, living on a cul-de-sac herself, she thinks they are nice, but she can also see that they make circulation very difficult.

**Lajoie** had no comments.

**Chair Carter** summarized her thoughts as follows:

- She said she personally would tend to trust the judgment of the Engineering Dept. because they are the most familiar with things, and their recommendation was for the applicant to present a plan for a design that would go to South End Road.
- She said the sight distance is a confusing issue with regard to the one cul-de-sac not being a collector. On the one hand, there seems to be plenty of room. From another point of view, there is not.
- She said she believes we have the need for connectivity in that area.

- She agreed with Powell's comment that this applicant has the disadvantage of being the last parcel to be developed in an area that was developed with too many cul-de-sacs and too little connectivity. If someone else had already done the connectivity, they would be fine. But the fact is that that hasn't been done and it appears that the greater need is to have connectivity at this point in time.
- She said she doesn't believe there is a need to do traffic calming and have the road out to South End Road. She believes it would be one or the other.
- She said she personally would prefer to stay away from traffic calming devices such as speed bumps because they are really annoying and, even though the residents may want traffic to slow down, she doesn't think they will really appreciate the speed bumps when they actually have to drive over them every day.

In conclusion, she said it is sometimes unfortunate that we can't just make everything move forward in a smooth and consistent direction the way we wish we could, but in this case she felt that the greater good for the City at this point is to have a connector to South End Road.

**Powell** added that he is a little concerned about the amount of misunderstanding between what is being said and what is written. For instance, he noted that the attorney raised four different points from three different documents about when variances are and are not required and, although updates are an ongoing thing, it makes it very difficult for the applicant, for staff, and for the PC. Therefore, he said perhaps we need to do a little more due diligence when we are talking about legal implications.

**Kabeiseman** said he thinks it is a little bit difficult because we're talking about variances in the language and it really requires us to look at several different aspects of regulations that the City has within the Comprehensive Plan, the TSP, and the Code. However, he thinks the bottom line is to focus on the criteria that are laid out in 17.60.020 and whether those criteria have been met for this particular application.

**Powell** added that he believes this decision must be made on the request for this particular cul-de-sac, not on any other cul-de-sacs or any other roads.

**Chair Carter** said it was her understanding that staff repeatedly asked the applicant to present the option of "the other option" as a possibility to be pursued, and they haven't done that. Instead, they have stayed with their option of asking for the variance. So, she asked, Does the variance meet the criteria or does it not?

**Powell** moved to deny file VR 02-10 for the property identified on the Clackamas County Tax Assessor Map as 3S-1E-12A, Tax Lot 2300 for the extension of a cul-de-sac. **Orzen** seconded the motion. The motion to deny passed unanimously.

As a matter of clarification, **Kabeiseman** asked if the basis of denial was based on the staff reports that were prepared or if the PC wanted to have findings brought back for the PC's review and approval. **Chair Carter** said it could be based on the staff report.

**PZ 02-01 (Quasi-Judicial Amendment to the Comprehensive Plan Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for an amendment to the Comprehensive Plan for 1.04 acres designated High Density Residential to Commercial for the properties identified as Map 3S-2E-5DB, Tax lots 2400, 2500, 2600, and 2700. (cont'd. from 2/24/03).**

**PZ 02-02 (Quasi-Judicial Amendment to the Comprehensive Plan Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for an amendment to the Comprehensive Plan for 0.92 acres designated Low Density Residential to Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2800, 2900, 3000, and 3100. (cont'd. from 2/24/03).**

**ZC 02-01 (Quasi-Judicial Zone Change Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Zone Change for 1.04 acres zoned RA-2: Multi-Family Dwelling to C: General Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2400, 2500, 2600, and 2700. (cont'd from 2/24/03).**

**ZC 02-02 (Quasi-Judicial Zone Change Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Zone Change for 0.92 acres zoned R-10: Single-Family Dwelling to C: General Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2800, 2900, 3000, and 3100. (cont'd. from 2/24/03).**

**Chair Carter** reopened this public hearing and **Kabeiseman** asked if there had been any ex parte contacts or if there were any other disclosures that needed to be made.

**Chair Carter** said sometimes she is curious about things that are not pertinent to the criteria and she had entered into a couple of conversations—one with Mayor Alice Norris and one with City Commissioner Bob Bailey—with regard to this property and its affiliation with our Urban Renewal District. Mayor Norris said she wasn't yet familiar with the Urban Renewal issues or any issues that might be involved in the Hilltop area, and Bailey said he had only recently come to understand that that area was in the Urban Renewal district. **Chair Carter** said she is not certain if the two acres being discussed this evening are actually in the Urban Renewal district or not.

There were no challenges against Chair Carter to continue participating in this hearing.

**Dan Holliday**, 1223 Monroe St., had with him a copy of a letter to the editor of the *South Metro/Clackamas County Weekly* from March, 2002, written by Powell, whom he thought had seen a copy of this article. **Holliday** asked that Powell recuse himself from this hearing, given the content of the article and the obvious bias that Powell has shown in this article and at least two occasions at the McLoughlin Neighborhood Association and as part of the group that has organized against Wal-Mart Association.

**Kabeiseman** asked Powell if he had already made a decision on this matter or if he was able to listen to the facts and information brought forward to make his decision based solely on the information he received at the hearing.

**Powell** said he had not made a decision on this land use decision and he thought he could make a decision based on the facts only. As background, he said that in February or March, 2002, prior to this application coming before anyone, he did write a letter when he first heard of the potential of a big box store moving into the area, and at the time he didn't even know who that might be. He said he is currently the chair of the Citizen Involvement Committee, which he would soon be leaving, and the co-chair of the McLoughlin Neighborhood Association. He said he mentioned at the last PC meeting that he was involved as chair in putting together a land use committee of land use chairs and he attended that meeting, where they discussed process but not substance. Regarding the meetings of the McLoughlin neighborhood, he said those, too, were process issues. He said they have a land use chair and he has actually left the room as recently as the last meeting when this issue was raised. Therefore, he thought he could make a decision based solely on the facts presented.

**Holliday** asked him to confirm that the letter was written before he knew who the interested party (Wal-Mart) was. **Powell** agreed, saying it was before he had seen anything as a chair and before any land use application had been submitted. He said all he knew was that it was a big box store but he didn't know who.

**Holliday** said the actual question in the newspaper was, "How do you feel about Wal-Mart coming to Oregon City?" So it is difficult to make the argument that we didn't really know what was going on when, in fact, even

though the technical application hadn't been made, pretty much everybody knew what store was being discussed. He reiterated that, as a former City Commissioner at the time, it was a well-known fact that that was what we were talking about, even though it technically hadn't been brought out into the open. Therefore, he didn't believe that Powell could be unbiased in this hearing.

**Kabeiseman** said, unfortunately in matters of bias, we can't get inside a person's head. Written evidence is certainly an indication, but the Commissioner has indicated that he has not formed an opinion on this particular application and that the only information he is reviewing information for is the information that is forthcoming in this material. Absent additional information, he didn't see that they could force the issue.

**Holliday** said he was curious because Mayor Williams had to recuse himself in a similar situation with the Everett Brundage with much less physical evidence that what is in this letter and what has been known to occur at the McLoughlin Neighborhood Association and other venues. So he was confused why Kabeiseman would suggest that the Mayor step down from that hearing versus Powell not stepping down now.

**Kabeiseman** said he understood Holliday's concern and all he could say was that, given the information presented and the response of the Planning Commissioner, we don't have bias. If more information is forthcoming, it can be reexamined at that time.

**Greg Hathaway**, representing the applicant (Wal-Mart) said this was the first he had heard of this article and, based on the way it was presented and characterized, he was concerned about an article in *The Oregonian* that referred to Wal-Mart specifically. But he said he had not had a chance to review the article, so he asked for time to review it and then reserve the opportunity to ask Powell questions during his review to make sure that, if Powell is truly going to participate, he will not be biased because there is an obligation that everybody is not prejudiced or biased in any proceeding like this.

**Chair Carter** was willing to grant a ten-minute recess to allow Hathaway time to review the letter, but **Hathaway** said, because he assumed this hearing would be continued, he would prefer to have time to study it carefully in order to be fair to the applicant and to Powell.

**Chair Carter** asked if he was suggesting that they stop the hearing immediately and continue it in two weeks. **Hathaway** said he wasn't suggesting that at all. He was suggesting that he would thoroughly review the letter before the next meeting and then, before Powell would vote on something, he (Hathaway) would be allowed to ask Powell specific questions to determine his position of bias or no bias. In other words, he was comfortable in continuing with the process this evening with Powell's participation but he reiterated that the he would like time to review the situation and then, if he chooses to, be given the opportunity to ask questions of Powell at the next hearing.

**Chair Carter** granted the request, and noted that Powell is serving on the PC because of his extensive service to and knowledge of the community, as were the rest of the commissioners, all of whom believe themselves able to hear the facts and make a decision based only on the facts.

Moving into the actual hearing, **Cook** read some recent exhibits into the record, including:

- Exhibit 1: Public comment made at the last hearing by people who chose not to testify verbally at that meeting but did want to submit written comment.
- Exhibit B: Comments staff has received from 2/25/03 through 3/7/03, both by mail and delivered personally to the office.
- Exhibit C: A letter from Denise McGriff representing the McLoughlin Neighborhood Association.
- Exhibit D: A letter from Rick Gibbons.
- Exhibit E: A letter from Jim Beene.



**Chris Cocker**, of David, Evans and Associates, spoke on behalf of staff to make a couple of points of clarification on the Comprehensive Plan amendment and the zone change requests. He reiterated that the applications are not being based on the approval or the denial of a specific proposed use. These findings are based on the review of the appropriateness of the change from a Residential to a Commercial land use, which involves the approximately two acres of property. Staff is looking at the impacts of the proposed change on those two acres and how that impacts the residential land base that the City has versus the commercial land base and the public facilities that go with that.

**Cocker** also reminded the PC of the summary made at the end of the last hearing that there are some broad categories that staff is discussing as non-compliant in the staff report. Those categories fall under community or public need, effect on transportation facilities, effect on adjacent properties, housing, and the protection of public health, safety, and welfare.

**Chair Carter** thanked him, acknowledging that it is sometimes confusing to try to separate out the various pieces of the "bigger picture" but agreeing that the decision-making and the criteria for this hearing must only apply to these applications for a Comprehensive Plan amendment and a zone change for two acres of residential property that the applicant wishes to have converted to Commercial.

The applicant had no further comments to make at this time, so **Chair Carter** moved to continuation of public testimony by citizens.

Speaking in favor, **Bruce Westerfield**, 20595 S. Molalla Avenue, said for many years he had resolved to never shop in a Wal-Mart store. However, on a business trip to Mississippi he got to his destination and discovered he didn't have his shaving kit or a change of clothes with him. Putting his business considerations in their proper perspective, he went to the Wal-Mart store, which was just across the street from the location of his business meeting, and found everything he needed to make that trip successful. He said he also found that some of his preconceived personal opinions about Wal-Mart were not quite accurate.

Since that time he has visited several Wal-Mart stores in the United States and Canada, where he has found courteous and helpful assistants, satisfactory products and prices, and very good service after the sale. He said he will go to Wal-Mart when traveling over other stores because of that service, although he noted that locally he doesn't go out of his way to go to Woodburn or Southeast Portland.

**Westerfield** said he has seen growth, expansion, and change in Oregon City during the years he has lived here (since 1978). Some things were good and some things he didn't like. But, he said, Wal-Mart will be a good neighbor for us. Wal-Mart's presence will improve the look and the feel of the Hilltop area in Oregon City. Dale's Auto Wrecking and the adjacent field of brush and weeds detracts from the other developments in that area and that needs to be changed.

He said he thinks the Wal-Mart project is the best choice. It makes the most probable use of these areas in the following ways:

- It addresses the environmental issues of the site.
- It protects the Newell Creek waterway and canyon area.
- It increases the business activity of the entire Hilltop community.
- It produces value-added service for the community in jobs, tax base, and retail services.
- The requested zone change will not alter the housing availability since there is a commitment to relocate or rebuild all of the 22 living units.
- It will improve access and appearance for the residential properties remaining along the north side of Hilltop Avenue.

**Westerfield** said he believes the Wal-Mart project will do more to improve the make-up, productivity, appearance, and safety of this area than anything else. Smaller projects cannot consolidate their resources to make the same significant impact. This was the understanding of the Oregon City development when the area was annexed into the City in 1989. The staff report stated that the area was best suited to large commercial development. Therefore, he asked that the PC help improve this area of Oregon City and approve the requested zone change that will allow the Wal-Mart project to proceed.

When several people whose names were called to testify didn't respond, **Chair Carter** noted that some of the people who signed up at the last meeting were either not in attendance this evening or had submitted their comments in written form.

Speaking against the application, **Mary Edwards**, 1304 Beaver Lane, said she does shop at Wal-Mart but chooses to drive to Woodburn to do so.

She explained that she has lived in the Oregon City area all of her life and at the present address for 27 years. She said they chose to move there because it was a quiet, secluded neighborhood of modest homes. Recently though, shortly after the homes were sold on Hilltop, they were faced with a row of boarded up houses—a blight to the neighborhood.

**Edwards** said their only outlet is Hilltop and if the PC allows access to Hilltop at the proposed site, it will flood their neighborhood with unwanted traffic. From Hilltop, one crosses to Warner-Milne on Fox. She said this is already a bad situation and if the PC allows this, then Fox should be restricted to either no parking or at least parking on only one side of the street.

She said Warner-Milne at Molalla is poorly aligned and everyone who lives in the area hesitates in order to look to the south before entering on a green light. Just last week, she saw a school bus run that light.

Common sense tells us, she said, that not only will there be an impact on the traffic but also an impact on the surrounding merchants as well as their neighborhood. She said Wal-Mart may employ a few people, but she asked how many jobs will be lost in the nearby establishments.

**Edwards** also asked the PC to take into consideration that Wal-Mart allows overnight parking on their lots, which would bring in unknown people to their neighborhood. For the people in favor of this, she wondered aloud how they would like this in their front yards.

Finally, she referenced testimony that the wrecking yard is badly contaminated. She said, personally, she would rather have that than Wal-Mart contamination.

**Robert Vatielt**, 11392 Parrish Road, said he has been a resident of Oregon City for 25 years. He said he was originally from Staten Island, New York, but chose to raise his family here. When he moved here, Oregon City was made up of communities that were separated and it was a beautiful place to live until overcrowding made it unbearable. He sees that as a sign of the times for Oregon City, similar to Tualatin, where the same thing has happened.

**Vatielt** said Oregon City has an opportunity to make a piece of property into something that is more attractive and a better place for the residents of this area to establish and go to. However, he doesn't think Wal-Mart is a place people will go to. We already have Fred Meyer, K-Mart, Bi-Mart, and Emporium (which is closing), and if Wal-Mart moves in, other stores will lose and/or go out of business.

He said traffic movement in this neighborhood is becoming very difficult, to the extent that he schedules his day to avoid some of the traffic.

In summary, he said he wants to continue to live around here and he wants the community to be as easy to live in as possible, so he wanted to make these feelings known.

**Ron Jennings**, said Thriftway, Fred Meyer, Danielson's, and Haggen's, plus some of the smaller independent stores, pretty well fill up the Hilltop area. Wal-Mart, he said, will cause more layoffs of union workers and some closing of independents than they will hire. According to the paper, Wal-Mart's average hourly wage is usually \$12-20 per hour. It was also mentioned in the paper that they don't pay health insurance during the first two years, which is a great hardship on single mothers raising children when hospital insurance, health and welfare, has reached almost \$300 per person per month. It will also affect some Teamsters who do deliveries if there are a lot of layoffs in the different stores.

**Jennings** added that if there is a need to buy groceries and soft goods together, both can be purchased at Fred Meyer or K-Mart.

He said he knows that this disruption will cause the added tax to the community and will not match the loss of income from businesses and hard-working employees who will be affected by Wal-Mart.

**Jennings** said next week he will be 62 years old and since he graduated from college in 1969 he has seen this happen before. He has been through eight downsizings and he will have to work until he is 67 to get a retirement. Personally, he doesn't want to lose those five years and he has already been told by his employee that there will be layoffs.

**Damon Maybe**, 1602 14<sup>th</sup> Street, said he has a lot of concern about any large store coming into this area. As already mentioned, there are several existing stores, and he said one of the main duties of the PC is to ensure that there is economic diversity in an area. He said that virtually everything that Wal-Mart brings is either duplicated or triplicated within a couple of miles of the proposed site.

Another mission of the PC is to preserve the historic integrity of Oregon City and while he doesn't know that it is particularly historic, the picture displayed shows the Danielson's store. Wal-Mart, he said, is a direct threat to Danielson's and their complex, so he thinks it is up to the community to ensure the economic growth of local industry.

**Maybe** referred to the staff report on page 17 which speaks to "maintain a healthy and diversified economic community for the supply of goods, services, and employment opportunity." He said he would disagree with the staff finding that a Wal-Mart complies with that because, as he stated before, Wal-Mart does not bring economic diversity.

Regarding Wal-Mart's comment that they would provide good employment opportunities, he said they might provide good opportunities but he would not necessarily agree that they provide good employment.

**Maybe** said he agrees with the traffic concerns that have been expressed, reiterating that it is a very congested area.

He said the store essentially does not add to the benefit of Oregon City as a Nordstrom's or a Macy's might, being a completely different entity.

He added that the wrecking yard may contain contaminated soils, but the runoff from such a large acreage of paved area would contain equally the same amount of contaminants.

**Kathy Hogan**, 19721 S. Central Point Road, clarified that she was speaking personally at this point, not for the neighborhood.

She said she doesn't think the zone designation should be changed because the low income from the apartments is needed. In fact, she thinks that would be a good place to put more housing because it is along a good transportation line.

She said she believes this is a self-imposed hardship because Wal-Mart could build a smaller facility, and this is a monetary gain by making it larger. If they really want to be there, she said, they could conform to a smaller size.

**Lance Marjison**, 16047 S. Camelia Court, said that even though his mailing address says Oregon City, he wanted to clarify that he lives in Beaver Creek. He said he is concerned about changing the zoning from Residential to Commercial because of the potential impacts to the traffic on Hwy. 213 and Beavercreek Road. Beavercreek is already called "the world's largest cul-de-sac", which he says is true. Every time he leaves his house, he must travel Beavercreek.

In addition, he cited various existing and planned future uses in the area, all of which do or will add to the traffic on 213 and Beavercreek Road. They include the 15 acres in the Red Soils area that will become County offices and everyone working or doing business there; the new high school on Beavercreek, with its many driving-age students; a Mormon church in process on Henrici; an extensive block of land that Oregon City requested come into the Urban Growth area for commercial land on Beavercreek across from the new high school and across from Clackamas Community College which, as it develops, will bring in more and more traffic; and Home Depot at the foot of the hill. He said he knows that some improvements are planned for the intersection of Beavercreek and 213, but he feels that is only a band-aid. Until there is really a by-pass in that area, he would be cautious of approving any more commercial buildings either on the hill or out Beavercreek Road.

**Debra Noble**, 16095 S. Camelia Court, said before coming this evening she had carefully reviewed the information that was available prior to the Feb. 24<sup>th</sup> meeting and she listened carefully to the list of exhibits that was read tonight, and it was her impression that we are still missing information from the applicant—specifically some public need information and the traffic information. She expressed personal frustration with this as it has cost her time off work and the expense of babysitters to come to the meetings and she knows the PC and staff have other things to work on. Therefore, she said, she doesn't understand why the applicant has not provided the necessary information to allow the PC to make an appropriate decision on the zoning change request. She said she would like to see the applicant provide this information so a decision can be made.

**Hank Noble**, 16095 S. Camelia Court, said he is extremely concerned about the traffic because he has a small business and he wastes about 45 minutes every day just driving from his residence to Bank of the West because he has to cross the intersection of Beavercreek Road and 213.

**Noble** said he received a Wal-Mart mailer at his home in Beavercreek asking his support for Wal-Mart to come to this community, and he suggested that it might be good to see what their market area is, suggesting that this might be accomplished by seeing the distribution list for this mailer. He suspects they mailed them as far south as Molalla, which would bring traffic up 213. Therefore, he would encourage that if they build the Wal-Mart, they should build a \$27 million overpass on 213 and Beavercreek so he can get to his bank without having to wait for as many as four or five traffic light changes just to cross that intersection.

He then described his return trip from the bank, travelling through a quiet, pleasant neighborhood—all except for the two houses which Wal-Mart has already bought and sold and which sit boarded up, waiting to be condemned. Coming around to the intersection of Warner-Milne and Molalla, he said he has timed his own waits there to be as long as six minutes just waiting to turn left to return to his business.

**Noble** said he agreed with Hogan's comments and those of the man who said we don't want to become a small community filled with box stores and high traffic so that a small businessman like himself can't even get to town in a reasonable time to make a banking transition, and he encouraged the PC to deny this application.

**Christina Franklin**, asked the PC to consider voting no on the proposed Comp Plan amendment and zone change requests.

She said those who support these changes often mention the jobs that Wal-Mart will bring to our community. During the November election, many of our elected officials ran on the premise of providing more living-wage jobs to our community. Wal-Mart does not provide living-wage jobs, but destroys them. During these difficult economic times, please do not push our citizens further into poverty. She continued, saying that Wal-Mart is asking the City to remove low-income housing when they, in fact, will force more of our residents into it.

The other issue is traffic. As she understands the situation, from the very beginning those representing Wal-Mart has opposed working with the City regarding traffic evaluation studies. They do not know our community, they do not drive our streets on a daily basis, and they do not know that currently without a Wal-Mart, we have traffic concerns.

**Franklin** asked, If they will not work with the City on this issue, what other issues will they not work with the City on? She said we should not underestimate the power of this multi-national corporation.

She said she doesn't understand how eroding the drivability of our streets and forcing our citizens into poverty would satisfy a public need. The valuable good and services are already provided at any number of retailers in our area, retailers that may have a unionized work force or may be locally owned.

Again, she urged the PC: Please vote yes for Oregon City and no for Wal-Mart.

**Dale Johnson**, 608 McLaughlin Road, said he thinks the PC needs to carefully consider public need in considering the requested changes. In particular, he would ask if the location of a Wal-Mart would really benefit the residents of Oregon City. Or does this proposal, according to the Comprehensive Plan, "maintain a healthy and diversified economic community for the supply of goods, services, and employment opportunities."

Regarding employment, Wal-Mart claims that this store would provide 200-250 jobs to local residents but what they don't take into account are the jobs that would be lost as local businesses are forced to close their doors. These aren't new jobs—just different jobs. And unfortunately, he said, they aren't even good jobs. Most of them are minimum wage or close to it, they are part-time, workers are not allowed to work more than 28 hours a week, and they don't provide a living wage. Employees' hours can be changed at any time without notice. Most workers don't have health care and for those who do, it is horribly inadequate. Wal-Mart has consistently been shown, as a matter of public record, to have questionable labor practices. In short, these jobs are not jobs people can rely on and these are not healthy employment opportunities for residents or the community.

Regarding the issue of economic diversity, several speakers have discussed how Wal-Mart may damage small local retailers. His real concern is the long-term impact of having a Wal-Mart in our community. He said Wal-Mart's strategy is to saturate an area with small stores and once they've taken up the competition in local areas, to open one very large regional superstore and then go through and close these smaller stores. He said it is a

matter of record that they now have over 200 stores across the United States that have been closed, not because of profitability issues but simply because they have opened large regional stores. Then local residents are forced to drive out of their way to get goods and services that they could have gotten locally but now can't because local stores have closed.

Finally, he said Wal-Mart likes to talk about the benefits of a store coming into an area, but what they don't like to brag about is the fact that Wal-Mart makes over \$2 billion a quarter in profit, or \$8 billion a year. This money comes directly out of communities just like Oregon City. And, he said, the money does not go back to the communities. He quoted *Forbes Magazine* as listing annually the wealthiest 400 people in the United States, and five of the top eight are Waltons—shareholders of Wal-Mart.

In conclusion, he said the goals and motives behind this proposal are clear. They have nothing to do with Oregon City or the needs of its residents. They are clearly a matter of one giant corporation's search to grow its bottom line: money—profit and loss. For these reasons and many more, which he has submitted in written form, he asked the PC to deny these applications.

**Don Vetter**, 126 Cherry Avenue, said he is not opposed to the property owners trying to develop their property to the highest and best use and he has assisted property owners in doing that in commercial and industrial development. Since his birth in Oregon City in 1931, he has seen many changes, some of which he has participated in.

He said his quarrel on this is the applicant's statement that "No mitigation of traffic is necessary." He said in almost every instance when he has represented developments, they have had to mitigate traffic. Two examples of that were as follows:

1. In the early 1970's when Danielson's was built, the Highway Dept. required full signalization at Beavercreek Road and Molalla, which Danielson's had to pay for completely. They also had to make some land dedications and construct the widening to Molalla Avenue.
2. During the recent construction of Home Depot, they spent about \$1 million in traffic mitigation.

He also disagreed with the statement about the increased value in taxes. He said if it is in the Urban Renewal district, those increased taxes don't go to the schools and the Fire Dept. They go to the Urban Renewal district.

**Sharon Dugan**, 12244 Windmill Drive, said she works at Danielson's and she said she needs her job and her health care insurance. Furthermore, she needs her taxes to go to something useful.

She said Wal-Mart only pays their employees minimum wage and they don't provide health care insurance for two years. She said she was on "Care Oregon" for awhile when she was pregnant and it is a poor system.

Regarding traffic, she said it takes sometimes five lights to turn onto Hwy. 213 coming from Molalla. Having come from California, she purposely chose to live Oregon City for its small-town atmosphere, which is not reflected in this.

Regarding the watershed in Newell Creek, she said she thought that was supposed to be protected and she doesn't understand why it would be okay for Wal-Mart to pave that over.

She said she is in favor of improving the land, but Wal-Mart doesn't bring any diversity. She would rather see low-income housing be built on the land.

Finally, she said they don't bring any diversity because all of the goods and services they would provide are already available in the area.

For these reasons, she encouraged the PC to deny these applications.

Having completed a review/opportunity for those who signed up to speak from the last hearing, **Cook** moved to the list to hear testimony in favor of the applicant by those who had signed up to speak this evening.

**Wendy Kirchner**, 14155 S. Beaver Creek Road, made the following comments:

- She said she understands the issues regarding traffic. However, she disagreed that the added tax base and the added jobs will not compensate for that. She understands how difficult it is to get in and out, and she is willing to put up with that.
- She said she does believe a Wal-Mart will bring more revenue to Oregon City, and she doesn't believe it will put Danielson's out of business because Wal-Mart is not selling groceries and she doesn't understand why people believe that it will. She said she shops at Wal-Mart if she can and if it is close because it is different than what is offered at K-Mart and Bi-Mart in that it has, in her opinion, better pricing. However, there is currently not a Wal-Mart close.
- She believes that when people come into the area to shop at Wal-Mart they will see the other stores and if they need groceries or something else, they will go to those stores because they are convenient.
- She believes our youth need good jobs and she isn't sure why this would take jobs away from those who are unionized because Wal-Mart is not going to necessarily put out of business Haggen's or Danielson's. Those jobs will remain, and Wal-Mart will provide jobs for our youth.

**Tammie Lyman**, 15080 S. McClain Road, said she is Rocky Younger's daughter and she wanted to let everyone know what her family has done to structure this proposal to benefit the community. She stated the following:

- In the last 15 years her family has been striving to establish a retail facility at this location and they have complied with all the City's changes, restrictions, and rules, agreeing to work with the City staff and other agencies.
- They have consented to provide a part of their land for the building of a storm water cleaning facility, which will service all the storm water from Danielson's Hilltop Mall, the Red Soils property, and other property in the area.
- They have also signed a letter agreeing to dedicate 50-60,000 square feet of property to provide a public access street from Beaver Creek Road. This will help reduce any traffic problems that may be of concern.
- They have bought all the property on the south side of Hilltop Avenue in the last few years and have recently sold them to Wal-Mart. However, they have retained all the salvage rights of the structures and the houses on all the properties connected to this development and they have obtained bids from several housing moving companies to transport these structures to other property they own in the area in order to maintain housing for the low-income people.
- They will assist the 16 tenants who will have to move when the time comes to make the transition as easy as possible for them.

She said they feel that the people of Oregon City and the City will benefit greatly from this development for years to come and she and her family respectfully urged approval of this entire project.

**Orzen** asked if all of the homes and apartments would be relocated in Oregon City, and **Lyman** said yes.

**Mengelberg** asked if they would be close to transportation. **Lyman** said one parcel of property is near Wal-Mart that would go along the side of the access from Beavercreek Road. There is also some in the Maple Lane area and throughout Oregon City.

**Jenny Younger**, PO Box 2044, said she shops at Wal-Mart because of the lower prices. She goes to the store in Southeast Portland, and while she is there she does her grocery shopping across the street for convenience. Then she generally takes her children to a fast-food restaurant before coming home. Her point was that, from personal experience, she agreed with others who had testified that the addition of a Wal-Mart would also bring business to the existing local businesses.

Regarding concerns that this would take away business from the other stores, she noted that Fred Meyer and K-Mart carry specialty products that can only be found in their stores and people who prefer those will continue to shop there for those products.

Finally, regarding the traffic concerns on Hilltop, she said it has already been proposed that there will be other entrances on the main streets into the Wal-Mart store so this shouldn't add too much extra to the neighborhood area.

**Alex Younger**, PO Box 2044, said he is a proud member of Local 701 Operating Engineers and is currently employed through the union. He said he has worked on many Hoffman jobs and has spoken with many other union members through the electrical and plumbing contractors, and mechanical laborers. In talking with them, he said most of them shop at Wal-Mart, many of them are not opposed to this project, and several of them also have wives or siblings who work at Wal-Mart.

Regarding traffic, **Younger** referenced comments that there would be an additional 6,000 trips generated by Wal-Mart, which leaves the impression that there will be 6,000 additional cars on the road. That is not true, he said. The trips to Wal-Mart will be comprised of vehicular traffic already on the streets today by people who are already living and/or doing business locally.

**Ellen Skyles**, 14788 S. Thayer Road, said she and her husband have lived in Oregon City since their marriage in 1963. She said they were sad when Piggly Wiggly went out of business so many years when Danielson's came in, but that's the way business goes.

She agreed with Westerfield that she was originally a little afraid to shop at Wal-Mart but when she started shopping there, she found that they carry the things she wants.

Regarding the employment opportunities, she said she works in a little shop in Lake Oswego where she makes \$7.00 an hour, she works part-time, and she doesn't always know what her hours are, but the job helps them out a little bit. She knows she doesn't get health benefits, but she doesn't care because her husband has health benefits.

**Skyles** agreed with Alex Younger that there will not be 6,000 new cars entering the area. Rather, there will be 6,000 cars that were headed down the bypass to Clackamas Town Center but now are stopping to shop in the local community, which should help our own local economy.

**Skyles** said this community has a lot of pioneer ancestry, and she cited some personal history as an example. She then said that they used to have a neighboring lot of acreage which has since been developed. Although they were sorry to lose their beautiful view, they realized that those people needed a place to live too. So perhaps it is time to allow for a little more growth.



After a short break, **Bridget Quire**, 1367 Molalla Avenue, spoke, noting that if the address sounded familiar, it is because it is the address of the proposed project. She expressed the following points in favor of this project:

- She said she is impressed that, considering today's economy, Wal-Mart is offering employment. She said the company she works for has laid off more than 400 people and is asking for 90% of their workers to switch to part-time.
- She also feels it will both bring employment and help the schools here in Oregon City.
- She said, as a former employee of Wal-Mart, she knows it is a great company to work for and a wonderful store to shop at.
- She said employees do get benefits after 90 days, and she said 10 years ago she made \$9.00 an hour there.

On the other side, she said most people don't know that Hilltop Avenue has a nickname of "Drug Alley" or "Drug Lane," the reasons being self-explanatory. She said numerous times she or her children have contacted Oregon City Police to pick up used needles that her children have found on the way home from school. As a mother, this is a very scary situation. She said with Wal-Mart there, she feels that the drugs will not be there.

Regarding the complaints about the traffic issues, she said right now all the teenagers who are doing drugs are speeding on our roads and they are dealing drugs. She said personally she would rather have parents behind the wheel who are responsible versus somebody who is under the influence of drugs.

Finally, living on the site, **Quire** said she saw the DEQ testing as it was done, and she says the wrecking yard is not contaminated, contrary to people's comments.

**Cathy Curry**, 15107 S. Thayer Road, said that, speaking on behalf of the community and the Younger family, she thinks that Wal-Mart would be an asset to this community not only for bringing in a great place to shop and save money, but with the cost of gasoline today, it would be great to have it nearby.

Regarding the zoning issues and people's concerns about where the people will move to who are displaced, she said about two years ago she was on the verge of not having a place to live and Rocky Younger offered her not only a place to live but also, within the next year, a better place for her and her family to live out in the country. She said she knows for a fact that the Younger family would not leave people on the street.

Regarding comments that this is a bedroom community, **Curry** said she grew up in Lebanon, Oregon, which is probably a much smaller community than Oregon City. She said several years ago a Wal-Mart was constructed there. She, along with family members who still live in Lebanon, can testify that not only has Wal-Mart brought more revenue to Lebanon, but a new Bi-Mart was recently opened. Further, she testified that the small stores on Main Street that have been there since she was a girl are still open. This would show that they have not closed the small stores, contrary to people's fears.

In particular, she doesn't think it will affect Danielson's to the extent that everyone says since, as has already been stated, Wal-Mart doesn't sell groceries.

Regarding a comment about RV parking at Wal-Mart stores, **Curry** said her parents have traveled across the United States several times and they have stayed at Wal-Mart parking lots. She noted that most of the people who stay overnight are in RV's, and that there are oftentimes no KOA's or campgrounds in those cities and Wal-Mart allows them to park at their stores. In fact, her parents have felt that it is a very safe place to park, and she doesn't think this will be a draw for homeless/disreputable people.

**Curry** concluded by saying that she does a great deal of shopping at Wal-Mart and she feels it would be of great benefit to the community, and she doesn't think the Younger family would put anyone on the street. For these reasons, she is in favor of the rezone.

**Dan Holliday**, 1223 Monroe Street, said he wanted to address a couple of specific issues to point on the application this evening.

1. Regarding the low-income housing issue, he said Oregon City contains more than 50% of the low-income housing in Clackamas County, which is way more than our fair share and which has been the subject of numerous discussions at the City Commission level. So, to say that these housing units are critical to Oregon City as far as low-incoming housing just doesn't play.
2. Regarding the environmental concerns of the wrecking yard, **Holliday** said he has been a customer of theirs for over 20 years. He said in that business, Rocky and his dad were the first environmentalists. Every time they brought a car in, they drained all the fluids, which they kept in cans and recycled properly. He said he knows for a fact that DEQ has been there and looked around, and hasn't been able to find a violation. He said there is some surface oil in places but it doesn't penetrate, and the Youngers have been very good about that from the very beginning of their operation.
3. Regarding the displacement of businesses, this is the same argument that was used against Fred Meyer, against Berryhill Shopping Center, and against South Ridge Shopping Center. Miraculously, he said, 98% of the stores that were here then are still here now. The only real retail that Oregon City has lost has been in the core downtown area, specifically the Shop 'N Save (which was finally lost due to several floods), and the old Safeway store on Main Street and 10<sup>th</sup>, which was too small. So the majority of this kind of development doesn't in reality drive out smaller retailers. He added that the WB Market has survived for over 30 years in its location, even with Fred Meyer and Danielson's and the others.
4. Haggen's brought in about \$360,000 in transportation SDC's, and he would guess that this Wal-Mart would bring in between \$500,000 and \$700,000 in SDC's.
5. This project will also provide hundreds of construction jobs (include union jobs).

**Charlotte Groener**, 15060 Maple Lane Road, said she and her husband have just recently moved to this area although they have lived in Oregon for about the last 15 years. She said they are firm believers in working, voting, and paying taxes in their own area neighborhood. They both believe that a Wal-Mart store would add a great deal of interest, convenience of local, creation of jobs for 200-plus people, and add revenue for existing area businesses. It would be a safe and reliable company in which to work, and would provide an upgrade of products and services in uniquely Wal-Mart style. After all, she said, competition and equality is the American way.

She said most of the proposed 14-acre site has been vacant for the last 15-20 years and by utilizing this area, the local economy and tax base could provide a much-needed relief to our present school and money problems and the children's academic crisis that has so sorely been neglected. She said they have three grandchildren in local schools that have been directly by the school budget cuts, and she asked if a prosperous and a nationally-known company isn't better than an empty, vacant field.

**Robert Groener**, 15060 Maple Lane Road, said he lived on Molalla Avenue for 37 years in a house he just sold, and he has seen in his lifetime the changes at Red Soils and Fred Meyers. He said personally he likes these changes because he doesn't have to drive into Portland any more to buy something.

He said that some of his children live in one of Rocky Younger's apartments and Younger has already promised them that if this development goes through, he has housing for them elsewhere.

He said his daughter and several of his grandchildren work in nearby restaurants and they are all looking forward to the Wal-Mart because it will bring more business to the places where they work.

Regarding traffic, he said he has fought traffic on Molalla from his driveway for years, from two-lane to four-lane and back to two-lane again.

He agreed with earlier comments that these same arguments were used to fight Fred Meyer and Danielson's but he personally likes those stores because he can shop locally and not have to drive long distances to shop at a large store.

In summary, he said he would be pleased to have Wal-Mart locate here.

**Arlene Nielsen**, 16110 S. Hilltop Road, said she feels she represents thousands of wives and mothers in the Oregon City and surrounding areas who shop at Wal-Mart and want to have a Wal-Mart in their own community. She said she thinks many of them were not at the meeting because they didn't know about it.

She said they have to shop by price, so they do shop by the ads in the paper and they would like very much to have a Wal-Mart in their own community. Therefore, she strongly urged the PC to allow Wal-Mart to develop in Oregon City.

**Ben Foster**, 3707 Cedar Oak Drive, West Linn, Oregon, said he is almost 70 years old, he is retired, and he is the only living male on his block now. Therefore, he often provides transportation for his neighbor ladies, and often takes them to Wal-Mart. He said those ladies were thrilled to hear about Wal-Mart moving closer to them, and he added that he, too, likes to shop at Wal-Mart. Therefore, he said he is pro Wal-Mart.

Finally, he noted that was a tool maker and a union man for many years, and he wanted to say that the conduct by many at the last meeting was disgraceful. However, he said this meeting has been run very well and he congratulated staff on how it was being handled.

**Greg Niedermeyer**, 4702 SW Schools Ferry Road, Portland, OR 97225, (Greenstein Family, LLC) said he spoke to the PC two weeks ago, at which time he spoke to two exhibits which he submitted—the Oregon City Ordinance and the condemnation action—but they were not in the packet that the PC received this past Monday. He said staff had determined that since that is already in the Oregon City Ordinance section, the PC didn't need to get another copy. However, **Niedermeyer** had a stamped copy of his filing (including copies of the ordinance and the condemnation action), but staff can't find it. Therefore, he wanted to make the PC aware of that and said that if staff can't locate his submission soon, he would provide another copy.

**Niedermeyer** then noted the following highlights:

- Inside the Oregon City Ordinance, it anticipates that the Jacoby property and Younger properties "will be consolidated with other properties to allow for the construction of a single retail operation comprising up to 200,000 square feet." The proposed buildings are 138,000 square feet (both combined), which is 70% of the volume of square footage or retail space. He said he granted that, given the number of parking spaces allowed by Oregon City, that is 70% of the traffic volume allowed by parking spaces. The transportation issues we see in this objection seem to be misplaced.
- He thinks the housing issues have been totally mitigated by the Younger's pre-cooperation.
- The majority of his (Niedermeyer's) document deals with the issue of public need, as outlined in 1989 and thereafter, about the need to get rid of this horrendous nuisance, namely the Younger property, and also the Jacoby property. He said that since becoming a trustee in 1999, at least on one occasion he has had the Oregon City police come out, where they identified two felons—both with outstanding warrants—camping on the property. He said this is not an attractive nuisance and, quite frankly, he doesn't think living next to a wrecking yard can be the best living environment, even for low-income housing. In fact, it is rather disrespectful for the low-income people.

In conclusion, he strongly urged the PC to read his testimony, saying he thinks it is important, and he reiterated that he is in favor of this matter.

**William (Bill) Morris**, Lane, said he has lived there since 1980, where he has raised six children. He said he could testify to the fact that Wal-Marts are a good thing. He used to live in Yreka, a small community of about 5-6,000 residents in northern California and as he continues to visit his family there, he has made it a point to visit the Wal-Mart store that went in there. He likened it to Oregon City with regard to unemployment and other needs, and he said it has been a real boost to that community. He said people visit with each other while they are there as well as doing their shopping there so it has become a place for social gathering as well as just shopping.

**Morris** said he has shopped in all the local stores (Bi-Mart, Fred Meyers, Danielson's, etc.) and he will continue to shop there because they each have things that he wants that Wal-Mart doesn't have. And since this Wal-Mart will not be a super-store (no groceries), he will still continue to shop for groceries at the local stores.

In summary, he said he thinks we really do need this store and he thinks it will be a great thing for the community.

**Elwood Wahl**, 17150 S. Seal Court, said he wanted to speak in response to earlier questions asking, Where is the public need? He said he is part of the public speaking, and there is a need for it. He said he and his wife shop at Wal-Mart stores, but they are quite a ways away.

If a Wal-Mart is not approved for Oregon City, he will still shop there (at Wal-Mart), which will be Oregon City's loss as far as business is concerned. He reiterated, as others had said before, that when they shop at Wal-Mart, they often shop for gas or eat at a restaurant nearby. He said the same thing would happen with people coming to Oregon City to shop at Wal-Mart—they would bring business to other local businesses as well.

**Wahl** said he is concerned that much of the opposition that has been raised against Wal-Mart would be raised against them, regardless of the proposed site anywhere within Oregon City. The feeling he has is that there is a prejudice against Wal-Mart stores.

**Wahl** said he thinks Wal-Mart is good. It supports American ideals. He said he taught social studies for a number of years, wherein it is taught that a success of our economy and a capitalism depends upon competition, which brings fair prices and quality products. He said he thinks if the other businesses can't do that, they must be over-priced in some way or they are not working efficiently.

**Wahl** said we also need to remember the tax benefit. The land as it stands right now is bringing very little benefit in taxes to the city, the county, or the state.

Regarding the illusions that perhaps the taxes won't go to the City, **Wahl** said wherever the taxes go, it is less money out of his pocket because his taxes are spread out also between city, county, and state. So, we're losing a lot if we lose this land, which is very valuable, if we turn down a business that could attract a lot of business and which, if left as is, could detract a lot from what could be had and shared with Oregon City and the county in this area.

Regarding employment, **Wahl** said he and his wife have driven extensively through the United States and they have found Wal-Mart stores in little communities. Somebody was concerned that Wal-Mart would turn Oregon City into a big community, but he said they have never seen that happen in little communities where Wal-Mart has been established, but it has brought additional service and convenience to those communities.

Also, in visiting those stores, he has noticed that Wal-Mart provides employment for a lot of people. He was particularly impressed that it provides employment for elderly, which does not seem to happen at some of the other stores.

**Wahl** also noted that Fred Meyer is not a small, independent company so it isn't fair to say that Wal-Mart is going to run competition with this little independent store. Fred Meyer is a regional store—a western states organization.

In summary, **Wahl** encouraged the PC to study very carefully the benefits of bringing this business into Oregon City.

**Sharon Robertson**, 20279 S. Danny Court, said she is a landlord and a member of the Oregon Apartment Association, which publishes a monthly newsletter that goes to all of its membership. She said there is also a state association that does likewise. She said right now Oregon City is at the top of list regarding vacancies in apartments. There is no shortage of apartments for people to move into, particularly low-income apartments in Oregon City. She said Berryhill and Newell Creek apartments would love to have these 16 tenants who are being dislocated. So even if the Younger family was not relocating them, there is a place for them in the community.

Regarding traffic, she said Oregon City only has two roads that run from the top of the hill to the bottom that people can use with any degree of efficiency, and everyone drives on them. So, she said, if they happen to stop at Wal-Mart on the way past, that's a benefit for Oregon City. If they have drive to Mervyn's or Costco or Sears to make purchases rather than shopping in Oregon City, that is taking the money out of our community rather than leaving it here to help the local tax structure. But she said Oregon City doesn't have as much industry as other neighboring cities, and we really need to keep the money, including tax money, here.

This could also enable students and seniors to work locally, which would in turn benefit Oregon City. She said her daughter drives quite a distance into north Portland to work at a good job. She said three of her children have worked part-time at the local supermarkets, but they didn't have benefits, and they worked part-time for much longer than they were promised, even though they were putting in 38-40 hours per week, because their employees didn't want to switch them to full-time status and pay them health care benefits.

**Robertson** said she also has a daughter who works for Wal-Mart and who is very pleased with her job. She is a student who works part-time, and she doesn't have to pay union dues. Overall, working at Wal-Mart works out very well for her situation.

In closing, **Robertson** said that if Oregon City doesn't get Wal-Mart, someone else will and some other community will reap the benefits.

Moving to the category of neither for nor against, **Rick Gruen**, 256 Warner-Milne Road, said he is the district manager for the Clackamas County Soil and Water Conservation District. He said in late December the District was asked to look at the proposed Wal-Mart application by a number of local citizen organizations and, in particular, they wanted the District to look at the effects of the development on Newell Creek Canyon and the effect on the watershed along the canyon rim. He said it is a District policy not to get into the politics of whether Wal-Mart or any other development should or should not come in, but rather to look at what positive water quality and watershed benefits could be obtained if the City of Oregon City's planning process allowed for development to occur. In other words, if the Wal-Mart application were to be considered for approval, could it come in better and meet the criteria to serve the greater need or the greater good for the citizens of Oregon City?

**Gruen** said in reviewing the application as well as the written comments expressed by citizens, landowners, and organizations, it was apparent to them that there was a considerable divide for or against, with very little down the middle. He said the major issues they saw include rezoning traffic and stormwater management and the perceived benefit or lack thereof of those activities. He said his comments this evening would focus on the environmental concerns with specific interest to the watershed function and watershed quality in and along Newell Creek Canyon, and the ability to serve the greater need.

Of concern to a number of interested parties, in particular Metro and those expressed by the Environmental Learning Center, was Wal-Mart's proposal to construct a stormwater vault to mitigate the stormwater flow from the impervious surface layers from the parking lot and the building. While meeting the minimum standards of the City, the direct discharge flows into Red Soils Creek, and into Newell Creek subsequently, would put increased pressure on the riparian and fish habitat within the Newell Creek watershed system.

The outcome of their analysis was to propose to these groups, both those in favor of the Wal-Mart development and landowners and those against—particularly Metro, the Environmental Learning Center, and other concerned citizen groups—the development of a ravine buffering system. This would be a series of inter-connected wetlands and waterways along the rim of the canyon as well as wetlands and retention ponds that would be constructed. The result would be to restore and enhance the watershed function along the canyon rim and the preservation of sensitive fish habitat and wildlife habitat within the canyon.

The cornerstone of the ravine buffering system is the creation of an original stormwater system to benefit current and future bubble developments that occur along the headwaters of both Red Soils Creek and Newell Creek. In short, the ravine buffering system would allow drainage directly from the proposed Wal-Mart site into property provided by the Younger family immediately to the south of the construction site and on Metro property to the east and to the north.

This ravine buffering system and regional stormwater system was presented to all these groups and was in conceptual agreement reached by all.

One of the benefits brought about by this was the bringing in of federal dollars through interest expressed by NOAA Fisheries to provide additional federal funding to the project to expand the capabilities of developing a community restoration project that would serve to connect not only Red Soils Creek going to the headwaters up and including the County complex, but also would extend across Hwy. 213 and address the concerns that have been discussed from development by the college and the high school.

The ravine buffering system clearly demonstrates a win/win situation for the citizens of Oregon City. While it does address only one of the major concerns (stormwater) in these applications, **Gruen** said he hopes this conveys the opportunities to develop solutions for the zoning and traffic issues that have discussed this evening. From the District's perspective, the Environmental Learning Center, Metro, and Friends of Newell Creek have viewed the stormwater proposal as being consistent to addressing the sensitive environmental concerns within Newell Creek Canyon in providing a net water quality benefit.

**Gruen** said the support and participation from the Wal-Mart Corporation and the Younger family go above and beyond the minimum standards and clearly suggest their willingness to engage in an innovative development project that is environmentally friendly and salmon safe.

Some of the outcomes of this regional stormwater system would be the reduction of stormwater flow, sediment load, and pollutants from entering both Newell Creek and Red Soils Creek. It would serve to preserve fish and wildlife habitat within Newell Creek Canyon itself. It would serve as a model for urban development to include replicating naturally occurring watershed functions such as the beaver dams that exist within Newell Creek

Canyon and the wetlands. This project will complement the non-point education for municipal officials, commonly known as NEMO, as part of the planning process for the City. The outcome-based design of the ravine buffering system will also serve and lead to a salmon-safe certification through Friends for the Sake of Salmon group.

**Gruen** said his interest and objective in contacting the PC this evening was to make the City of Oregon City and the PC aware of these activities that are concurrent to the planning review process. The opportunity, the desire, and the interest in developing the regional stormwater system, which would be largely underwritten by both private and federal partnerships as a community restoration project, presently provides the opportunity to unite the many diverse interests that have spoken and the users of our natural resources within Oregon City to serve the greater benefit.

Moving to cons, **Karen Montoya**, 137 Deer Brook Drive, said she has been a resident of Oregon City for five years and a resident of Clackamas County a total of 28 years so she is familiar with the stores and various other businesses that have come in over time. She said she is against both the Comprehensive Plan change and the zone change because she doesn't feel that these particular changes that are being proposed fill the needs that have been requested of the people in this area by Metro. She said we need to keep in mind that the area needs to have more residential units and high-density residential units to help support the businesses that already exist in the local area, and our direction should be in that area.

She said she also feels that the traffic considerations can be handled, but we will have a busier street, it will be less friendly to pedestrians, and most cities and counties and Comprehensive Plan groups are trying to promote and assess additional considerations to pedestrians. She said this particular proposal does not meet those requirements.

**Paula Coltrice-Peterson**, 18791 S. Brazell, noted that her mailing address is Oregon City but she actually lives in Redland. She said the traffic there is terrible. All of her kids play sports at the nearby schools, but there are not even places to park to accommodate the games played in the area. If Wal-Mart, which is very large, comes in, it will bring in a lot more traffic and there will be nowhere at all to park. She said even the sides streets will have a lot of traffic. She said another big retailer in addition to the existing five or six will make traffic even worse and she asked, How many big retailers do we need in Oregon City? She doesn't feel we need any more.

Regarding prior comments that people were speaking on behalf of mothers or families or the community in general, she said she didn't think they could speak accurately to those. She said she was speaking on behalf of herself and her family, and she doesn't think changing the zone is a good thing, nor is putting a Wal-Mart in this location a good thing.

For example, she doesn't think Thriftway will survive. She said she works in retail and her hours have been cut drastically because of the economy, so adding a Wal-Mart would only create more cutbacks.

In summary, she was against the rezoning.

**Joel Nelson**, 19280 S. Meyers Road, said one of the concerns that has not been raised is the traffic impact this proposed development will bring to Meyers Road. Since the Oregon City Commission took Meyers Road out to 213, the traffic flow on that road has become astronomical. He lives two houses short of the stop sign where it connects with Leland and there are times, especially at the evening peak hour, when he has to wait to get into his driveway because traffic is backed up that far. That is just a two-lane road that connects with another two-lane road. The people coming from the Molalla-Mulino area and other points south will quickly figure out that to make the left turn at Meyers Road will bypass Molalla or Beaver Creek and still bring them to Warner-Milne.

Also, there are no sidewalks from Autumn Lane to Warner-Milne, so an already unsafe environment for children and other pedestrians will only become more so.

**Nelson** added that he doesn't know what impact Wal-Mart will have on the other businesses in the area but he likes the small businesses that are there, he likes to know the employees one-on-one, and it is a more personal, small community. He said he doesn't think that will happen at Wal-Mart.

**Phil Grillo** of Miller, Nash, said he was there to speak on behalf of Hilltop Properties and the Danielson family. He reviewed his comments from a short letter with a focus on process, which he also submitted into the public record.

**Grillo** said he expected Wal-Mart to submit at least three pieces of additional information yet this evening, which would include 1) a third attempt at a narrative addressing how the applicant meets the approval criteria; 2) a fourth attempt at a traffic impact study; and 3) a second attempt at addressing the State Transportation Planning Rule.

At this point in the process before the PC embarks on another round of submittals, **Grillo** said he thinks it is important for them to realize that, in his opinion, they are under no legal obligation to accept, much less, review this latest attempt by the applicant to submit the information and analysis that were required from the outset, noting that this is the second evidentiary hearing. He said that, regarding transportation and some of the other important issues, this latest round of submittals is really akin to a new application. He said if the PC does choose to accept and review yet another round of information, it will require not only the PC but City staff, the City's consultants, and others like ODOT who are involved in the process (not to mention those others like himself who have been involved in this process from the beginning) to review yet another set of documents that should have been reviewed earlier on in the process. In other words, every late submission costs everyone, and particularly the City.

Although he had detailed some of the problems that this application has faced through the process, **Grillo** summarized by saying that, as a land use attorney who has assisted developer clients over about 20 years, he understands that a large project like this can be complicated in trying to get all the submittals in and trying to address all the approval criteria. However, he said there have been many starts and stops in this application, and staff has worked very hard with the applicant from the beginning. He said Miller, Nash has been involved from the beginning as well, and they believe the applicant has had ample opportunity to submit the needed information, so they would ask that the PC proceed with its deliberations this evening based upon the information already in the record and make a decision, at least tentative, this evening. He said they understand that the applicant would have seven days to submit additional legal argument, but they would ask that the PC carefully consider whether they want to hear yet another round of new information from the applicant yet this evening.

**Cook** asked and was granted permission to enter the Miller, Nash letter as Exhibit F.

**Becky Lowry**, 501 Pleasant Avenue (work address as she chose not to give her residence address), said she lives outside the city limits but it still takes her 15 minutes to get to work in Oregon City, which is about the same amount of time it took her when she lived in Milwaukie.

**Lowry** said her main concern is about traffic—specifically, the 6,000 trips projected for Wal-Mart, much of which would be coming from different towns. She said she doesn't believe the existing roads can handle that, nor does she believe that the proposed plan will adequately handle the number of cars.



She also said that removing 22 houses in an area that has access to businesses via foot travel is amazing. She has traveled all over the area in her work and she said it is amazing to see an area where the families can still walk to work and to do their shopping.

**Lowry** agreed with prior comments that there is no shortage of commercial property, and she said her biggest concern is the location. If it were perhaps along 82<sup>nd</sup> Drive or McLoughlin Boulevard, she thought those areas could handle it.

Regarding public need, **Lowry** said she doesn't think a Wal-Mart is necessary, considering all the other stores in the area. Further, contrary to prior testimony, she said it will have a negative impact on the grocery stores because Wal-Mart sells paper products and housecleaning products that people currently purchase at the grocery stores.

With no other requests for public comment, **Chair Carter** asked for a brief review of the procedures at this point, particularly expressing concern about the comment by **Grillo** that the applicant might be wanting to submit additional information this evening. Her thought was that they would end this evening's process with the conclusion of public testimony and continue the meeting, at which time they would move to the applicant's rebuttal. However, she was concerned that the applicant might be submitting yet more information and she wanted to make sure that everyone would have an opportunity to have their information presented for consideration before the PC goes into deliberations.

**Kabeiseman** agreed that the PC should have all the information before them that has been submitted, including the submission from **Niedermeyer** which is currently missing but is being searched for. (He confirmed that that material would be provided to the PC.) He said all the other written materials from the last several months is before the PC, and he had not heard anything about any other written materials that is not before them. However, he said should the PC decide to close the public hearing this evening, State statutes require that they at least provide a seven-day opportunity for anybody to submit any additional written evidence, arguments, and testimony.

Given the lateness of the hour, **Chair Carter** requested that the applicant agree to give their rebuttal at the next hearing, saying that by that time the PC should have received any additional information that might be submitted into the record. **Kabeiseman** noted that if the applicant didn't present rebuttal until the next hearing, some people who have not attended thus far may want to come to that hearing and speak.

**Greg Hathaway**, speaking on behalf of the applicant, said they had understood and were prepared to present their rebuttal this evening within the allotted 15-minute time period. The PC then agreed to hear the applicant's rebuttal.

**Hathaway** started by complimenting the people who testified both for and against the project, noting that except for **Gruen's** testimony for the Soil Conservation Service, with which the applicant heartily agreed, people are either very for or very against the project. He reiterated that the applicant thinks they can be a very strong environmental partner in the development of this site, which is necessary not just for this site but for the region.

**Hathaway** said that even though staff has said the discussion shouldn't be about the Wal-Mart project per se, he noted that all of this evening's testimony has been about the specific project. Although he agreed that this is about the Plan amendment and the zone change, those are only about a very small portion of the site and he said, in reality, this discussion has been about the Wal-Mart project. He said at the last meeting that they shouldn't talk theoretically about what may or may not happen as they try to amend the Plan and the zone. Rather, he said they should talk about what is really likely to occur on this site and about the specific project, as the staff does in

their report as they talk about the specific project as it pertains to many of the criteria for the Plan amendment and the zone change. He maintained that the people this evening have done the same thing.

He said that is significant because as the PC considers public need, they shouldn't talk about public need for just a strip going from Residential to Commercial. Instead, he thought they should talk about the whole project because that is what is proposed. He agreed that the applicant needs that strip to accommodate an additional 17,000 square feet, which is all that is being requested now.

**Hathaway** reiterated, as he said at the last meeting, that the PC has the authority to condition the Plan amendment and the zone change specifically on this project. If this project doesn't take place, there is no Plan amendment and there is no zone change. The applicant thinks that is a wise choice and a reality in light of what the people are talking about—the specific Wal-Mart project.

**Hathaway** addressed people's comments about the businesses that might be affected by this proposal. He reiterated that this is the smallest Wal-Mart store that Wal-Mart builds. It is a discount store, not a grocery store, so it won't compete with grocers in the area. It is, in effect, smaller than Fred Meyer. And he said that people might shop at Wal-Mart but they will also continue to shop at Fred Meyer.

He said the applicant feels very strongly that the opposition has overstated the concern with regard to the business effect. In fact, he said it appears that the people want the PC to regulate competition, which he said is probably not a very good policy and it is not relevant.

**Hathaway** then said he wanted to talk about the whole information issue because he thought **Grillo** had overstated that issue. **Hathaway** said he thought most of the PC were familiar with the whole land use process—where the application is submitted, staff reviews it to determine whether or not it is complete. Then it moves to a land use process where staff does a report, after which the applicant gets to make its case and the opposition and those in favor get to testify.

**Hathaway** said they (the applicant) felt when they submitted their application that it was complete, and staff determined that the application was complete for their review. He said they had many discussions about additional information and much of that information was provided. But when the staff report was issued, the applicant had a disagreement with staff with regard to how they have complied, for example, with the public need issue. He said they also disagree with staff with regard to the traffic impact issue. However, instead of simply disagreeing with them, the applicant offered last week, in response to the staff report which came out seven days before the last hearing, that they want to respond to that in order to give the PC as many tools as necessary to make a choice. He said that is all they are asking for—they are not asking for a fourth or fifth or sixth try, as was suggested. They are simply trying to respond to a staff report that came out a week before the last hearing. Furthermore, he said this happens all the time in the land use process and they are asking for nothing more than what typically occurs. He reiterated that the applicant is trying to give the PC the information they think is helpful in making the choice.

**Hathaway** said part of the question is whether or not they have satisfied a public need and whether or not they can deal with the traffic impacts created by this proposal.

Regarding traffic impacts, he said the applicant had submitted a "worst case" analysis to the staff at their request dealing with what the worst case could be as far as whether this is a worst case residential or a worst case commercial. He said the applicant didn't think that was relevant for compliance with the Transportation Planning Rule because the Transportation Planning Rule deals with reality. It says that if you are proposing a specific project if you are trying to amend a Plan or a zoning designation, the PC can condition the approval based specifically on the project itself—the Wal-Mart project, in this case. At the last meeting, **Hathaway**

asked why they would be doing a theoretical analysis for the worst-case scenario for this little strip to determine traffic impacts when that's not what we're talking about. We're talking about a proposed Wal-Mart store. The Transportation Planning Rule recognizes a mitigation technique to make sure that traffic impacts are being mitigated because of a Plan amendment or zone change, and the PC can condition them to the specific proposal. That information, he said, is currently in this record.

**Hathaway** said at the last meeting he indicated that the applicant thought they did a pretty good job on their analysis but staff disagreed in their staff report. So the applicant has now tried to determine with the staff and with ODOT what the highest and best use might be hypothetically and theoretically with this property and then do a traffic analysis on it. He said on Friday the applicant gave ODOT and the staff a reasonable highest and best use for this theoretical examination, which they are willing to talk with staff about if staff wants to discuss it. The applicant asserts they don't think they have to because they think the PC can condition this on the project, but if asked to, they are willing to work with staff and ODOT and do an analysis so it is available for the PC at the next meeting.

Regarding housing, **Hathaway** said that is a very, very large issue for this community, which the applicant recognizes. They also recognize that the staff has really focused in the staff report on the Plan amendment and the zone change on the fact that this change in zoning designation would displace housing units, and because they would be displacing housing units, staff said the applicant needed to demonstrate that those displaced units could be accommodated today in the Oregon City market, and not just anywhere, but in the Molalla corridor. In fact, in the last meeting it was discussed that they would need to show that it is in the area and near transit.

Regarding the issues of public need, public safety, health, and welfare, and the housing issues raised in the Plan amendment staff, the staff says there is one way to address all three of those issues with the right kind of evidence to demonstrate compliance with those three standards—that being to demonstrate that there is an adequate supply today of similar type housing in this area near transit to that being displaced. **Hathaway** said they have done that since the last meeting by hiring the firm of Hobson and Ferrarini, who are economic land development experts, to do a study of the available affordable housing in this area. They compared exactly what was being displaced, both multi-family and single-family; they identified the study area to make sure they were in the area they were supposed to be; and they did a door-to-door analysis within this area to determine if there was available, adequate affordable housing. The answer is absolutely yes.

**Hathaway** then introduced **Steve Ferrarini** to give a brief summary of exactly what he did and what he found, noting that the applicant would be submitting their document for the record.

**Ferrarini**, 610 SW Alder, said his firm was hired to quantify the available inventory of similar units to the units that are being displaced. To do that, he noted that they were very conservative in the geographic area they looked at. He said they took a corridor of about four blocks on either side of Molalla Avenue from 213 to Harrison Street, which the City generally defines as the Molalla Corridor. In addition, they took a small part of Beavercreek Road from its intersection of Beavercreek and Molalla to Marjorie Street, which is around the corner from Albertsons. He said the reason they added that is because it is very similar to Molalla Avenue in that it has transit, and it has very convenient access to retail at Fred Meyer, K-Mart, and Albertsons.

In that area, they literally drove street by street and they identified 20 apartment projects in addition to rented homes and duplexes, which altogether contain about 1,000 units. Right now, **Ferrarini** said that the apartment/rental market is very soft with a 9.6% vacancy rate. The industry standard vacancy rate for a healthy market is about 5%, so this is about double.

In those 20 complexes, **Ferrarini** said they found 96 vacant units relative to 18 rental units that would be displaced. So the number of available units is four times greater than the number of units that would be displaced.

He said they then took a couple of measures to make sure they were comparing apples to apples. The units that are being displaced are two- and three-bedroom units, so they limited the available units from 96 to the number of two- and three-bedroom units, and they found 70 such units available.

Then they compared the price levels for similarity, using HUD's definition of median family income as an industry standard. (HUD sets a median family income for the Portland area and rents are gauged based on that.) The units that are being displaced are about 50 and 55% of median family income. In those same price ranges in two- and three-bedroom units, they found 52 vacant units, again far exceeding the number of units that would be displaced.

Therefore, he said the overall conclusion is very clear that there is no displacement issue because there is more than an adequate supply of available housing.

In addition to that, **Ferrarini** said they contacted the broker who sold the four single-family, owner-occupied homes in the area to find out if they were able to find adequate housing. The broker said that all of them have either purchased new homes or are having new homes built under contract and, according to the broker, had no lack of opportunity in terms of their ability to buy another home. He reiterated that all of the new homes are in the Oregon City area.

So, **Ferrarini** said, either on the rental side or the ownership side, his firm found there would be absolutely no issue with regard to displacement of housing. In fact, he said, in actuality the removal of some of those units would be good for the multi-family market, given its weak state with a 9.6% vacancy rate.

**Hathaway** added that they have tried to deal with the displacement issue in two ways: 1) by the testimony and evidence that **Ferrarini** had provided in his letter and his testimony, and 2) by the fact that Younger has talked about committing to relocating the people in his multi-family units. He noted that Younger has the physical ability to accommodate that with other land that the family owns in this area.

Therefore, regarding any public need, **Hathaway** said the applicant believes they have resolved any concern about any public detriment as the result of displacing these units. All the public benefit, then, would weigh in favor of making the change.

Finally, **Hathaway** referred to comments that if this project is ultimately approved, Wal-Mart would not somehow pay its fair share in terms of traffic mitigation. Prior comments were that everybody else has basically provided the infrastructure necessary to allow for something like this to happen, and that this project would create additional impacts for which Wal-Mart is not going to be required to make any transportation improvements. He said that, although it was not perfectly relevant this evening, he would note that in the staff report on the site plan (which is not before them) staff recommends approval of the site plan with conditions (meaning that the applicant has satisfied all the City's design standards for this store). They have also identified a series of conditions that would be subject to the site development review by the PC which identify a series of transportation improvements that would be necessary to mitigate the traffic impacts caused by this development. He said if we get to the site development review process, more will be said specifically about that mitigation and the fair share the applicant thinks they are providing.

In summary, **Hathaway** expressed thanks for the opportunity to explain their position and said they would like to continue using the process to provide appropriate information to the PC so they would have all the

information necessary to make a good choice and a good decision. Further, he reiterated the applicant's request that this hearing be continued to another meeting to allow for an opportunity to review and consider the appropriateness of Powell's hearing this case and to inquire of him further as necessary, as was discussed at the beginning of this evening. He also hoped for an opportunity to provide the worst-case analysis to address that issue.

**Cook** noted that a letter from Dan Holliday would be added to the record as Exhibit G and the Hobson, Ferrari memorandum would be entered as Exhibit H.

**Mengelberg** asked for confirmation that the missing information, as identified by a citizen this evening, would be distributed to the PC, and **Cook** said yes.

**Kabeiseman** said staff had some comments they would like to add and asked the Chair how the PC would wish to proceed. **Chair Carter** said they were generally in agreement to stop for this evening and to close the public hearing, but to leave time for any additional written materials to be submitted within seven days and for all materials to be submitted in the next PC packet in order to provide time for review by the PC before continuing the hearing, at which time they would hear the staff comments and go into deliberations.

**Drentlaw** said continuing to April 8<sup>th</sup> would allow sufficient time for the 21 days to pass and would give staff and the PC time to review the information. He then asked about the venue, saying staff could see if the Pioneer Community Center is available again or perhaps they could return to City Hall since the public testimony has been completed.

**Chair Carter** closed the public hearing and continued this hearing to a date certain of April 8<sup>th</sup>, confirming that she was closing the public hearing for verbal testimony but leaving the public record open for seven days for written submissions, that the PC would hear any additional staff report and begin its consideration of the matter at that time, and that any additional written materials would be included in the packet prior to that meeting.

When **Mengelberg** asked why this couldn't be continued in two weeks, **Kabeiseman** explained that, by State statute 197.63, there is a seven-day period to allow for written testimony, another seven days for response to that written evidence, and another seven days for a final written argument. He said because this is not the initial second evidentiary hearing, an option would be to simply leave the record open for seven days plus the seven days for the applicant to respond unless the applicant waives that. **Chair Carter** added that she thinks staff needs the extra time to make sure they've got everything finished, and confirmed that they would continue as first stated.

Regarding the question of location, **Chair Carter** said she thought they could move back to City Hall because she didn't think as many people would choose to physically attend at that point.

## 5. NEW BUSINESS

None.

## 6. ADJOURN

With no other business at hand, the meeting was adjourned at 11 p.m.

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Linda Carter, Planning Commission  
Chairperson

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Tony Konkol, Associate Planner



**CITY OF OREGON CITY  
PLANNING COMMISSION MINUTES  
March 24, 2003**

**COMMISSIONERS PRESENT**

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

**STAFF PRESENT**

Sean Cook, Associate Planner  
Pat Johnson, Recording Secretary

**COMMISSIONERS ABSENT**

None

**1. CALL TO ORDER**

**Chair Carter** called the meeting to order at 7:00 p.m.

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

None.

**3. APPROVAL OF MINUTES (1/27/03 and 2/10/03 Work Session and Hearing)**

There were no corrections or changes to the minutes of Jan. 27<sup>th</sup>. However, **Orzen** noted that in the minutes of Feb. 10<sup>th</sup> the references on pages 2 and 3 to "Mitchem" should read "Mitchell" (one on page 2 and two on page 3). With no other changes, **Orzen** moved to accept the minutes of 1/27/03 as submitted and of 2/10/03 as corrected. **Mengelberg** seconded the motion, and it passed. (**Powell** abstained on both since he was not in attendance, and **Lajoie** abstained on the 2/10/03 minutes since his copy was different and he couldn't verify them.)

**4. HEARINGS:**

**Chair Carter** gave the parameters and procedures for the hearing on the agenda this evening, noting that it was quasi-judicial in nature.

**VR 03-02 (Quasi-Judicial Variance Hearing); Troy Weller; Request for a Variance to reduce the front yard setback from 20 feet to 9 feet for the property identified as Clackamas County Map 2S-2E-31DB, Tax Lot 8100 and located at 803 Brighton Avenue.**

**Chair Carter** asked if any commissioners had any ex parte contacts or bias with regard to this application, and there were none. **Lajoie** reported that he had visited the site.

**Sean Cook** gave the staff report, saying that this was a request for a variance in the reduction of a front yard setback from 20 feet to 9 feet to allow for the construction of an attached garage at 803 Brighton Avenue. He used an overhead map to show the location of the site (Exhibit 2 in the staff report).

**Cook** said the major relevant issues have been addressed in the staff report so he would not verbalize them all, but he would discuss the criteria that focus on rights commonly enjoyed by neighbors and compatibility with the neighborhood.

The applicant is requesting a variance to construct a garage in a similar location as his neighbors, who have garages in their front yards. Without this type of garage, the applicant feels he would be deprived of a right commonly enjoyed by his neighbors.

Regarding neighborhood compatibility, the applicant took the effort to talk to those neighbors immediately abutting his property and has obtained signatures from each of them showing their support of his proposal.

**Cook** said staff has received no letters of opposition after noticing, either from property owners or the neighborhood association.

In closing, staff finds the proposal appears to meet all the criteria necessary for the variance and, therefore, recommends the approval of VR 03-02.

**Chair Carter** asked if the 20 foot measurement is the entrance into the property, to curve in towards the garage and back out again. **Cook** said yes.

**Troy Weller**, applicant, 803 Brighton Avenue, said he has lived in the Rivercrest Park area for about eight years and in this house for about eleven months. After having lived there for awhile, he can see why his neighbors have built their garages in the locations they did. He approached the Planning Division with some preliminary drawings, for which they made some suggestions in order to make them meet Code. He worked with staff on the details, had an architect draw up new plans, and submitted the current application, which he believes now meets all the criteria. He noted that he did a lot of research on the bluff and he thinks his is the only flag lot on that bluff without the garage in this location.

**Weller** reiterated that he had worked through the details with an architect and the planning staff but noted that one difference from his neighbors' garages is that his is attached whereas theirs are actually detached. However, he believes this plan meets the criteria.

Regarding the aesthetics, **Weller** said the house can hardly be seen from Brighton due to the house in front, the hedges, and several oak trees. However, the proposal is that all the finishes will match the house, probably more so than on a typical garage. He added that the garage is right up against the house, which is 80 feet long, but the garage is only 36 feet in length.

When **Lajoie** asked if Weller is planning to maintain the existing garage as well, he said he would like to convert it to a family room for more usable space for his children.

There was no public testimony for or against this application.

**Chair Carter** closed the public hearing and moved to deliberations.

**Mengelberg** said she would support this application. She said it seems only fair since most of the neighbors already have a garage in front of their houses, and the house is well screened from the road and by a hedge as well. She said she was also encouraged that the property owner at 809 Brighton has signed the petition, since they are the closest and most impacted by the garage. Further, she said the design is attractive and blends well with the house.

**Lajoie** asked Cook about the staff write-up wherein it says the interior side yard is "9 feet/ 5 feet" and this is 8 feet, and he asked what the determining factors are. **Cook** said the 9 and the 5 are actually each of the side yard requirements. However, there is no distinction regarding which side either is on. This, then, allows for flexibility in the site planning according to which way it works, as long as they have 9 feet on one side and 5 feet on the other.



**Orzen** said the application is very straightforward and well done. She noted that there are quite a few constraints in that area and she said this looks like it would be a good addition. Therefore, she would support it.

**Powell** said he appreciates the effort the applicant put forth and although he knows there were probably some staff issues, it is nice to see that the applicant is working through them and striving to make something very appealing, even though it may not be particularly visible to the neighborhood.

**Chair Carter** added that it was very nice of Weller to get the neighbors' approval of his proposal in advance, which **Weller** said the Planning Dept. actually suggested.

**Orzen** moved to approve variance VR 03-02 requesting a reduction of a front yard setback from 20 feet to 9 feet to allow for an attached garage at 803 Brighton Avenue. **Lajoie** seconded the motion, and it passed unanimously.

## 5. NEW BUSINESS

None from staff.

**Orzen** said the 16<sup>th</sup> Annual City Cleanup will be held on April 26<sup>th</sup>, 2003. It will be coordinated at Clackamette Park at 8:30 a.m. , and there are 12 sites scheduled for cleanup. There will be vouchers available, but they will be given out on a "first come, first serve" basis. She said more information will be available on the Oregon City web site ([www.orcity.org](http://www.orcity.org)).


Regarding the next meeting for Wal-Mart, **Chair Carter** said the next meeting was announced to be on April 8th, which is actually a Tuesday rather than a normal Monday meeting day. However, since it was announced that way, it will remain on that day and date.

## 6. ADJOURN

With no other business at hand, the meeting was adjourned at 7:20 p.m.

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Linda Carter, Planning Commission  
Chairperson



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Sean Cook, Associate Planner



**CITY OF OREGON CITY  
PLANNING COMMISSION MINUTES  
April 8, 2003**

**COMMISSIONERS PRESENT**

Chairperson Carter  
Commissioner Lajoie  
Commissioner Mengelberg  
Commissioner Orzen  
Commissioner Powell

**STAFF PRESENT**

Christina Robertson-Gardiner, Associate Planner  
Dan Drentlaw, Planning Director  
William Kabeiseman, City Attorney

**COMMISSIONERS ABSENT**

None

**1. CALL TO ORDER**

Chair Carter called the meeting to order at 7:00 p.m.

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

None.

**2. APROVAL OF MINUTES**

None.

**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. (cont'd. from 3/24/03).

PZ 02-02 (Quasi-Judicial Amendment to the Comprehensive Plan Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for an amendment to the Comprehensive Plan for 0.92 acres designated Low Density Residential to Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2800, 2900, 3000, and 3100. (cont'd. from 3/24/03).

ZC 02-01 (Quasi-Judicial Zone Change Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Zone Change for 1.04 acres zoned RA-2: Multi-Family Dwelling to C: General Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2400, 2500, 2600, and 2700. (cont'd. from 3/24/03).

ZC 02-02 (Quasi-Judicial Zone Change Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a Zone Change for 0.92 acres zoned R-10: Single-Family Dwelling to C: General Commercial for the properties identified as Map 3S-2E-5DB, Tax Lots 2800, 2900, 3000, and 3100. (cont'd. from 3/24/03).

Chair Carter reopened the hearing for the Comprehensive Plan Code amendment and zone change requests. City Attorney Kabeiseman noted the unusual Tuesday evening meeting and reminded everyone that there would be no public testimony this evening because the public hearing was closed previously although the public record remained open for a period for public submittal.

Christina Robertson-Gardiner said staff would like to enter into the record the new comments that were received since the March 10<sup>th</sup> hearing. She noted that attached to her memo of April 1, 2003 were (a) Exhibit 1, which included copies of Exhibits E, F, G, and H which were entered into the record on March 10<sup>th</sup>, and (b) Exhibit 2,

which included Exhibits A-H for inclusion into the record as of this evening (April 8, 2003). These include comments sent in from March 11, 2003 through March 17, 2003.

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

When asked about the reference date of March 17, 2003 on the new Exhibit F (a letter from Greg Neidermeyer), **Robertson-Gardiner** said it should read March 7, 2003. She noted that it was not available for the March 10<sup>th</sup> hearing but had subsequently been sent to the Planning Commission (PC) and was now being included in the comments to be added into the public record this evening.

**Kabeiseman** explained that at the end of the March 10<sup>th</sup> meeting things were a little unclear regarding what was or was not allowed, and he wished to clarify the process. He explained that generally under the statute, if the PC is going to leave the record open for any additional evidence, there must also be an additional opportunity to rebut that new evidence. He said what they should have done was only allow rebuttal evidence but they inadvertently allowed for any new evidence to come in. Therefore, they must now allow time for rebuttal. The end result was that he recommended that the PC now keep the record open for seven days only for public response to the material they had just received, after which the applicant would be given an additional seven days to submit written argument only. He clarified that with this recommendation only the applicant would be allowed a rebuttal period—there would be no further opportunity for public comment. He added that the PC could choose to allow for continuing rounds of rebuttal, but his recommendation was that they limit it to this one additional round in order to get to a decision.

**Dan Drentlaw** briefly reviewed the criteria for Comprehensive Plan amendments and rezone changes in preparation for deliberations. (These criteria have been posted during hearings and are available through the Planning staff.) He reminded them that if the PC and later the City Commission choose to approve these requests, there will then be a public hearing on the site plan.

**Kabeiseman** said there was some discussion of the possibility of bias by Powell at the March 10<sup>th</sup> meeting, and at least one person had requested to ask further about his position. **Kabeiseman** suggested this might be an appropriate time for such questions as bias, conflicts of interest, or ex parte contacts.

**Greg Hathaway**, attorney with Davis, Wright, Tremaine, 1300 SW 5<sup>th</sup> Ave., Portland, introduced himself as the attorney for the applicant in these proceedings. He referred to Mr. Holliday's comments and presentation of an article from *The Oregonian* (dated March 14, 2002) at the last meeting regarding statements Powell had made stating his opposition to large retail "big box" development on Hilltop. **Hathaway** reminded the PC that he had not seen that article before and had asked for time to review it to determine if he needed to ask questions of Powell regarding those statements as well as asking for an opportunity to see if there was other information that might be helpful in his examination of either Powell or other commissioners on the PC.

He said since that time they have discovered two other *Oregonian*-type articles, one written by Sarah Huntsberger on Feb. 28, 2002 in *The Oregonian* where Chair Carter was quoted talking about proposed large-box development on Hilltop and the other being another letter written by Powell on Nov. 14, 2002 specifically objecting to the Wal-Mart development.

**Hathaway** asked permission to question both of them about these letters or comments, and was granted such by the Chair. He then distributed copies of the three articles to the PC and staff on which he had marked the appropriate places for discussion.

**Kabeiseman** noted that these were being accepted into the record not as evidence towards any particular criteria but as a possible procedural issue and he cautioned both the PC and Hathaway to stay away from discussion of any of the criteria during this questioning. All parties concerned agreed.

Regarding Powell's March 14, 2002 letter, **Hathaway** asked if it was correct to assume that Powell actually wrote the letter and why he wrote the letter. **Powell** confirmed he had written it and said he thought he had written it in response to a question from Sarah Huntsberger asking for his opinion on the matter.

When **Hathaway** asked if **Huntsberger's** question was related specifically to a Wal-Mart proposal, **Powell** said it was not. He said there was a rumor that a big-box store was coming to the Hilltop area and she asked what he thought. He confirmed that he was unaware that Wal-Mart had filed an application or was even intending to file an application.

Referring to **Powell's** Nov. 14, 2002, letter, **Hathaway** asked if **Powell** wrote it, and **Powell** confirmed that it was basically a resubmittal of the previous letter.

**Hathaway** asked if **Powell** was aware at the time he wrote the Nov. 14<sup>th</sup> letter that Wal-Mart had actually filed an application asking for the ability to develop on Hilltop. **Powell** said he thought the rumor was that it was a Wal-Mart proposal, but he didn't believe he had seen any legal documents about it at that time.

**Hathaway** said he was asking for clarification because in **Powell's** March 14<sup>th</sup> letter he said he was opposed to any large retail development on Hilltop but there is no mention of Wal-Mart, yet in the Nov. 14<sup>th</sup> letter he specifically referred to Wal-Mart and his opposition to Wal-Mart. **Powell** said he had heard the rumor that Wal-Mart had or would be filing an application but he didn't know if they had actually filed it at that time.

**Hathaway** then reviewed the Nov. 14<sup>th</sup> letter, noting the statement that said, "I think that allowing Wal-Mart to build on the hilltop would be a mistake." He asked if that was still **Powell's** opinion, to which **Powell** said no. He said at this point he has much more information than he had at the beginning and he is giving Wal-Mart and the applicant the opportunity to prove that this is the best application for that property.

When asked why he originally thought it would be a mistake, **Powell** said he is concerned about traffic and general impacts to the community with all applications, whether residential or commercial. Given the little he knew at the time, he said it seemed like this would be an impact to the community and he was responding to that kind of response.

**Hathaway** said **Powell** had indicated at the two previous hearings that he would be able to render a fair and impartial hearing and said he hoped **Powell** could understand why the applicant would be concerned about such, given the statements in his letters. He said he appreciated the fact that **Powell** was indicating a change of opinion and asked if there was something he could share regarding his change of opinion.

**Powell** reiterated that he now has much more information than he had at the time he wrote those letters, so he felt he would be able to make a much more intelligent decision now than when he had no facts.

**Hathaway** read from the same letter, "The land would be better used for industrial, light industrial, and office space because retail traditionally has a reputation for creating a large percentage of part-time jobs instead of family-wage jobs and Wal-Mart specifically has a poor performance on employee creation and stability...." He then asked if this is still **Powell's** opinion today.

**Powell** said his opinion at the time was based on an article in *The Oregonian* that talked about issues in the courts about this, but he really doesn't have an opinion about it at the moment because he has heard comments both for and against this.

When **Hathaway** asked if it is still **Powell's** opinion that the site would be better suited for industrial, light industrial, and office space, **Powell** said he thinks there could be a lot of different uses that might fit in that area, and that office space, retail, and residential are all possibilities. Therefore, his goal is try and understand what makes the best sense for Oregon City.

**Hathaway** said **Powell** had a strong opinion on Nov. 14<sup>th</sup> that industrial, light industrial, and office space was the preferred use and asked if he had a basis for that opinion at that time.

**Powell** said he thought he was working on the Comprehensive Plan at that time and he thought related discussion included the rezoning of many different areas at the time, including discussion about enhancing the whole 7<sup>th</sup> Avenue/Hilltop area with some light industrial, residential, and, in fact, retail.

**Hathaway** read from the Nov. 14<sup>th</sup> letter, "I believe it is important to show loyalty to the retailers who are already committed to Oregon City. Danielson's, Fred Meyer, and Bi-Mart are continually involved in community programs. Oregon City residents ought to support these retailers as well as other small retailers who are trying to make a living in our city. A Wal-Mart will only drive out these businesses." He asked if Powell still held this opinion.

**Powell** replied that he thinks we should absolutely support our retailers. Regarding whether he thinks Wal-Mart would drive those out, he said he has no basis for that determination right now except for what he has read, so it is basically an opinion. He reiterated that he now has much more information and his current decision is about the zone change request, not who the retailer might be. Therefore, he wasn't sure his personal opinion about Wal-Mart's choice or methods of operation is important at the moment.

**Hathaway** said he asked the question because on the face it appears that Powell opposes Wal-Mart and would in return support those businesses named in the letter. (He noted that Danielson's opposes the Wal-Mart applications and has hired the Miller, Nash law firm to represent them.) Thus, he has some concern about Powell's position since it would appear from these statements that, given a choice between a new Wal-Mart store and Danielson's, Powell would support Danielson's. Therefore, **Hathaway** said he needs to be comfortable that Powell would be fair and impartial based on the evidence that comes into this record.

**Powell** said he could understand that and explained that those stores came to mind as the ones that are on the hilltop. He said he didn't specify any one for any particular reason. He reiterated that he would give this application a fair and impartial consideration, as he would any application for the Hilltop area. He said he has no allegiance to any of the stores that are listed or to any that are not listed.

**Hathaway** asked why Powell would state what he did on Nov. 14<sup>th</sup> and then today say he is willing to listen to all the facts? Specifically, is it because he is now on the PC?

**Powell** said yes, and, in fact, he said he needs to listen to all the facts fairly and impartially, much as a judge in a case of law. He reiterated that he truly thinks he can do so. He cited his experience on the City Commission, saying that there were many largely publicized land use cases wherein he thought he had made his decision based on the staff report and then, after listening to the applicants and all the testimony, he had changed his mind. He would expect to be able to listen fairly to all the evidence in the Wal-Mart applications as well with an open mind.

Although the Nov. 14<sup>th</sup> letter was written before he was on the PC, **Hathaway** noted that Powell made the very strong statement, "I urge the Planning Commission to deny any type of zone change," and he asked again if this is still Powell's opinion.

**Powell** said no. He was expressing an opinion as a citizen at that time, and he said his opinion today is different than when he wrote the letter because now he has much more information than he had then, and he now has much more experience with land use planning and zone changes than he had then.

**Hathaway** asked about Powell's statement at the end of the letter that says, "Don't let Wal-Mart bring blight to another small town in Oregon," and again he asked if that is still Powell's opinion.

**Powell** said he doesn't have enough information to have a strong opinion on that. Again, he said he was responding to what he had read, and he admitted that he still has some concerns about organizations of any type coming into a town and drawing away business. However, he said he is not suggesting that Wal-Mart will or will not do it. He is more than willing to listen to discussion about that from both sides, and he has not made a decision about that.

Moving from the letter of Nov. 14<sup>th</sup> to some questions about Powell's role as co-chair of the McLoughlin Neighborhood Association (N.A.), **Hathaway** said at the last hearing Powell indicated he was still co-chair and he asked what Powell's current status is.

**Powell** said he still holds that position.

**Hathaway** said he asked that question because it is his understanding that the McLoughlin N.A. is opposed to these applications. So, he asked, are Powell's positions as co-chair of the N.A. and his seat on the PC in conflict. He asked if Powell has participated in any discussion at the N.A. sub-committee meeting or full meeting regarding the proposed Wal-Mart applications.

**Powell** said yes. He was responsible as the co-chair to put together a land use committee meeting to discuss the procedures and the policies around the PC and what they would be hearing, and what folks could and could not respond to. He said when the general membership voted, he did not vote—he actually left the room because at that time he had already made his application to serve on the PC. He could not recall ever having a discussion with the membership in a meeting situation regarding the merits of the Wal-Mart application.

**Powell** noted that he submitted the letter as a personal opinion and the reference to himself as co-chairman of the N.A. was inserted by the newspaper.

**Hathaway** said he had noticed that there was a reference to "I" rather than "we" in the letter, so he had made that assumption himself.

**Hathaway** then asked Chair Carter some questions about the Feb. 28<sup>th</sup> article by Sarah Huntsberger. First, he asked if she recalled being interviewed by Huntsberger for this article, to which **Chair Carter** replied, "Vaguely." She said she has lots of conversations and correspondence to and with the people from *The Oregonian*.

**Hathaway** referred to Chair Carter's comment (**marked in yellow**), "I would prefer to have offices mixed with smaller retail rather than the proposed large retail detail." He asked if she was aware on approximately Feb. 28, 2002 that Wal-Mart intended to or had already filed the applications currently being reviewed.

**Chair Carter** said she has no idea what the dates were when Wal-Mart initially came to file the application or have their pre-application meetings because it was not stated at that time who the applicant was, so she couldn't say if it was before or after Feb. 28, 2002.

**Hathaway** asked if it was a fair assumption, because the article discusses the potential of a Wal-Mart development on Hilltop, that when she made her statement, she was probably referring to Wal-Mart.

**Chair Carter** said probably, because that was the rumor at the time.

When **Hathaway** asked if that is still her opinion today, **Chair Carter** said her personal opinion must be set aside in order to do a functional job as a planning commissioner. She said she also wrote an article dated March 14<sup>th</sup>, which no one had referenced, that brought out a lot of the issues—both pro and con—in which she tried to give a balanced opinion about them to try and stimulate the populace to think in terms of both the pros and cons. She said she thinks this speaks clearly to her lack of bias to be able to give judgment on this application.

**Hathaway** asked about the line that read, "None of us are very fond of this idea" [referring to the proposed large retail development], Carter said, speaking of the Planning Commission."

**Chair Carter** said she cannot speak for the PC, so she didn't know if this was a misquote or how it got in there.

**Hathaway** asked if she recalled why she would have said, "None of us are very fond of this idea."

**Chair Carter** said it was probably because of a lot of feedback/opinions from customers in her salon. She noted that all of these people had had the opportunity to attend the hearings and state their opinions for themselves.

When **Hathaway** asked if this is still her opinion today, **Chair Carter** reiterated that if she is going to be a planning commissioner and do justice to what is in the best interests of the City, she must be able to put aside her personal opinion, whatever that opinion might be. She agreed with Powell's comment that it occurs regularly that, although the members of the Commission might have a preconceived idea of how they think things will go, when they hear the evidence and the facts and especially the public testimony, which this City is very open to, they are swayed by

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what is presented in their consideration of the criteria, how the application fits the criteria, and what the public opinion is.

When **Hathaway** asked if she recalled talking to any members of the PC who would have been in office at that time (in Feb., 2002) about a proposed Wal-Mart store, **Chair Carter** said she couldn't say she recalled such.

**Hathaway** said his question came from the way her statement, "None of us are very fond of this idea," was stated in reference to discussions she may have had with members of the PC. He noted that this wasn't a quote from her but was something **Huntsberger** would have added, but he needed to ask if she recalled any discussions she may have had with members of the PC at that time.

**Chair Carter** said no again, because this PC does not discuss things like that, and she reiterated that this PC is comprised of five members who vote independently.

**Hathaway** thanked the Chair and the Commissioners for the time allotted to ask his questions because he knew that in some ways that could have been very uncomfortable and he appreciated their candor in the responses to his questions.

**Chair Carter** said they would postpone deliberations with a continuation to a future hearing. After some discussion about the time needed for additional written testimony, rebuttal, turnaround of comments to the PC, acknowledgement of the applicant's attorneys' schedule, and the PC schedule in April and May, **Chair Carter** continued this hearing to a date certain of Monday, May 12, 2002, at 6:00 p.m. It was noted that there is already a fairly full agenda that night which has already been noticed to begin at 7:00 p.m., but the preference was to notice the Wal-Mart portion to begin earlier rather than adding it to the end of the agenda and staying so late at night.

**SP 02-09 (Quasi-Judicial Site Plan and Design Review Hearing), PacLand: Scott Franklin (Owners are indicated on the Staff report); Request for a 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 for 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 for Tax Lots 2400, 2500, 2600, 2700, 2800, 2900, 3000, 3100, 3200, 3201, 3300 and Map 3S-2E-5D, Tax Lot 500.**

## 5. NEW BUSINESS

**Orzen** said that she and **Powell** had taken a trip to Centralia, Washington on the Amtrak earlier this day to see what they have done in revitalizing their downtown area. She said they got a wonderful reception and a lot of great ideas that might be put to use in Oregon City.

## 6. ADJOURN

With no other business at hand, the meeting was adjourned at 7:45 p.m.

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Linda Carter, Planning Commission  
Chairperson

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Dan Drentlaw, Planning Director



**CITY OF OREGON CITY  
PLANNING COMMISSION MINUTES  
April 14, 2003**

**COMMISSIONERS PRESENT**

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

**STAFF PRESENT**

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

**COMMISSIONERS ABSENT**

Commissioner Dan Lajoie

**1. CALL TO ORDER**

**Chair Carter** called the meeting to order at 7:03 p.m.

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

None.

**3. APPROVAL OF MINUTES**

None.

**4. HEARINGS:**

Chair Carter explained that all of the hearings on the agenda were quasi-judicial in nature and that all three requests were by the same applicant, Tom Skaar/Pacific Western Homes. They consisted of a request for an amendment to the Comprehensive Plan, a zone change request, and a water resource hearing.

**PZ 03-01 (Quasi-Judicial Amendment to the Comprehensive Plan Hearing), Tom Skaar/Pacific Western Homes, Inc.,; Request for an amendment to the Comprehensive Plan for 9.23 acres from Low Density Residential/Manufactured Housing to Low Density Residential for the properties identified as Map 2S-2E-28AD, Tax Lots 4200 and 4300.**

**ZC 02-04 (Quasi-Judicial Zone Change Hearing), Tom Skaar/Pacific Western Homes, Inc.,; Request for a Zone Change of 9.23 acres zoned R-6 Single-Family/Manufactured Housing District to R-6 Single-Family Dwelling District for the properties identified as Map 2S-2E-28AD, Tax Lots 4200 and 4300.**

**Chair Carter** opened the public hearing at 7:05 p.m. for the Comp Plan amendment and the zone change requests to be presented simultaneously, and gave the parameters and procedures for these hearings. She asked if any commissioners had had any ex parte contacts, had visited the site, or had any bias relating to these applications. She noted that she had attempted to visit the site but couldn't see much. There were no challenges against the Planning Commission or any individual members to hear these applications.

**Tony Konkol** gave the staff report, identifying the applicant and the site addresses and explaining that one request was for a Comprehensive Plan change from LR/MH – Low Density Residential/Manufactured Housing to LR – Low Density Residential, as well as a zone change from R-6 MH – Manufactured Housing Single-Family to R-6 – Single Family. These are Type IV land use applications, of which a denial can be presented by the Planning Commission (PC) or a recommendation for approval can be submitted to the City Commission, for which a hearing has been noticed.

In addition, there was a concurrent application on the agenda for a water resource review for the subject site as well as a subdivision application for a 29-lot R-6 subdivision on this site and a variance to the lot width of one of the proposed lots. The subdivision and variance are Type II administrative decisions, and the water resource is a Type III.

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

**Chair Carter** asked why this particular variance is Type II and is handled at staff level rather than coming to the PC for a lot variance. **Konkol** said under 17.60 (the Variance Code), there are five situations in which an administrative variance can be done at the staff level Type II. One is a lot width reduction of less than 5%, as in this case.

**Konkol** said the site is located just south of Holcomb Boulevard and east of Oak Tree Terrace. Directly east of the parcel is the Wasko Acres subdivision, which is currently being developed and is zoned R-6 MH. To the west are six parcels with a Comp Plan designation of Low Density Residential that are zoned R-10, Single-family. Directly south of the site are two parcels outside of the city limits that are Low Density Residential in the Comp Plan and are still under the county designation of FU-10. Directly north of the site is Holcomb Boulevard and north of that is a parcel also outside of the city limits with Low Density Residential and an FU-10 zoning designation in Clackamas County.

Proper notice of this hearing was done with letters to property owners within 300 feet of the property site, notice at the property site, notice in the paper, and the staff report being made available seven days prior to this hearing. Comments were received from the Park Place Neighborhood Association and the Oregon City Director of Public Safety, both of which indicated that the zone change and the Comp Plan amendment do not conflict with any of their interests. Comments were also received from Oregon City Public Works, the Oregon City Engineer, and David Evans & Associates, which does the contract work for the City for traffic. Those comments have been incorporated into the staff report.

The applicant is proposing to change the Comp Plan from Low Density Residential/Manufactured Housing to Low Density Residential R-6. There is only one zoning designation with the R6 MH, which allows 6.4 dwelling units per acre. The applicant has requested to change the Comp Plan to Low Density Residential and a zoning designation under that of R-6, which allows up to 7.3 dwelling units per acres. So this is an increase of .9 dwelling units per acre, or roughly 8 homes over the 9.23 acres.

When looking at a public need for the zone change and amendment, this would allow for a variety of housing units at a different range of prices than what currently exists in Park Place. It is currently Low Density Residential and is predominantly R-10 in this area of Park Place. This would allow a different size of housing units in this area of Park Place. Further, it was determined by the traffic engineer that this increase of eight houses was not significant enough to warrant a new traffic study for this site under the worst-case scenario.

**Konkol** said the Low Density Residential/Manufactured Housing Comp Plan designation and the zoning designation came about approximately 10 or 11 years ago when manufactured housing was designated by the State as an affordable housing type. Most jurisdictions allowed manufactured housing in all their residential dwelling zones. Oregon City decided to create their own zone and allow them only in certain areas. After going through the process of identifying properties and giving them the Comp Plan designation and the zoning designation, State law changed. Now we allow manufactured homes in almost every residential dwelling area in the city except in the Canemah and McLoughlin neighborhoods.

Therefore, the idea behind the manufactured housing overlay and the Comp Plan and zoning designation has become outdated and just has not been updated yet. This zoning designation of Manufactured Housing does not require only manufactured housing. Stick-built, detached housing is allowed in this zone under the Comp Plan and this zoning designation.

The applicant is asking for this change because of the 20-foot height limitation that is placed on the R-6 MH zone that restricts the height of the building, which restricts the type of housing that can be placed therein.

Regarding adverse affects associated with these proposed changes, **Konkol** noted the following:

- Community facilities (sewer and water) are stubbed to the property and can be extended through the site.
- A natural water resource has been identified on the property. By implementing the Water Resource Code, we are implementing the goals and policies of the Comp Plan for the protection of these water resources.
- All adjacent properties are zoned Low Density Residential in the Comp Plan, which allows for R-6, R-8, and R-10. Wasko Acres directly to the east is zoned R-6 MH, which allows 6,800 square foot lots. The applicant is requesting R-6, which allows 6,000 square foot lots, so it would be compatible.
- Regarding the transportation system and impacts, with or without this development the intersections at Holcomb and 213 and at Holcomb, Redland, and Abernethy will be failing by the year 2008 with the projections used for their calculations. However, as stated earlier, the eight additional houses do not warrant a new traffic study for this site. Any Conditions of Approval (COA'S) that would be associated with the proposed development of the site would be implemented at the subdivision level and staff has indicated that a non-remonstrance agreement with the City might be applicable in this situation. The traffic study done by David Evans and Associates for the proposed subdivision did not find that the amount of development proposed on this site warrants off-site mitigation (intersection improvements) at this time. There would be half-street improvements associated with this development along Holcomb Boulevard, and all the interior streets would be designed to City standards. Holcomb Boulevard would be designed with a typical half-street improvement, including pavement, curb, gutter, street trees, and sidewalk.
- Regarding housing, **Konkol** reiterated that this would allow a variety of housing in Park Place to allow a combination of R-6, R-6 MH, and R-10 types of housing and a variety of prices and ranges.
- Regarding natural resources, the site is not on any natural resource areas identified on the Comp Plan but it is in the Water Resource Overlay District, for which a water resource review is applicable. The property is also in a wet soils and high water table which, through a geo-tech investigation at the subdivision design level, would be addressed for appropriate remedies and actions to be taken for development on a high water table.
- There is bus service close to the site, although it stops at the Clackamas County Housing Authority to the west of the site along Holcomb and does not go all the way down to the site.
- The Parks Master Plan does not call for any more pocket parks due to maintenance and upkeep costs, but it does identify a goal of protecting stream corridors, etc., which could be done through the water resource review and the protection that would implemented through that as the site is developed.

In conclusion, **Konkol** said staff is proposing a change from R-6 MH to R-6. He reiterated that, if the site were completely developed at its maximum, it would include eight additional housing units. He also said the main reason for this is to remove the 20-foot maximum building height to allow traditional stick-built houses to be built on the property. Therefore, staff recommends that the Comprehensive Plan designation

change from LR MH to LR and the zone change from R-6 MH to R-6 be recommended for approval to the City Commission without any conditions.

**Mengelberg** asked if the slope issues on the site are what are causing the developer to want the height restrictions removed or if parts of the site are impaired because of the stream setbacks and the slope issues, so that they need to maximize density by going upward.

**Konkol** said he didn't think that was the issue, but he would defer that question to the applicant.

**Mengelberg** asked if the manufactured housing development within the City is meeting the State requirements.

**Konkol** said he didn't know regarding affordable housing, but he knows it is allowed in every zone. Also included in the Comp Plan is the idea that protection of our existing housing stock allows for a great way to provide affordable housing because it is cheaper to move into an existing house than to build a new one.

When **Mengelberg** asked if there is any State requirement that we have a certain percentage of manufactured housing or if we just need to provide the opportunity, **Konkol** said it is the latter.

**Powell** asked if Holcomb is still a county road, and what the current condition is in that area. Specifically, he wanted to know if a half-street improvement on one side would be a major problem on the other side (not that he was expecting anyone to improve both sides, he said).

**Konkol** said he didn't think it would make things any worse. He said we would get a half-street plus 10 feet on the other side of the center-line if the road is in bad shape. So, for the frontage of this property, brand new road would be built where applicable if deemed necessary by the City Engineers at the time the sewer cut in the street was created, or appropriate improvements would be determined.

When **Powell** asked if the County is planning any maintenance on that road at this point, **Konkol** said no.

**Mengelberg** asked if the County considers it a local street, and **Konkol** said it is a minor arterial.

**Chair Carter** asked if would be reasonable to assume that it would match up with Wasko Acres and be uniform throughout that section, and **Drentlaw** said yes, noting that it would be built to City standards.

**Powell** said he was really trying to look long-term to avoid a similar situation to that in South End, where half-street improvements were made and then very shortly thereafter the County dug it up to do their work, after which the half-street improvements on the other side were never finished.

**Drentlaw** said we're just trying to get what we can as development occurs, and **Chair Carter** said this is an ongoing problem until the rules are changed because improvements are currently done increment by increment, which is obviously not the most desirable.

Applicant **Tom Skaar**, Pacific Western Homes, Inc., 5530 NE 122<sup>nd</sup> Avenue, Suite A, Portland, Oregon, said the height limitation is one issue. The other major issue is the lot dimension requirements that are part of R-6/MH because they were designed to ensure that manufactured homes were placed on lots with the long access parallel to the street. Therefore, there are minimum lot width standards in that designation that don't work very well in terms of higher density single-family (6,000-foot lots). It is very hard to develop any density in terms of developing a 6,800 square foot lot subdivision with 80-foot wide lots.

In addition, this site is severely constrained by the water resource property that is part of it. As a result, they will only get to develop about 60% of the total land area. Therefore, to get the kind of density that makes this kind of subdivision economically feasible, they need to get away from the 80-foot wide lots and get to an R-6 designation instead.

**Mengelberg** referred to staff's comments about a variety of housing types and asked if those would primarily be single-family houses with different sizes and different price points, or if there would also be condos and townhouses.

**Skaar** said it is their expectation that these would all be single-family detached dwellings, not condos and townhouses, with price ranges likely between \$190,000 and \$260,000 and square footages from 1,600 square feet up to perhaps 2,400 square feet.

**Chair Carter** asked if there would be a variety of lot sizes or if there might be \$260,000 homes on 6,000 square feet.

**Skaar** said mostly the latter, although there are a few larger lots. He said today's market is such that the home-buying public has gotten used to 6,000 square foot lots, and in some cases even smaller than that. For instance, he said in some cases in Portland they are building \$250,000 houses on 4,000-foot lots and not meeting any market resistance to speak of because that is all that is available.

**Chair Carter** said the PC has talked in the past about trying to preserve the rural feeling, and she had overlooked a couple of questions of staff. She then asked staff if Wasko Acres was R-10 at the time of the original application.

**Konkol** said no. He said they have a Comp Plan of LR/MH as well as a zoning designation of R-6 MH.

**Chair Carter** asked how they could be building two-story houses if they are zoned MH, assuming that the height restriction is one-story.

**Konkol** said the height restriction is 20 feet, which is measured halfway between the peak of the roof and the eave of the roof. He said he hasn't done a plan check on the housing type at Wasko Acres but he could look into that, although he would think they are meeting Code.

**Chair Carter** asked the applicant what they are building that would be more than two stories or 20 feet high.

**Skaar** said they are not building anything to be more than two stories, and he reiterated that the issue for the applicant is not so much height as the lot dimension requirements.

**Mengelberg** asked how people would primarily access Holcomb, specifically, would they be using the public alley that is drawn between lots 18 and 19 or would they be coming up Smithfield Drive?

**Skaar** said they would be coming through Wasko Acres and up Smithfield Drive. The alley, in fact, provides no access other than emergency services access.

**Orzen** asked if the alley is large enough for fire/emergency vehicles to access, and **Skaar** said according to the Fire Department, yes. It is meant just a secondary straight-through access in the unlikely event that Smithfield Drive was blocked off by a catastrophe and there was no other access available to that portion of the subdivision.

**Chair Carter** noted that if it is there, the people will use it, but **Skaar** said it would be gated off with some sort of a barrier.

When **Powell** asked if the other public alley is for access to lot 20 and the existing house, **Skaar** said it is for access to the existing house and/or its garage and for access to lots 20 and 21.

**Chair Carter** asked what the proposal is for the small piece of land between lots 20 and 21, and **Skaar** said that is a proposed 10-foot private sanitary sewer easement.

**Drentlaw** clarified that the Planning staff has not yet reviewed the subdivision plan and that much of this discussion was getting into subdivision plan questions, but this hearing is only for zoning. **Chair Carter** said okay, but it helps to understand the reasons behind the request.

In conclusion, **Skaar** said the applicant was in agreement with staff's conclusion and respectfully requested recommendation for approval by the Planning Commission to the City Commission.

**Chair Carter** said she was a little confused because Manufactured Housing lots are 6,800 square feet but she thought R-6 lots for single-family dwelling units, which are 6,000 square feet, would be larger.

**Konkol** said the MH lots are actually bigger basically because they are wider.

**Skaar** noted that there has been talk of getting rid of the MH designation citywide for many years and he thinks it is in process to occur sometime soon.

Moving to public testimony, **Mark Wetzel**, 16200 S. Oaktree Terrace, said his property backs up directly to the one-acre site at the proposed development. He said he and his neighbors are already having a problem with the positive rise that happens just east of Oaktree Terrace because it is kind of a blind rise. In particular, they are concerned about busses, traffic, etc., and he noted that this was addressed once before during the development of property at the end of the street.

**Drentlaw** said a condition was placed on that developer to bring that hill down to meet City site distance requirements between Oaktree and Holcomb.

**Wetzel** said that adding more traffic makes it more of an issue because it is a country road with no speed limit signs and people travel it pretty fast until they go around the corner at Oak Bend. He said the residents are particularly concerned about children waiting for the bus in the morning.

**Wetzel** said another issue is the water drainage. He said a water reservoir is being built uphill from them because many of the current residents are still on wells. The concern is that a lot of the water that currently goes directly into the forest might be diverted, and he asked if any research was done about the possibility of their wells going dry.

**Chair Carter** said that question would probably be more appropriate for the water resource portion of this application.

**Wetzel** referred to the comment that there were no plans for a park, but he said some children currently play in that area. The concern is that there are no parks designated for the area but he conceded that if there is a corridor for the water area, that would probably provide enough space for kids to play.



Finally, he said the area currently is forested and has a good rural feel to it. He said they are concerned about having such density from the development backing right up to their lots and he said it would be nice to keep some of the full-grown maples and oaks that are there today.

**Chair Carter** said these are some good points that the PC has discussed in the past, but the PC must always come back to the constraints they must work within. She said everyone would like a perfect world, but piece-meal development never results in the highest desirable use. In fact, our laws give the property owner the right to do what they want with their property and often people work alone rather than creating a plan with neighbors that might make a better overall situation.

She agreed that the road issue is a really big issue, but the County owns the road. She said it is her understanding that the City would take the road from the city down except that the County would have to give maintenance money to bring the road up to City standards, which the County doesn't have the money for, nor does the City have the money to make the improvements on the road. She suggested that the Park Place Neighborhood Association might want to get together and come up with some kind of a plan to tax the people who are using the road to accomplish the needed improvements.

**Chair Carter** asked staff if this particular development would have to be accountable in any manner towards the burden that was put on the last applicant to smooth out that hump.

**Konkol** said the hump is in front of the applicant's property and any conditions of approval would be determined at the subdivision review.

**Drentlaw** said they will also be looking at participation of other subdivisions as they come in.

There was no applicant rebuttal.

The public hearing was closed at 7:45 p.m.

In deliberations, **Orzen** complimented staff on the preparation of the packets, particularly noting the organization and conciseness of information. She said it appears to be an easy zone change request and although there are some concerns about the development of large parcels, there is no easy fix. Therefore, she was in favor of these requests.

**Powell** said he had seen and heard the comment on the traffic study, but he was interested about the traffic through the neighborhood. He said they just had a cul-de-sac issue on South End and, even though they weren't talking about design at this point, he said it was hard to make a decision when there was no information about the traffic study itself (for the whole area, not just this subdivision), even though he understands that eight additional houses is not a major addition.

**Konkol** said the traffic study was provided by the applicant and reviewed by our Traffic Engineer. There was adequate sight distance from the entryway in and out of Wasko Acres onto Holcomb. He said he could find the trips per day that would be generated if that would help, but he didn't believe that it warranted a right-turn lane into the subdivision, and the subdivision did not warrant offsite impacts other than its frontage.

**Powell** said he understood that Park Place didn't have an issue with this, but he didn't want someone complaining later about the increased traffic causing problems.

**Konkol** then read from the traffic report that "The subdivision will generate 21 a.m. peak hour trips and 30 p.m. peak hour trips based on single-family detached housing...Site distance of 500 feet to the west and

east...both distances exceeding City standards...." He noted that only stop signs at Holcomb were required. He said he could see that eventually there would be a connection from the Wasko Acres subdivision through this subdivision, most likely, connecting to the Oaktree Terrace. At that point, he said further study would need to be done for the turn out of Oaktree.

**Powell** said he understands that the affordable housing requirement needs to be met, but he thinks that can be done without the MH designation, so he would vote to get rid of it.

**Powell** said again that he understood that Park Place had looked through this application and had no issues, but he asked if Konkol could present such information in the future.

**Mengelberg** agreed that the application seems reasonable. The site size isn't significantly smaller or bigger than the surrounding uses. She said, though, that she is sensitive to the neighbors' concerns and encouraged staff to look at these at the Site Plan and Design Review stage, particularly considering the comments about preserving larger trees for slope stabilization and stormwater drainage. She encouraged them to look at ways to make the open space accessible for the neighborhood since parks will not be provided. She also suggested they look at the well impacts of the development. With that said, she said she was comfortable with the applications.

**Orzen** moved to forward the proposed Comprehensive Plan amendment, PZ-03-01 and the zone change request, ZC-02-04, with a recommendation of approval to the City Commission for a public hearing on a date certain of May 7<sup>th</sup>, 2003. **Mengelberg** seconded the motion, and it passed unanimously.

**WR 02-18 (Quasi-Judicial Zone Change Hearing), Tom Skaar/Pacific Western Homes, Inc.; Request for a Water Resource determination and reduction of the vegetated corridor in accordance with Section 17.49.050.I of the Oregon City Municipal Code for the property identified as Map 2S-2E-28AD, Tax Lot 4300.**

**Konkol** gave the staff report, saying that the applicant is requesting a water resource determination and reduction of a vegetated corridor. He said this is a Type III land use decision, of which the Planning Commission's decision is the final decision unless it is appealed to the City Commission within 10 days.

(Full copies of the applications, staff report, and related documents are available for review in the public record. **Drentlaw** noted that water resource requests are normally seen by staff but since the applicant is asking for a reduction, it was being brought to the PC.)

**Konkol** said the subject site is located south of Holcomb Boulevard but does not have a site address. However, it is identified as Clackamas Map 2-2E-28AD, Tax Lot 4300. It is approximately 8.81 acres, and the applicant has requested a vegetated corridor width reduction due to slopes in excess of 25% on the property. The site is located in the Clackamas Heights area at an elevation of approximately 410 feet. The site slopes are generally east to west at approximately 5-10%. A small waterway in the southern portion of the site has cut a fairly deep ravine with adjacent slopes typically at 25-30%.

The neighboring parcels, as described in the earlier hearing this evening, are all zoned Low Density Residential except for Wasko Acres to the east, which is Low Density Residential/Manufactured Housing.

The applicant provided the City with a water resource report which was prepared by Richard Bublitz of Environmental Technologies and dated Oct. 16, 2002 (Exhibit 2 in the staff report). The findings of that report agreed that this is a jurisdictional waterway on the site. It is a first order stream that enters Abernethy Creek. Under the Oregon City Code for designating what type of features need to be protected, this has been

identified as a water resource crossing the site as an intermittent stream. It indicates that a majority of the surrounding slopes are greater than 25%. Therefore, the stream does not meet the classification of "intermittent stream with slopes less than 25% and with terrain less than 100 acres." Thus it falls into an "all other protected water features" category. The applicant has proposed a 50-foot to 200-foot wide vegetated buffer around the intermittent stream, depending on the steepness of the adjacent slopes.

He said staff concurs with this finding of the water resource report.

**Konkol** said the applicant has proposed a new stormwater pre-treatment facility within the water quality resource area. Their actual storm pond for their detention and water quality is outside of the vegetated corridor. However, they are running an outfall pipe down into the vegetated corridor, which is the impact for which the applicant needs to provide additional information to determine the impacts and alternatives analysis and potential negative impacts of that outfall being placed inside the vegetated buffer.

He said the outfall is a provisional use so it is allowed, but it needs to meet Section G and H of the Oregon City Municipal Code. The consultant who prepared the report said they were not sure at the time of the report if the vegetated corridor would be impacted and that if it was, additional information, specifically as noted in Conditions of Approval (COA's) 2-7, would need to be provided to the City. It appears that the outfall pipe extends about 25 feet, if not a little more, into the vegetated corridor. He said stormwater facilities are not allowed to be more than 25 feet into the vegetated corridor, so a COA regarding this would be reviewed during the subdivision phase.

**Konkol** said the applicant has provided a topographic map of the site showing the water quality resource delineation, existing natural features on the site, and nuisance species that are on the site. The corridor has been identified as a good existing corridor with 65% canopy, 50% shrub, and 80% groundcover.

**Konkol** said the applicant has also requested a vegetated width reduction and he (Konkol) used an overhead to better show Exhibit 2, no. 3 of 5, which is the applicant's submittal to show the vegetated corridor.

**Konkol** outlined where the vegetated corridor would extend to, noting that some of the slopes are in excess of 25%, which means that the 50-foot vegetated corridor distance starts where the 25% slope stops. In this case, the slope is in excess of 150 feet, or the maximum vegetated corridor that can be provided, which is 200 feet. As the break in the 25-foot slope starts to occur, the distances are less than 200 feet.

When **Mengelberg** asked if the 200 feet is along the land surface or as the crow flies, **Drentlaw** said it should be measured parallel—not counting the slope but straight up and across, or as the crow flies.

**Konkol** then showed a visual of the actual reduction request, specifically showing how the slopes are in relation to 25% and the widths from the stream in explaining that one of the COA's addresses the issue that where the applicant is requesting the vegetative corridor with reduction does not reconcile with the existing slopes. Therefore, he entered into the record Exhibit A, which was his working document to show the stream coming in and the approximate location of where the break in the 25% slope is 150 feet or less from the stream. He said everything in one area is in excess of 150 feet, thus the exemption to reduce it is not applicable. He explained that it appears to be about 45 feet along the back side of lot 2.

**Mengelberg** asked if there are ways to put slope easements or restrictions on development of the lot so that the habitat and riparian areas are protected from development while still being part of the lot or if the encroachment on lot 2 is so much that it makes it unbuildable.

**Konkol** said he doesn't think it makes it unbuildable. He said they do lot averaging for lot depth, so he doesn't see that as an issue. He also said we do not have water resource conservation easements as an option

in the Development Code. He explained that this would be put into Tract A, which would be written out of the property description. It would not be part of the property and would not count toward the square footage of the property.

When **Chair Carter** asked how steep the dropoff is at the edge of lots 2, 3, and 4, **Konkol** said it is less than 25%, and **Drentlaw** said it is a little less than 4:1, with 1 being vertical and 4 horizontal. **Konkol** said there are development standards relating to steep slopes in excess of 35%, and this is not that steep.

**Konkol** said there is only one criterion applicable to this request for a vegetative reduction, which is that a geo-technical report is performed that says the slope is stable, and he said that has been provided. There is a COA that requires the applicant to follow the recommendation of the geo-technical report.

**Mengelberg** asked if the property owners would be prohibited from clearing that area, noting that it seems like a person would want to leave the vegetation in place to maintain stability.

**Konkol** said once it is put in the tract, it will be maintained as it is, so there will be no clearing. He clarified that this only applies to the small section where the reduction will not be applicable. The rest of the land along lots 2, 3, and 4 will be taken out of the vegetative corridor, after which property owners could choose to remove trees.

He said this is necessary because our Code requires all lots to be 100 feet, and this is allowed as an option in our Code.

**Drentlaw** noted that in the one identified area it would go from what would normally be about 200 feet down to about 175 feet to the stream.

**Chair Carter** asked why they would not simply get a variance to the lot size rather than doing this.

**Drentlaw** said it would be hard for them to meet the variance criteria in a case like this, and he reiterated that the Water Resource Code clearly specifies this as an option.

**Konkol** added that our normal vegetative corridor is about 50 feet, whereas this is in excess of 150 feet, and he said that was allowed to give some flexibility in cases such as this where there is such an expanse between the development and the water resource.

**Chair Carter** clarified for the applicant that the PC often asks lots of questions in order to get the cumulative effect, which is never an actual consideration because we are only allowed to work with the current application. It is more an attempt to try and avoid a down-the-slope disaster such as drying up the wells, as was mentioned as being a concern by some of the neighbors.

**Powell** asked staff what types of trees and plantings are in the area currently, and what is below those.

**Mengelberg** referred to Figure 5 of 5 which shows that there are maple, oak, hazelnut, and perhaps Douglas fir trees, and **Orzen** said the undergrowth is mostly native shrubs. **Konkol** concurred, saying there are a few areas of nuisance, but for the most part it is in a very natural state with native vegetation predominating.

**Powell** agreed with Chair Carter that his concern is whether what is below will be sufficient to maintain and not have a problem with runoff.

**Konkol** said their consultant categorized this as good existing corridor and that with 50% shrubs and 80% groundcover, it would be sufficient.

**Mengelberg** asked staff what would be the ultimate fate of Tract A. Would it be owned by the City or by the developer and left open, never to be developed?

**Konkol** said the applicant has multiple options. He said it will be put into a tract and a D restriction will be put on the deed protecting that area in perpetuity from development, as well as identifying it as a vegetative corridor on the plat map. It can be given to the City to maintain or the applicant can keep it. He noted that the applicant will also have to do mitigation associated with the outfall, which will also be noted on the plat to show where the mitigation is occurring and any areas that needed to be added if the areas that are impacted need to be replaced.

**Mengelberg** said she asked this because situations like this can cause conflict amongst the residents surrounding the area as to its usage, so it seems better to sort it out ahead of time, to which **Konkol** reiterated that there is no parks master plan nor is there a region- or city-wide trail system plan.

**Chair Carter** asked if the lots slope toward the detention pond which would be collecting all the neighborhood runoff.

**Konkol** explained that the detention pond would be higher up so they would probably over-detain above to account for the houses below.

**Chair Carter** asked if the space around the intermittent stream would be usable space or if it would be dangerous for kids to have access to it.

**Konkol** said the stream is very small. At its inception, it bubbles up out of the ground and then disappears, and then re-emerges further down the hill, and probably only has about a 6 - 8 inch stream canal, which widens as it continues downstream.

When asked if this might be something the citizens might utilize, **Konkol** said nothing like that (a possible trail system) is proposed by the applicant or the City. If the City decided to put in trails, they would work something out with the applicant after the development is in, but right now it will be a natural preserve as is with any mitigation that might occur.

**Orzen** asked if the detention area will work in with the stream.

**Konkol** explained that the detention pond will be located outside the vegetation corridor. An outflow pipe will come down to a T and spread laterally across the hillside via perforated piping. This will be stretched out over 20-25 feet.

**Orzen** asked if there was any other way to dissipate the water other than with a pipe.

**Konkol** said, per Design Code, there is landscaping associated with the wetland pond. It is limited to two sides having concrete, if necessary. He said there is no design on the storm pond yet so he didn't know yet exactly how it would look.

**Orzen** suggested considering something more natural, less pervious, and perhaps less costly.

**Konkol** then read through the list of COA's (see page 20).

Regarding a required analysis showing impacts on the water quality of affected water resources (COA 3), **Mengelberg** asked if that is where the City would investigate impacts on the neighboring wells.

**Konkol** said this is looking at the actual water resource itself. He said he is not quite sure how to account for the wells, admitting that they were not aware the wells existed. He said that would probably need to be a separate COA since the wells are not located inside the water resource area. He said this is looking at changing flows entering that water resource area, and it seems like this is downstream of those wells.

**Chair Carter** added that she wasn't sure they could put the onus on one particular developer when something like that is an impact of all development, not a single development.

**Chair Carter** asked what an "alternative analysis" would refer to in COA 6, and **Konkol** said it relates to putting the outfall into the vegetative corridor. (**Skaar** said if they could avoid going into the area, they would do so.)

Regarding the removal of non-native species and replanting with non-nuisance plants (COA 8), **Chair Carter** noted that planting needs to be done in the spring or the fall. **Konkol** said that timeline would be worked into the mitigation plan included in COA 7.

**Mengelberg** asked if that would incorporate the idea of preserving as many trees as possible, and **Konkol** said that is the intention.

Regarding COA 10, which reads, "The applicant shall replace the area of encroachment of the storm pond outfall pipe....", **Chair Carter** asked what it would be replaced with. **Konkol** said if the storm pipe spreads out and there is 75 feet of impacted area, the applicant is required to replace 75 feet somewhere on the site. Therefore, it would be a "one for one" swap.

In applicant rebuttal, **Skaar**, said he had a little concern about the conditions regarding lot 2 but he felt sure they could work those out.

**Mengelberg** asked about the applicant's long-term plans for the open space. **Skaar** said the current plan is to give it to the City, and **Konkol** said such dedications are usually accepted.

**Orzen** encouraged the applicant to save as many mature trees as possible, noting that they usually increase the value of the homes, they help increase the water quality with the protection of the tree canopy, and they can provide some screening. **Skaar** said he agreed on all counts.

When **Powell** asked if the applicant's issue with lot 2 is how it will look, **Skaar** said the original proposal was to have a conservation easement recorded on the effected area, which would have been their preference for this site as well. He said they have no problem with a prohibition against removing the vegetation in that area, but they wanted the area of the lot to be preserved so they could use it for the rear yard setback requirement as well as the required lot area of the minimum 6,000 square feet. This way they will need to build a fairly shallow house (in terms of depth) to stay out of the vegetated area.

**Chair Carter** asked if it would be up to the property owners to fence off the properties. **Skaar** said fences are often built for the containment of pets and children, but some people would not prefer to build fence. He affirmed that the applicant will not build the fences.

**Powell** said at some other time the PC needs to discuss the use of conservation easements, and **Chair Carter** agreed.

When **Orzen** asked how the water is filtered, **Skaar** said it is filtered by the pond itself as the water settles in the pond.

**Kathy Hogan**, 19721 S. Central Point Road, asked if there is any way to inform the property owners of those lots that abut the stream not to dump their grass clippings and other debris into the water quality area.

**Orzen** said one way to address such issues is through the neighborhood associations.

**Hogan** said, by **Skaar**'s admission, he will probably have to go into the water resource area to lay the pipe and she expressed the concern that he restores any disturbed area to its original state.

**Powell** reminded her that **Skaar** said he wouldn't go into that area unless it was absolutely necessary.

Regarding **Hogan**'s concern about the dumping, **Drentlaw** said staff is currently considering the Water Resource section of Code as well as several others to include a provision for signs that delineate the buffer area.

There was no applicant rebuttal.

The public hearing was closed at 8:40 p.m.

**Orzen** asked when findings of the NEMO project would come forward, which would address some of these issues.

**Konkol** said they are still working through the Code recommendations that NEMO produced, but there is no scheduled date yet.

**Mengelberg** said she was encouraged by the applicant's will to preserve trees and look at alternative ways to deal with storm drainage, and his concurrence that the COA's are generally acceptable with the exception of impacts on lot 2, which may be worked on in the Design Review phase. Therefore, she said she didn't see any problem with approving this request.

**Powell** concurred, saying most of his issues had been covered.

**Orzen** moved to approve WR-02-18 for the request for a water resource determination and reduction of the vegetated corridor with Conditions of Approval as recommended by staff. **Powell** seconded the motion, and it passed unanimously.

## 5. NEW BUSINESS

**Drentlaw** reminded the PC of the upcoming calendar, noting that the agenda for April 28<sup>th</sup> is very full; the meeting on May 12<sup>th</sup> will begin at 6:00 for Wal-Mart and several other items on that agenda; there is a work session scheduled for May 14<sup>th</sup> for discussion of the 7<sup>th</sup> Street Corridor plan and implementation; and the meeting for May 26<sup>th</sup> is cancelled because it falls on Memorial Day. He noted, however, that they may need to schedule a special meeting later that week but that will be determined closer to the date.

**Drentlaw** also said **Powell** had requested some PC training for quasi-judicial hearings. **Powell** said his initial request was for himself and Lajoie as new members, but it could be for everyone if they wished to participate. **Mengelberg** said it would be a good refresher for them all, and others concurred. **Drentlaw** said he would work toward such a session.

**Konkol** noted that PC agendas, draft minutes, approved minutes, and all staff reports are now on the Internet under "Planning Department." Also, by the end of this week, all new applications dated March 1<sup>st</sup> or later (including an address or a tax lot description) and a link to the notice that is mailed to property owners within 300 feet will be on the web site.

**Chair Carter** said Mayor Norris called to ask for the date of the Wal-Mart hearing so she could announce it and Chair Carter inadvertently told her it would be May 14<sup>th</sup>. She then confirmed that the Wal-Mart hearing will be on the regular meeting date of May 12<sup>th</sup> at 6:00 p.m.

**Chair Carter** asked again for an updated telephone list of the PC and City Commission members, which **Konkol** said he would get for her.

When asked when the next joint session would be held, staff said no date has been set yet.

**Mengelberg** asked when the minutes of the Wal-Mart hearings would be available so the commissioners can review them in preparation for the next hearing. **Konkol** said he is reviewing them and will try to distribute them in the next mailing.

**Powell** asked what staff's plans are for bringing the Comp Plan forward. **Drentlaw** said he has been meeting with our consultant and they will be putting together an additional scope of work so we can continue the process. He said it was left off at the work session level—there were no public hearings, which will be the next step. He said there are still some edits to do, some mapping, a lot of noticing requirements, and continuing work on Code amendments. In conclusion, he said hopefully this can be accomplished in a month and a half or two months.

**Powell** said he would like to look through those, citing a recent problem with a use in a zoned area in the McLoughlin area, and he is concerned that similar problems don't come about. He said he hopes the zoning can be changed along that corridor soon because there are a lot of empty buildings there and several citizens have asked him when this zoning will be changed.

**Drentlaw** said adult businesses are very hard to regulate because of freedom of speech issues so we will need to get our attorney's involvement.

**Mengelberg** asked if the process would be to do the Comp Plan and then to look at the zoning ordinance to make sure it is in concurrence with the newly adopted Comp Plan, particularly to make sure that if the new Comp Plan is taking a different direction, the zoning ordinance works with it.

**Drentlaw** said staff is working on that now. He said he hopes we can get the Comp Plan and the Comp Plan Map adopted with the designations. However, he doesn't see the City initiating rezonings any time soon because it is very time consuming and gets very political when the City starts proposing things for private property owners in terms of zone changes. But he said we do want to get our Code in compliance in terms of being complimentary to our new categories.

## 6. ADJOURN

With no other business at hand, the meeting was adjourned at 8:55 p.m.

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Linda Carter, Planning Commission  
Chairperson

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Tony Konkol, Associate Planner

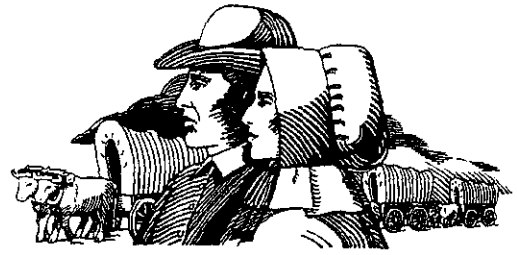


# CITY OF OREGON CITY

## Type III Limited Land Use Decision

320 WARNER MILNE ROAD  
TEL 503-657-0891

OREGON CITY, OREGON 97045  
FAX 503- 657-7892



### STAFF REPORT

### VARINACE

Date: April 21, 2003

**FILE NO.:** VR 03-05

**FILE TYPE:** Quasi-Judicial

**HEARING DATE:** April 28, 2003  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, OR 97045

**APPLICANT'S  
REPRESENTATIVE:** John McLoughlin School PTSO  
C/o Candy Rayburn & Karen Craven  
19230 S. South End Road  
Oregon City, Oregon 97045

**OWNER:** Oregon City School District  
PO Box 2110  
Oregon City, Oregon 97045

**REQUEST:** The applicant is seeking a Variance to the height size and material standard for a proposed sign at John McLoughlin School per OCMC 15.28.070 SIGNS IN RESIDENTIAL ZONES.

**LOCATION:** 19230 S. South End Road, Clackamas County Map 3S-1E-12AC, Tax Lot 4500.

**REVIEWER:** Christina Robertson-Gardiner, Associate Planner

**RECOMMENDATION:** Staff recommends approval of VR 03-05 with Conditions of Approval

**SITE MAP:** Exhibit 1

## **BACKGROUND:**

The applicant is seeking a Variance to the height, size and material standard for a proposed sign at John McLoughlin School per OCMC 15.28.070 SIGNS IN RESIDENTIAL ZONES. As proposed, the metal sign with vinyl lettering is five feet from the sidewalk on South End Road, 13 foot tall with a 4-foot by 8-foot sign face. There is an existing eight-foot tall wire fence between the proposed sign and the sidewalk. (Exhibit 1). The standard requires that the proposed signs be made of natural materials, be a maximum of five feet above grade and not to exceed twenty square feet per sign face. The applicant is requesting the variance to allow for greater visibility from South End Road.

All other standards for the proposed sign either met or exceed the standards for Sign in Residential Zones

## **BASIC FACTS:**

1. **Zoning/Permitted Use:** The subject property is approximately 7.7 acres zoned R-10 Single Family Residential. The subject property is not within the Water Resource Overlay District. It is currently being used as a public elementary school, a Conditional Use in the R-10 Zone. (Exhibit 1)
2. **Project Description:** The applicant is proposing construction of a 13 foot by 8 foot 3 inch sign at the entrance of John McLoughlin School on South End Road.
3. **Dimensional Standards:** The Dimensional Standards for R-10 zoned sites are as follows;
  - A. Minimum lot areas, ten thousand square feet;
  - B. Minimum average lot width, seventy-five 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-five feet minimum depth,
    2. Interior side yard, ten feet minimum width for at least one side yard; eight 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))

3. **Standards for Signs in Residential Zones:** The Sign Standards for R-10 zoned sites are as follows;
- A. Signs Allowed. In the R-10, R-8, R-6, RC-4, R-6/MH and RA-2 zoning districts, the following signs are allowed:
1. All signs allowed without permit as provided by this chapter so long as the requirements of this subsection are met;
  2. Permitted signs so long as a permit is first obtained as required by this chapter, and the requirements of this subsection are met.
- B. Display Requirements. All signs in the residential zones listed in this section must comply with the following requirements:
1. Not more than one wall sign or free-standing sign to be visible from each frontage, with no more than three frontages. Wall signs shall be measured by the outer limits of the lettering, illustration or other display;
  2. Maximum twenty square feet of area per sign face;
  3. Not to exceed ten feet in length;
  4. Five feet maximum height above grade;
  5. Primarily constructed of natural materials;
  6. Sign shall be setback from the street as determined by the sign official, but not more than ten feet from the street right-of-way;
  7. If illuminated, the source of illumination shall be external to the sign and directed or shielded so as to not shine directly onto any neighboring structure.
4. **Surrounding Uses/Zoning:** John McLoughlin School is surrounding by R-10 and R-10 built subdivisions to the North, west and East. It is bounded to the south by the city limits of Oregon City. The property located in the county is designated as Low Density Residential.
5. **Comments:** Transmittals on the proposal were sent to various City departments, affected agencies, property owners within 300 feet and the South End Neighborhood Association.

## DECISION-MAKING CRITERIA:

### Municipal Code Standards and Requirements

Title 15 and 17: Chapter 15.28 Signs  
Chapter 17.08 R-10 Single Family Residential”  
Chapter 17.50, Administration and Procedures  
Chapter 17.60, Variances

### ANALYSIS

#### 15.28.040 Sign Variances.

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

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

**Analysis:** The applicant indicates (Exhibit 2) the need for the Variance because of the nature of the entity. As an elementary school, there is a great need to communicate with the parents and students who attend John McLoughlin Elementary School. The applicant asserts that the school is unique to the area and thus is asking for a special consideration concerning the sign. The request for approval of a light-weight metal and vinyl sign is tied to the height request

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

**Analysis:** The school has been in operation for over 50 years. Other schools in the City have requested and gained approval for larger signs. The request for a variance is for safety and visibility reasons rather than a monetary hardship or inconvenience.

Staff finds that this criteria has been met.

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

**Analysis:** The height and width of the proposed non-illuminated sign will not impact other properties. The sign faces South End Road a Minor Arterial and is clearly associated with the school.

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

The applicant's proposed sign is 8 feet above the height standard and 12 feet beyond the maximum square foot standard for a sign face. This request is predicated on the need to install a reader board sign that can be seen from the street. A lower sign could not be clearly readable though the fence and would not achieve the same result.

**Therefore, the applicant satisfies this criterion.**

#### **CONCLUSION AND RECOMMENDATION:**

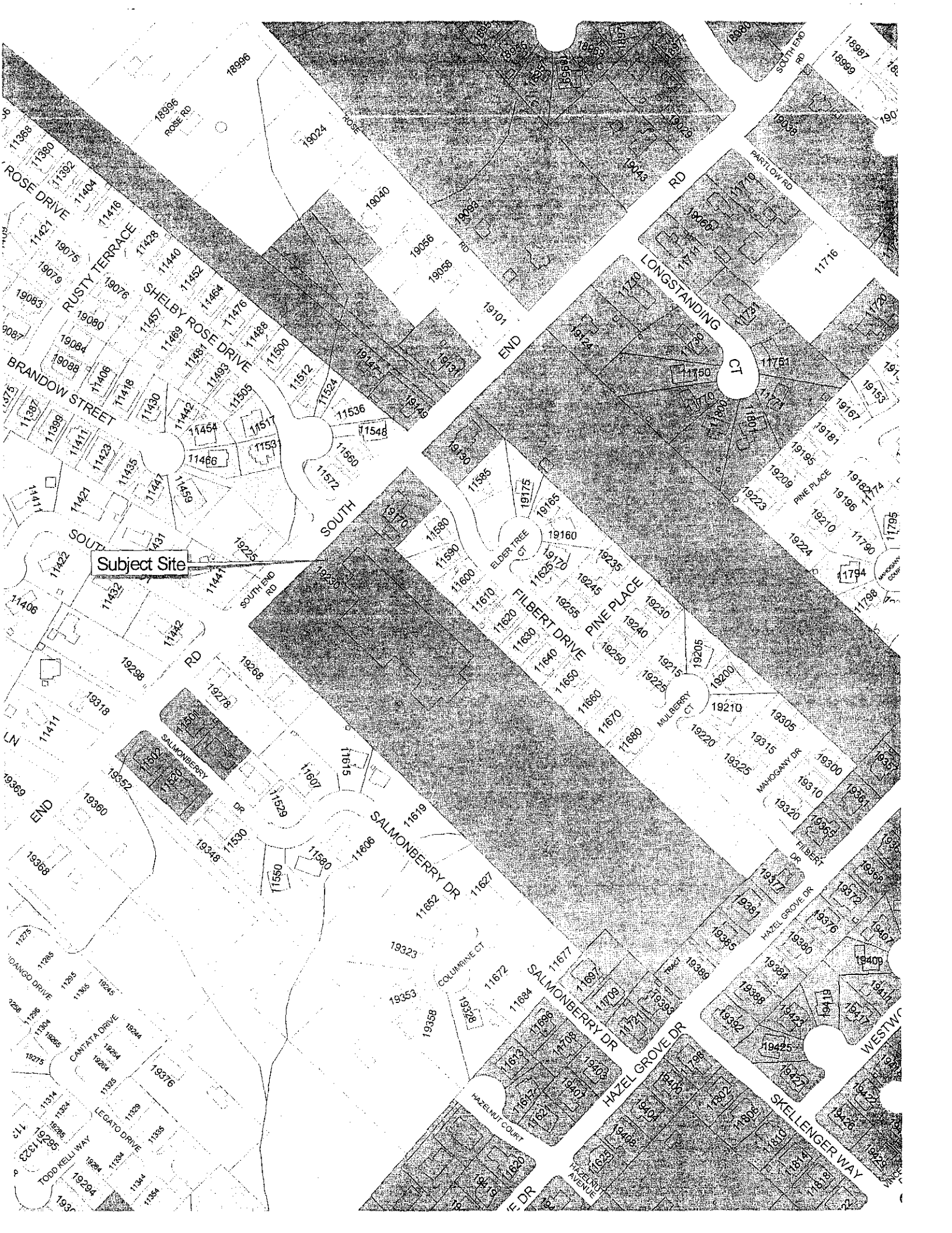
Based on the analysis and findings as described above, staff concludes that the proposed sign satisfies the requirements of OCMC 15.28.070 Criteria and Standards for Signs in Residential Zones. Therefore, staff recommends that the Planning Commission approve file VR 03-05 property identified by the Clackamas County Map 3S-1E-12AC, Tax Lot 4500, subject to the conditions of approval contained in this report.

#### **CONDITIONS OF APPROVAL**

1. The applicant shall obtain a sign permit.
2. The applicant shall remove the existing sign prior to obtaining the sign permit.
3. All applicable building code requirements shall apply to the request.

#### **EXHIBITS:**

1. Vicinity Map
2. Applicant's Submittal



Subject Site

# CITY OF OREGON CITY

Community Development Department, 320 Warner Mline Road,  
P.O. Box 3040, Oregon City, OR 97045. (503) 657-0891 Fax: (503) 657-7892  
www.ci.oregon-city.or.us

## LAND USE APPLICATION FORM

### REQUEST:

- | Type II  | Type III  | Type III / IV                           |
|--|---|---|
| <input type="checkbox"/> Partition               | <input type="checkbox"/> Conditional Use          | <input type="checkbox"/> Annexation     |
| <input type="checkbox"/> Site Plan/Design Review | <input checked="" type="checkbox"/> Variance-Sign | <input type="checkbox"/> Plan Amendment |
| <input type="checkbox"/> Subdivision             | <input type="checkbox"/> Planned Development      | <input type="checkbox"/> Zone Change    |
| <input type="checkbox"/> Extension               | <input type="checkbox"/> Modification             |   |
| <input type="checkbox"/> Modification            |   |   |

OVERLAY ZONES: ☐ Water Resources ☐ Unstable Slopes/Hillside Constraint

Please **print or type** the following information to summarize your application request:

APPLICATION # \_\_\_\_\_ (Please use this file # when contacting the Planning Division) *Candy Rayburn*  
APPLICANT'S NAME: John McLaughlin School / PT 30 *(Chair) Karen Craven*  
PROPERTY OWNER (if different): Oregon City School Dist # 62  
PHYSICAL ADDRESS OF PROPERTY: 19230 S South End Rd. Oregon City, OR  
DESCRIPTION: TOWNSHIP: 135 RANGE: 01E SECTION: 12 TAX LOT(S): 253  
PRESENT USE OF PROPERTY: Elementary School  
PROPOSED LAND USE OR ACTIVITY: Sign For Information Purposes to Public  
DISTANCE AND DIRECTION TO INTERSECTION: North 100 feet - Filbert Dr.  
CLOSEST INTERSECTION: Filbert Drive 75' E.  
PRESENT ZONING: R-10  
TOTAL AREA OF PROPERTY: 11.55 acres

### Land Divisions

PROJECT NAME: \_\_\_\_\_  
NUMBER OF LOTS PROPOSED: \_\_\_\_\_  
MINIMUM LOT SIZE PROPOSED: \_\_\_\_\_  
MINIMUM LOT DEPTH PROPOSED: \_\_\_\_\_

MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS  
CHAPTER 227 REQUIRES THAT IF YOU RECEIVE THIS  
NOTICE, IT MUST BE PROMPTLY FORWARDED TO  
PURCHASER

### VICINITY MAP

To be provided by the APPLICANT  
at the time application is submitted

**INSTRUCTIONS FOR COMPLETING LAND USE APPLICATIONS:**

1. All applications must be either typed or printed (black ink). Please make the words readable.
2. The application must be submitted with the correct fee(s).
3. If you mail in the application, please check with the Planning Division to ensure that it was received and that all necessary fees and information are with the application form.
4. If you wish to modify or withdraw the application, you must notify the Planning Division in writing. Additional fees may be charged if the changes require new public notice and/or if additional staff work is necessary.
5. With the application form, please attach all the information you have available that pertains to the activity you propose.
6. Prior to submitting the application, you must make complete a Pre-Application meeting to discuss your proposal with members of the Planning Division and any other interested agencies. Applicant is then to provide all necessary information to justify approval of the application.
7. The front page of the application contains a brief description of the proposal and will serve as the public notice to surrounding properties and other interested parties of the application. This is why neatness is important.
8. Detailed description, maps, and other relevant information should be attached to the application form and will be available for public review. All applicable standards and criteria must be addressed prior to acceptance of the application. The content of the attached information may be discussed with the planner who conducted the Pre-Application Conference prior to submission of the application.
9. Incomplete applications will be returned.

APPLICANT'S SIGNATURE: John McLaughlin / PT30  
MAILING ADDRESS: 19230 S Southend Rd.  
CITY: Oregon City, MO STATE: MO ZIP: 64645 PHONE: 503-780-0093  
PROPERTY OWNER SIGNATURE(S): [Signature]  
MAILING ADDRESS: 19230 S Southend Rd.  
CITY: Oregon City STATE: MO ZIP: 64645 PHONE: 503-656-4283

If this application is not signed by the property owner,  
then a letter authorizing signature by an agent must be attached

\*\*\*\*\*

|                       |                    |
|-----------------------|--------------------|
| DATE SUBMITTED: _____ | RECEIVED BY: _____ |
| FEE PAID: _____       | RECEIPT #: _____   |



# John McLoughlin Elementary School

19230 S Southend Rd. Oregon City, OR 97045

## Application Narrative for Sign Variance

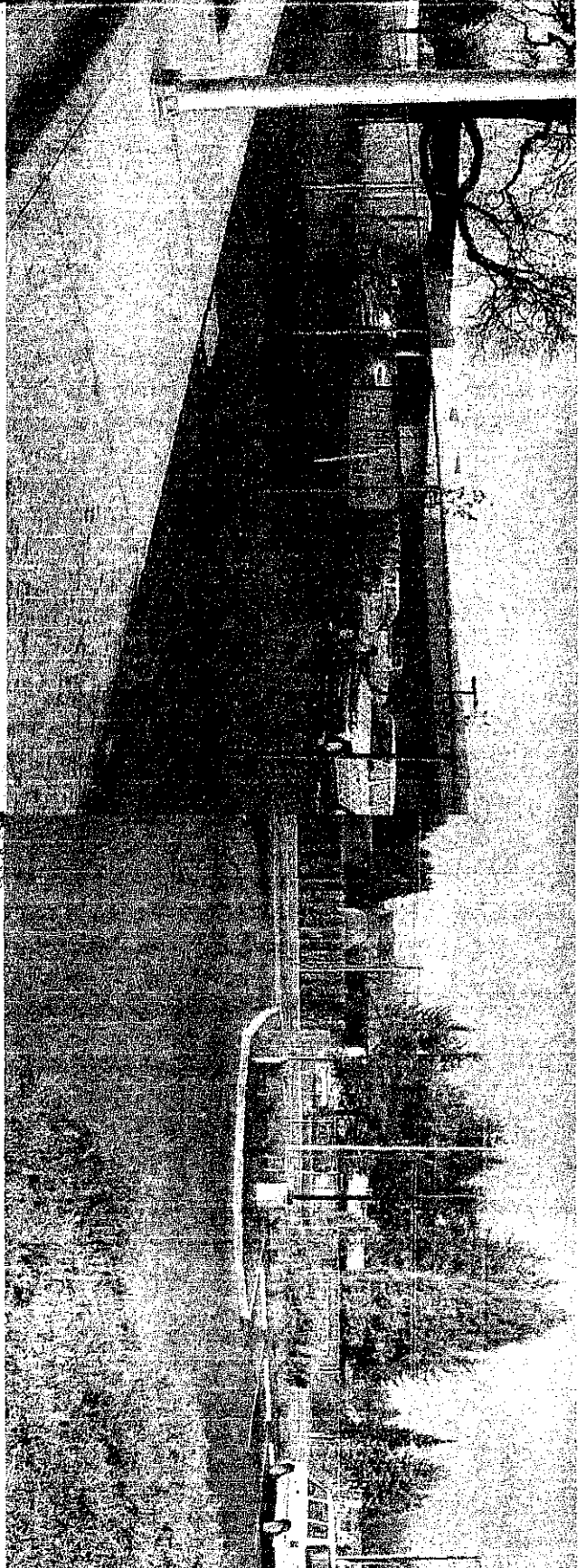
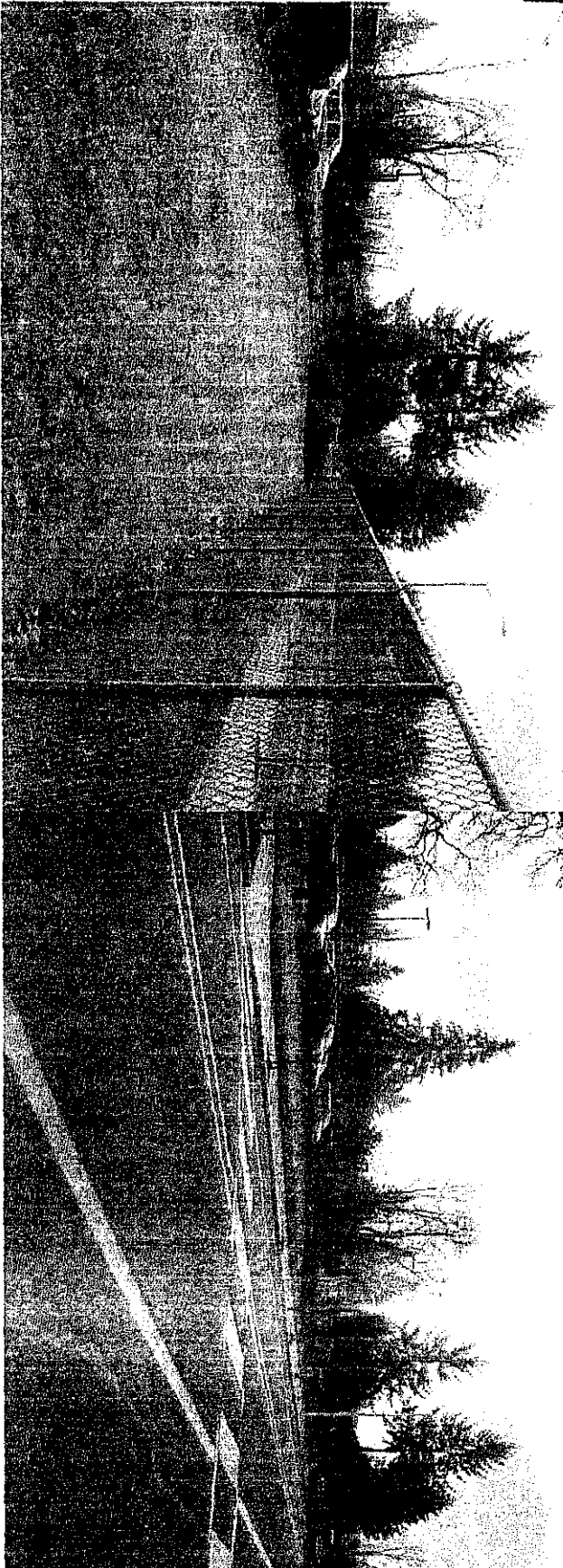
John McLoughlin Elementary School is located in an R-10 zone. Do to this the school needs to have a visible sign to be able to make the public aware of activities and also the presents of the school and the children coming to and from the school.

The location of the 4'x8' sign, over all height of 13 feet is necessary to provide proper visibility for those on school property and those driving by with safety at the fore-front. Also due to the fence surrounding the school that is approx. 8' tall and approx. 3' from where the new sign would be placed. The sign would be 9' from the ground to the bottom of the sign. This would allow 1' of clearance from the top of the fence to the bottom of the sign.

The sign will have two sides each side will be 4'x8', constructed of 4MM Dibond ( a heavy plastic) with 4 tracks to slide 4" numbers and letters through. The box surrounding the sign will be constructed of metal and the pole holding the sign up will be steel. This will be attached to a concrete pad with anchor bolts. Sign will have no lights of any kind.

Sincerely,

John McLoughlin Elementary/ PTSO



Southeast Rd.

EXISTING  
COVERED PLAY  
STRUCTURE  
(4,000 sq.ft.)

EXISTING BUILDING  
(49,450 sq.ft.)  
ELEVATION 441.84'

NEW  
LOCATION  
FOR TRASH  
RECEPTACLES

MAIN  
BUILDING  
ENTRY

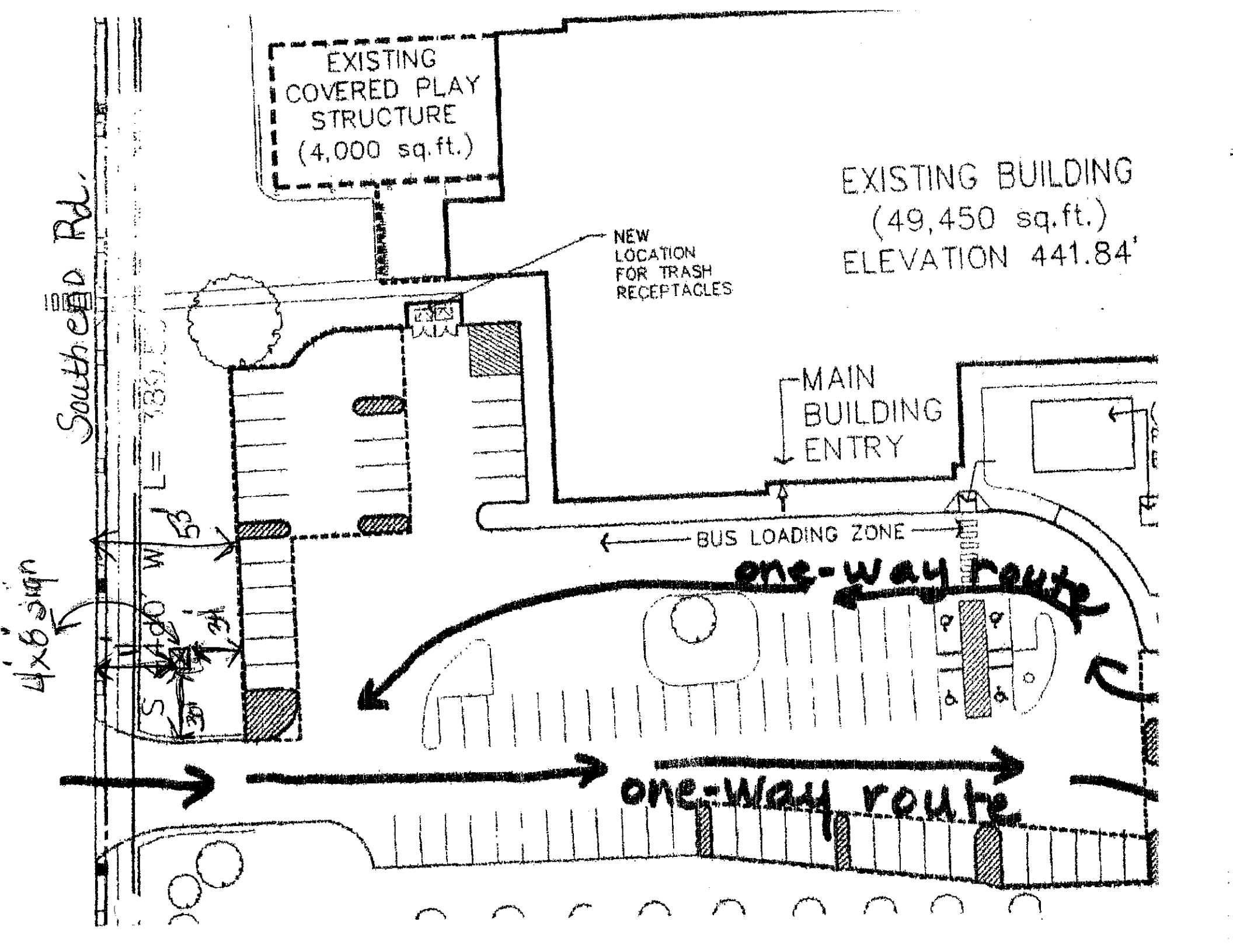
BUS LOADING ZONE

one-way route

one-way route

4x8 sign

L = 339.5  
W = 440  
S = 440



EXISTING  
COVERED PLAY  
STRUCTURE  
(4,000 sq.ft.)

EXISTING BUILDING  
(49,450 sq.ft.)  
ELEVATION 441.84'

NEW  
LOCATION  
FOR TRASH  
RECEPTACLES

MAIN  
BUILDING  
ENTRY

BUS LOADING ZONE

one-way route

one-way route

54490 JULY

192

54490 JULY

EXISTING  
COVERED PLAY  
STRUCTURE  
(4,000 sq.ft.)

EXISTING BUILDING  
(49,450 sq.ft.)  
ELEVATION 441.84'

NEW  
LOCATION  
FOR TRASH  
RECEPTACLES

MAIN  
BUILDING  
ENTRY

BUS LOADING ZONE

**one-way route**

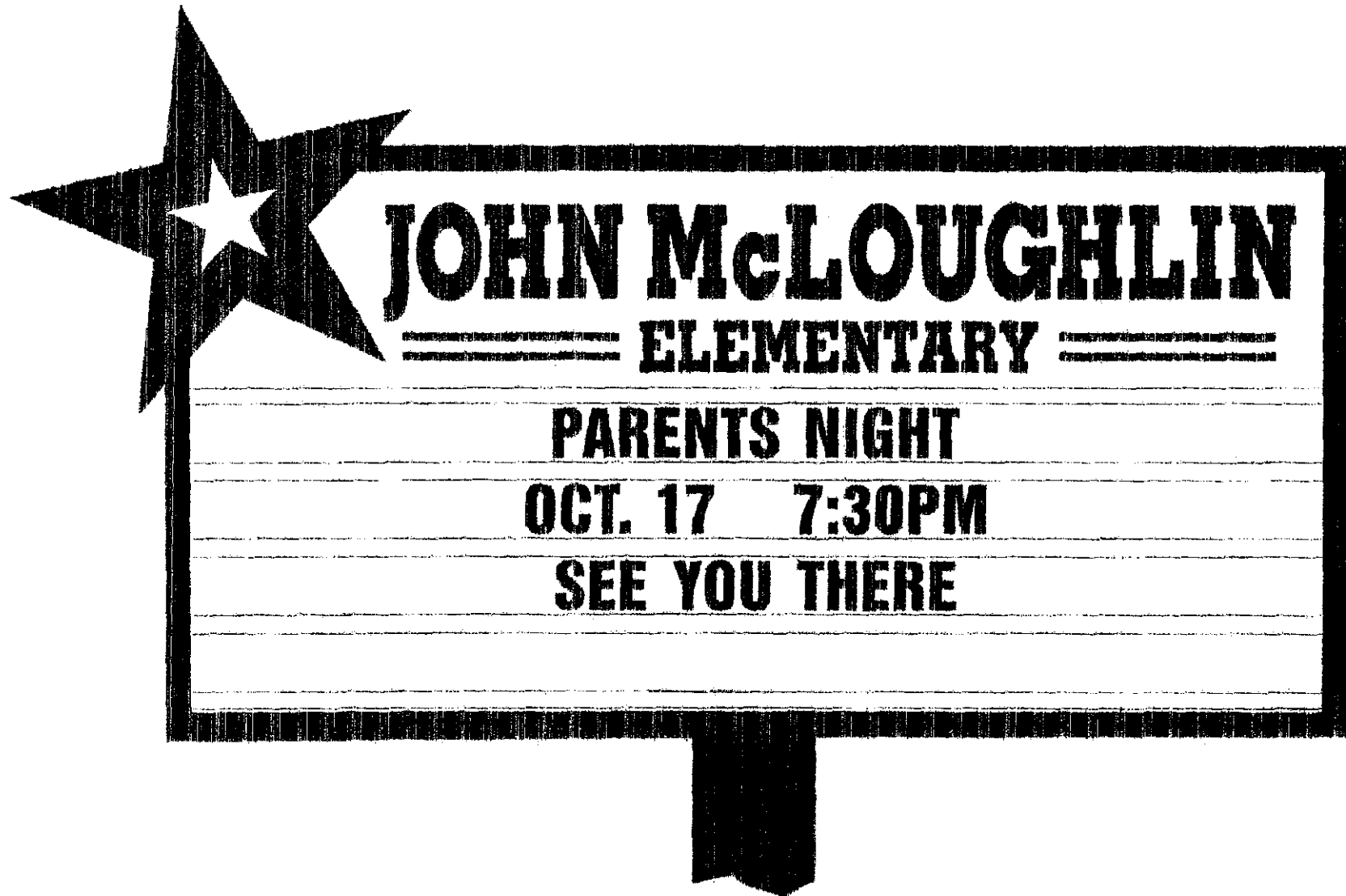
**one-way route**

S 4400 HWY L = 389.2

sign location

8ft  
13ft  
9ft

Non-Illuminated, 4'x8' Box, Double Sided on 9' Pole,  
with zip-track & one set of 350, 4" letters

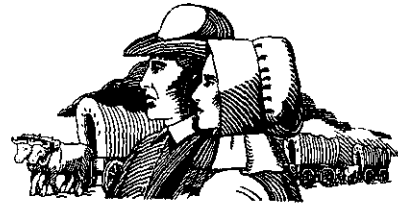


# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL (503) 657-0891

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



### STAFF REPORT

**Date: April 22, 2003**

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

**HEARING DATE:** April 28, 2003  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, Oregon 97045

**APPLICANT** The Church of Jesus Christ of Latter Day Saints  
C/O Mark Cottle  
PO Box 1124  
Sherwood, OR 97140

**OWNER:** The Church of Jesus Christ of Latter Day Saints  
50 East North Temple St  
Salt Lake City, UT 84150

**REQUEST:** Conditional Use to allow a Proposed High School  
Seminary building.

**LOCATION:** 19675 Beavercreek Road; Clackamas County Map 3S-2E-  
9D, Tax Lot 400 (Exhibit 1)

**REVIEWER:** Christina Robertson-Gardiner, Associate Planner  
Dean Norlin, Senior Engineer

**RECOMMENDATION:** Staff recommends approval of CU 02-01

**CRITERIA:****Oregon City Municipal Code:**

Section 17.36 M-1, Light Industrial District

Section 17.50 Administration and Procedures

Section 17.56 Conditional Uses

**BACKGROUND:**

The applicant is requesting to allow a seminary building to be built adjacent to Oregon City High School Moss Campus. The 1.8 acre parcel is zoned M-1 Light Industrial District. The applicant has additionally applied for a Site Plan and Design Review of the new building (Type II) and a Planning Commission Parking Variance (Type III)

According to the applicant, the LDS Church is applying to the City for permission to building 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. However, 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 PM to 9:00PM.

The applicant has indicated that the high school students will access the seminary building by foot. There is no parking offered for students at the site. Approximately 100 to 150 students will utilize the facility. The instructional material will be based on the doctrine of the LDS Church. Two full time employees with a part time staff person are proposed.

The applicant is additionally requesting the Planning Commission to approve a temporary trailer to be allowed on site during construction of the building to allow the seminary to begin instruction when the 2003-2004 school year commences. The trailer would be removed prior to the issuance of a Certificate of Occupancy.

**BASIC FACTS:**

1. The subject property is located at 19675 Beaver Creek Road. The subject property is also identified as a portion of Clackamas County Tax Assessor's Map # 3-2E-9D, Tax Lot 400 (Exhibit 1).
2. A single-family house was recently demolished on the site. The Tax Lot is currently vacant.



3. The subject property is located adjacent to the westerly side of Beaver Creek Road south of Maple Lane Road within the Urban Growth Boundary and within the City limits of Oregon City. Beaver Creek Road is classified as a minor arterial roadway and is under the jurisdiction of Clackamas County.
2. The subject property is zoned as M-1 Light Industrial and is designated "I" Industrial in the Oregon City Comprehensive Plan. The M-1 zone does not list churches as a permitted use; however churches are permitted as a Conditional Use in this zone.
3. The subject property is bound to the north and west and east by single-family homes on large industrial zoned lots. The subject property is bound to the south by Oregon City High School (Moss Campus).
4. Transmittals on the proposal were sent to various City departments, affected agencies, property owners within 300 feet, and the Caulfield Neighborhood Association.

The City's Building Division and Engineering Division reviewed the proposal and commented that the proposal "does not conflict with their interests." One comment was received by the Planning Division from a property owner within 300 feet of the subject property (Exhibit 8). Robert Hixson and Deana Mulder of Clackamas County Department of Transportation and Development submitted comments regarding Design Standards for Beaver Creek (Exhibit 6). A majority of Clackamas County's comments are related to the site Plan and Design Review application for this development. The proposed Conditions of Approval listed in the March 24, 2003 letter will be addressed in SP 03-01. Other relevant comments from departments or agencies are incorporated in the body of this report.

## **ANALYSIS AND FINDINGS:**

### **I. 17.56 Conditional Uses**

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

The site is zoned M-1, Light Industrial District. Conditional uses for the M-1 zone states that "conditional uses listed in OCMC Section 17.56.030 are permitted in this district when authorized and in accordance with standards contained in Chapter 17.56 of this title." Section 17.56.030 (F) states that "Churches and Other Religious Facilities" require a Conditional Use Permit.

Therefore, staff finds that this criterion is satisfied.

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

The site is a logical place for a seminary building. The subject property is directly adjacent to the Oregon City High School Moss Campus. The proposed seminary is sited to allow for easy pedestrian connection to the high school.

Parking:

According to Chapter 17.52.010 (Off-Street Parking) of the Oregon City Municipal Code, churches or other religious assembly buildings are required to have one space per four seats in the auditorium. The approved site plan for the property shows available parking in excess of 7 spaces. The applicant is additionally requesting a Variance to the parking standards (VR 03-01) to acknowledge the site-specific concerns the applicant has for providing parking spaces above and beyond their requirements.

Traffic: Traffic issues were reviewed by the City's Traffic Engineer, Mike Baker of David Evans and Associates (Exhibit 4). After reviewing the relevant information concerning this proposal, the City's Traffic Engineer concluded that no traffic study is required. Mr. Baker reported that the level of trips associated with the Seminary would not pose a substantial impact to the surrounding transportation system during daily operations if the applicant receives the Variance requested.

There are no adverse effects concerning the use of the subject building as a church as it related to size, shape, location, topography, existence of improvements or natural features.

Therefore, staff finds that this criterion is satisfied.

**17.56.040 Criteria and Standards for Conditional Uses.**

***"C. Churches and Other Religious Facilities. The planning commission may authorize a church as a conditional use if the following dimensional standards are used:***

- 1. Minimum lot area, ten thousand square feet;***
- 2. Minimum street frontage, one hundred feet;***
- 3. Maximum lot coverage, fifty percent for all buildings;***
- 4. Maximum building height, fifty feet;***
- 5. Minimum depth, one hundred twenty-five feet;***
- 6. Minimum setback distance, front yard, thirty feet; rear yard, twenty feet; side yard, twenty feet. Buildings on corner lots shall observe the minimum setbacks on both streets. Side yard and rear yard setbacks shall be increased by five feet for each additional story exceeding two stories or thirty feet, whichever is less.***

The proposed 3, 868 square foot development on a 1.8-acre property setback 30 feet from the right-of-way meets the dimensional standards as prescribed by

Chapter 17.56.040. Additional analysis will be made during Site Plan and Design Review. The applicant has proposed an enhance pedestrian space to conform to Chapter 17.62.055 (D) 1 *"Buildings shall be placed no farther than five feet from the front property line. A larger front yard setback may be approved through site plan and design review if the setback area incorporates enhanced pedestrian spaces"*

Therefore, staff finds that this criterion is satisfied.

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

The proposed site layout will modify the existing ingress/egress on Beaver Creek Road. The access will be improved by entering Beaver Creek Road perpendicular. The modified entrance is located on the flagpole to the north. The applicant will be required to provide a joint access easement for all existing and future properties that will use this entrance. Mike Baker, City Traffic Engineer, indicated in a February 10, 2003 letter, that he did not foresee any traffic impacts from the proposed use ( Exhibit 4). No traffic study was required for the Conditional Use Application or the Site Plan and Design Review.

There is a 16-inch ductile iron City water line in Beaver Creek Road. The existing water system appears to be adequately sized to accommodate the proposed improvements.

There is an existing private sanitary sewer and storm sewer crossing the back corner of the property. The County, not realizing that the sanitary sewer crossing the property was a private line, required the applicant to connect to it in 1995 when their septic system failed. The City has not accepted the private sanitary sewer serving Moss Campus because it was not built to city standards and is not deep enough to serve adjacent properties on Beaver Creek Road.

The applicant shall be required at the Site Plan and Design Review stage to improve their site and site's frontage along Beaver Creek Road. The proposed site is large enough to adequately accommodate the proposed infrastructure and shape is conducive to the placement and functioning of the proposed use.

Therefore, staff finds that this criterion can be satisfied by meeting the Conditions of Approval.

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

The intent of this criterion is to protect the character of the surrounding area from being altered by a condition, which would limit, impair or inhibit the current uses. The surrounding properties consist of industrial zoned property to the north, west and east of the property on vacant or underutilized parcels and Moss Campus directly to the south. The subject building will be mostly used school hours. No negative responses to this application were received.

Staff additionally agrees with the applicant's contention that this siting will not impact the greater build-out of the proposed Beavercreek industrial area. The site is directly abutting to the Moss Campus property and will not preclude the development of adjacent industrially zoned properties.

Therefore, staff finds that this criterion is satisfied.

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

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

“Encourage citizen participation in all functions of government and land-use planning.”

(Citizen Involvement Goals and Policies, Policy 4)

The public hearing was advertised and noticed as prescribed by law to be heard by the Planning Commission on April 28, 2003. The public hearing will provide an opportunity for comment and testimony from interested parties.

“To serve the health, safety, education, welfare and recreational needs of all Oregon City residents through the planning and provision of adequate community facilities”. (Community Facilities Goal)

The seminary building would be used to provide recreational and educational activities, as well as religious activities for youth in Oregon City.

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

## **CONCLUSION AND RECOMMENDATION:**

Based on the analysis and findings presented in the report, staff concludes that the proposed Conditional Use CU 03-01 satisfies the requirements as described in the Oregon City Municipal Code for Conditional Use Permits, Chapter 17.56.

Based on the analysis and findings, staff recommends the Planning Commission approve Conditional Use Permit, CU 02-01, affecting the property located at 19675 Beavercreek Road; Clackamas County Map 3S-2E-9D, Tax Lot 400

## **EXHIBITS:**

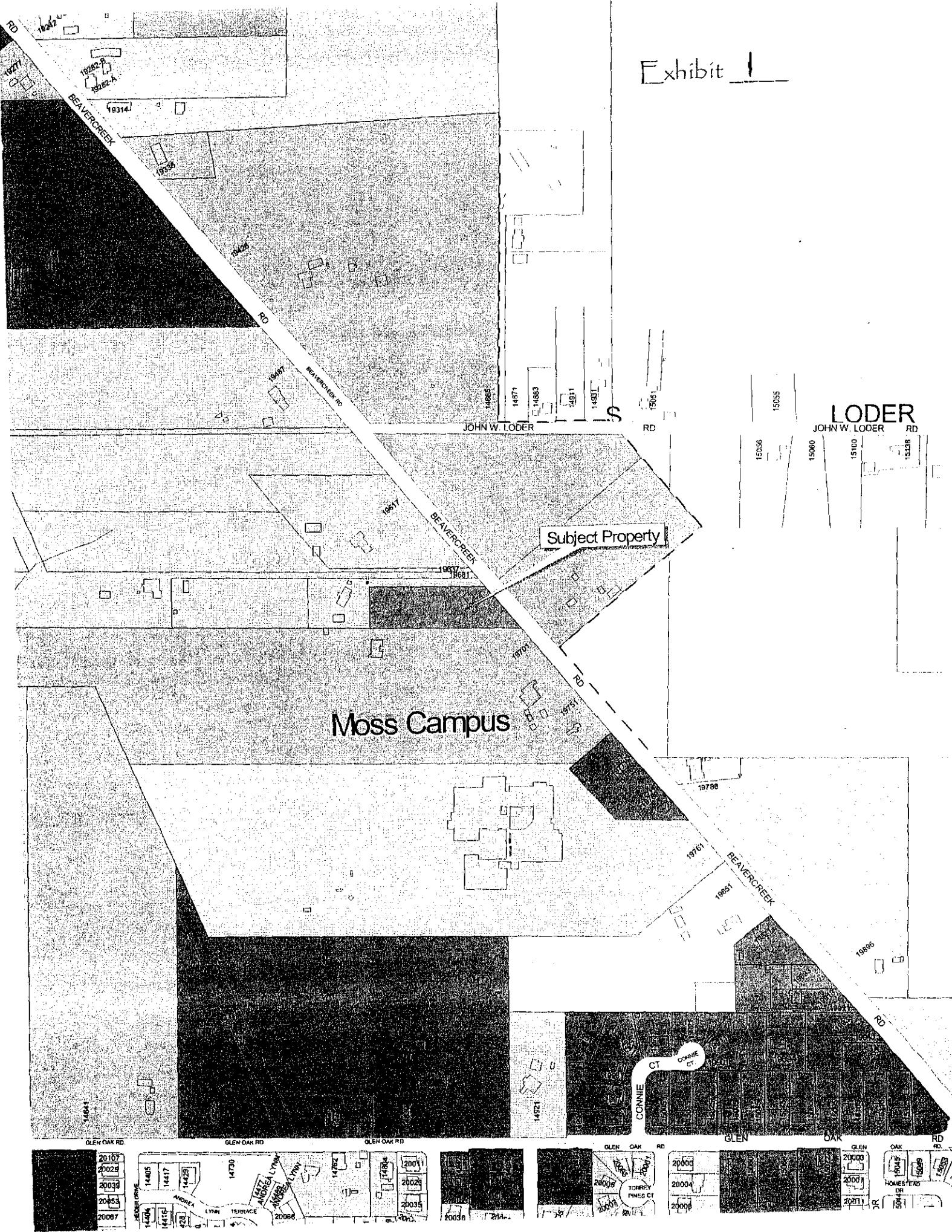
1. Vicinity Map
2. Revised Site Plan (January 15, 2003)
3. Applicant's Submittal
4. Engineering Comments
5. Traffic Engineer's Comments
6. March 24, 2003 Letter from Robert Hixson, Clackamas County Transportation.
7. January 31, 2003 Letter from Group Mackenzie
8. April 7, 2003 letter from Henry Nutt

## **Conditions of Approval**

### **CU 03-01**

1. The Applicant shall meet all the conditions of approval as required in the Site Plan and Design Review And Parking Variance for this project currently known as City File SP03-01 and VR 03-01.
2. The applicant shall work with the Oregon City School District to create a connection to the existing pedestrian circulation system of the high school to allow for safe and efficient pedestrian connection from the High School and the new Seminary Building.
3. The Applicant shall remove the temporary educational trailer from the site prior to the obtaining a Certificate of Occupancy from the Building Division.
4. The applicant may reconnect this building to the existing house lateral if they obtain approval to connect from Moss Campus and they provide a maintenance agreement to the City that they will maintain the private line. If an easement and maintenance agreement is not obtainable, the applicant will be required to extend the City sanitary sewer in Beavercreek Road (near the Money Saver Storage units) to and across the site's frontage.
5. The Applicant shall provide an agreement acceptable to the City attorney that:
  - a. Once a Public sewer is available to this site, the property owner will connect to the public sewer. The property owner will pay the connection to the sewer.
  - b. The property owner will be responsible for paying for the extension of the sanitary sewer along their property once it is available.
6. The Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement.
7. The Applicant shall be responsible for paying all fees associated with the recording of documents such as non-remonstrance agreements, easements, dedications, etc.

Exhibit 1



LODER  
JOHN W. LODER RD

Subject Property

Moss Campus

GLEN OAK RD

GLEN OAK RD

GLEN OAK RD

GLEN OAK RD

GLEN OAK RD

GLEN OAK RD

CONNIE CT

CONNIE CT

CONNIE CT

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14730  
ANDREA LYNN  
ANDREA LYNN  
20086

14762  
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THE CHURCH OF  
JESUS CHRIST  
OF LATTER-DAY SAINTS

CONDITIONAL USE APPLICATION  
FOR THE  
OREGON CITY SEMINARY  
OREGON CITY OREGON STAKE

BEAVERCREEK ROAD  
OREGON CITY, OREGON

McSWAIN & WOODS, AIA  
ARCHITECTS and PLANNERS  
LONGLEY F. (Mac) McSWAIN, AIA  
PORTLAND, OREGON  
(503) 654-9772 - (503) 654-9769 FAX

WDY, INC.  
CONSULTING CIVIL ENGINEERS  
COLE PRESTRUS, P.E.  
PORTLAND, OREGON  
(503) 203-8111 - (503) 203-8122 FAX

ATHAY & ASSOCIATES, INC.  
ELECTRICAL ENGINEERS  
VANCOUVER, WASHINGTON  
(503) 285-2456 - (360) 574-0209 FAX

LOCKHART CONSULTING, INC.  
LANDSCAPE ARCHITECTS  
FRED LOCKHART, L.A.  
EUGENE, OREGON  
(541) 484-4591 - (541) 484-3659 FAX

DeHAAS & ASSOCIATES  
LAND SURVEYORS  
PORTLAND, OREGON  
(503) 682-2450 - (503) 682-4018 FAX

GEOENGINEERING  
GEOTECHNICAL ENGINEERS  
PORTLAND, OREGON  
(503) 624-9274 - (503) 620-5940 FAX

| DRAWING INDEX |   |
|---------------|---|
| SHEET NO.     | DESCRIPTION   |
| CO.0          | INDEX AND TITLE SHEET                                       |
| CO.1          | EXISTING TOPOGRAPHIC PLAN                                   |
| CO.2          | SITE DEVELOPMENT LAYOUT PLAN                                |
| CO.3          | ARCHITECTURAL BUILDING ELEVATIONS                           |
| CO.4          | MANAGEMENT SCHEDULING PHOTOS PLANS                          |
| CO.5          | PRELIMINARY ON-SITE UTILITY, GRADING & EROSION CONTROL PLAN |
| LT.1          | SITE PLANTING PLAN  |

Exhibit 2













McSWAIN & WOODS  
ARCHITECTS and PLANNERS  
PROJECT TITLE:  
OREGON CITY SEMINARY  
1000 S. MOUNTAIN BLVD. / 1000 PLEIK ROAD  
SHEET TITLE:  
TITLE & INDEX SHEET  
PROJECT #  
544-8875  
CO. 0

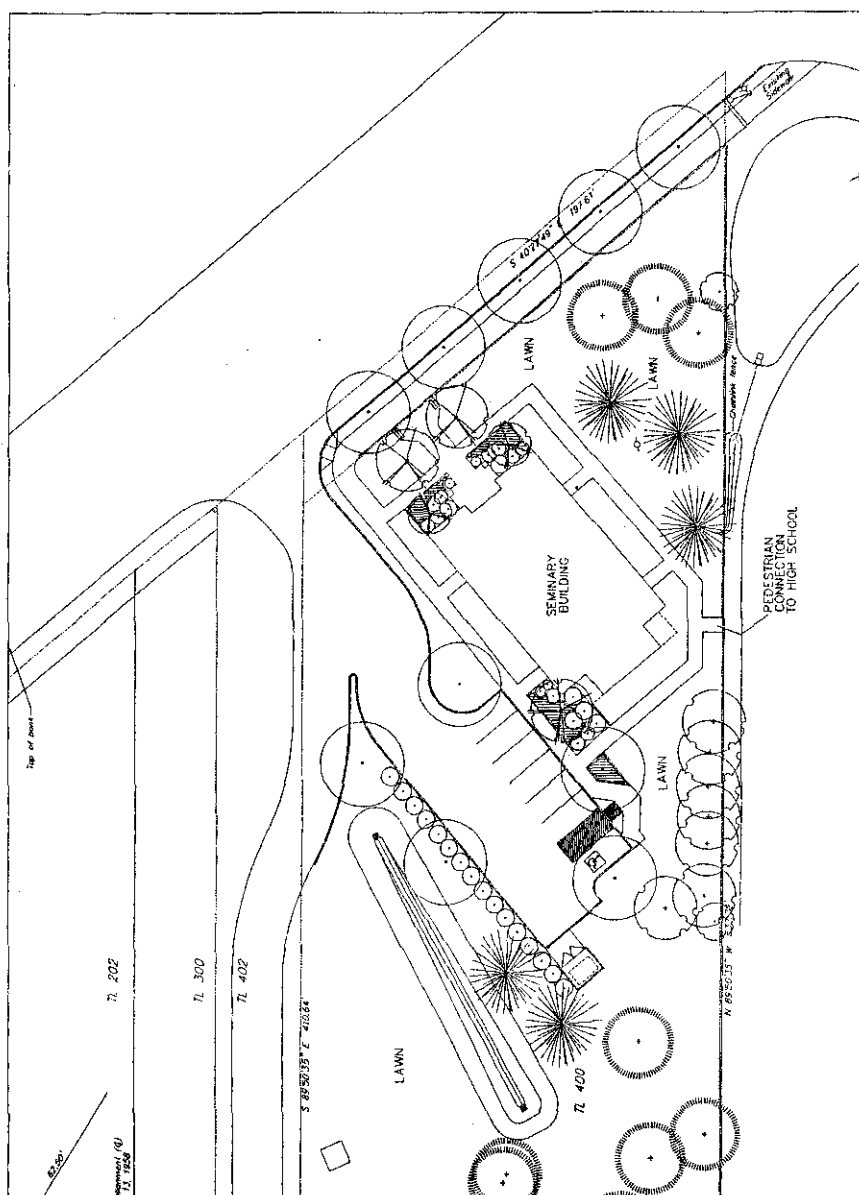




### Plant Legend

- |   |   |
|---|---|
|  | <b>EXISTING DECIDUOUS TREES<br/>(TO REMAIN)</b>   |
|  | <b>EXISTING EVERGREEN TREES<br/>(TO REMAIN)</b>   |
|  | <b>LARGE EVERGREEN TREE</b><br>Douglas Fir<br>Western Red Cedar                         |
|  | <b>MEDIUM SMALL EVERGREEN TREE</b><br>Horseshoe Cypress<br>Japanese Black Pine          |
|  | <b>LARGE DECIDUOUS TREE</b><br>Little Leaf Linden<br>Oakleaf Glory Maple                |
|  | <b>MEDIUM SMALL ORNAMENTAL TREE</b><br>Japanese Snowden Tree<br>Star Magnolia           |
|  | <b>LARGE SHRUB</b><br>Dorcasia Viburnum<br>Almond Winterhazel<br>Sweet Summer Hedges    |
|  | <b>MEDIUM SHRUB</b><br>Mexican Orange<br>Japanese Quince<br>White Down Camellia         |
|  | <b>SMALL SHRUB</b><br>Red Yucca<br>Dwarf Forsythia<br>Box Elder<br>Redfinger Potentilla |
|  | <b>GROUND COVER</b><br>Japanese Anemone<br>Japanese Anemone                             |

**NOTE:** The above list represents a sample of plants by category that may be used in landscaping this project. Final landscape plans may include a variety of other species from each category.



### Planting Plan

SCALE 1" = 20'-0"



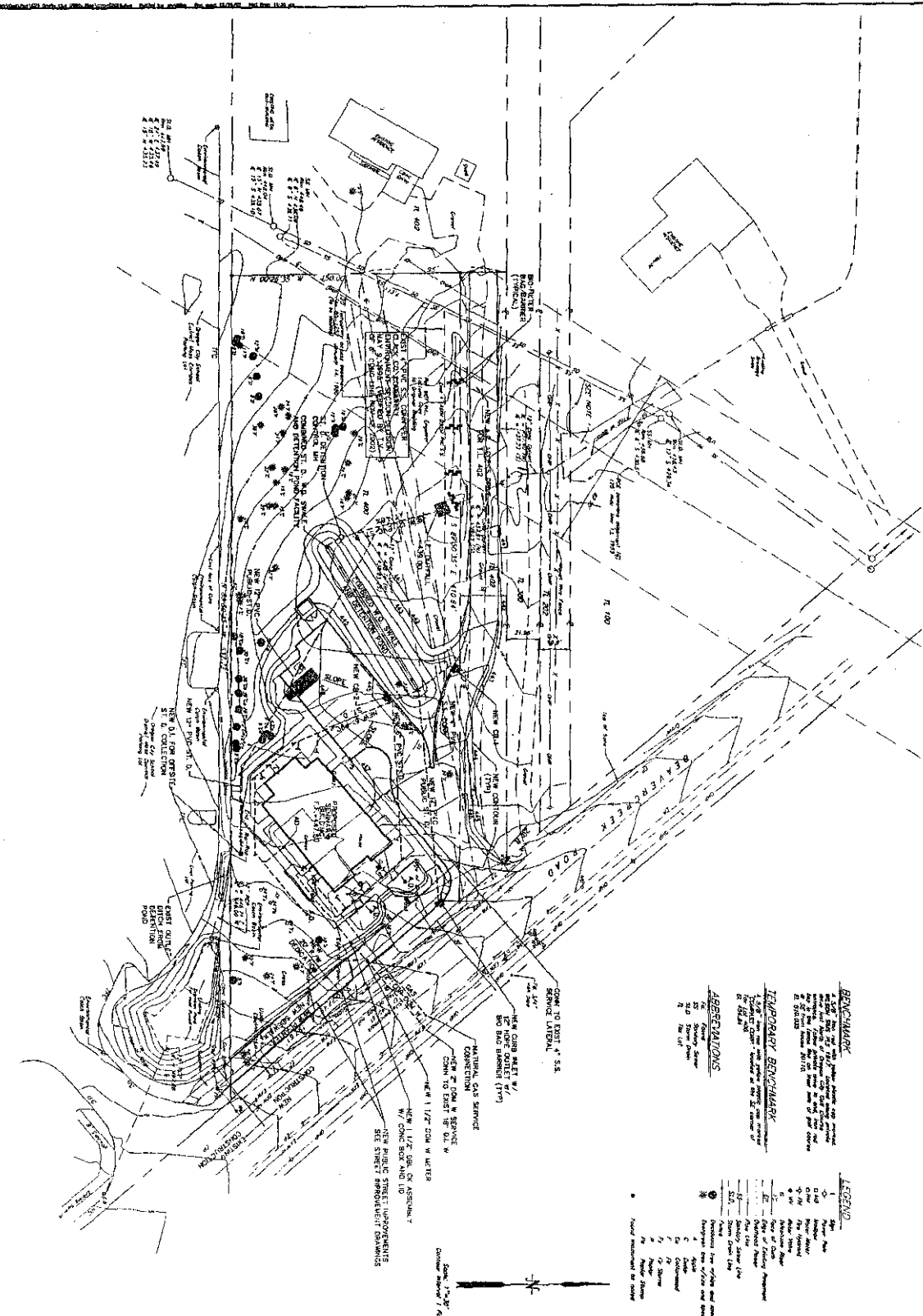
PRELIMINARY ONSITE UTILITY, GRADING AND EROSION CONTROL PLAN  
SCALE: 1" = 30'-0"

DESIGN REVIEW  
NOT FOR CONSTRUCTION

WDY  
ARCHITECTS and PLANNERS



PROJECT #  
644-8875-80



- LEGEND**
- 1. Proposed New Building
  - 2. Existing Building
  - 3. Proposed Driveway
  - 4. Proposed Parking Lot
  - 5. Proposed Grading
  - 6. Proposed Erosion Control
  - 7. Proposed Utility Lines
  - 8. Proposed Storm Water
  - 9. Proposed Sewer
  - 10. Proposed Gas
  - 11. Proposed Water
  - 12. Proposed Storm Water
  - 13. Proposed Sewer
  - 14. Proposed Gas
  - 15. Proposed Water
- NOTES**
1. All dimensions are in feet.
  2. All elevations are in feet above sea level.
  3. All utility lines are shown as proposed.
  4. All grading is shown as proposed.
  5. All erosion control is shown as proposed.
  6. All storm water is shown as proposed.
  7. All sewer is shown as proposed.
  8. All gas is shown as proposed.
  9. All water is shown as proposed.

ARCHITECTS and PLANNERS

19575 SOUTH BEAVERCREEK ROAD  
OREGON CITY, OREGON 97131  
P.O. BOX 577 COOS BAY, OREGON 97116  
541.869.0018 FAX 541.867.4586 Email mcmurphy@wdy.com

PROJECT TITLE:  
JESUS CHRIST OF LATTER-DAY SAINTS  
OREGON CITY SEMINARY BUILDING  
19575 SOUTH BEAVERCREEK ROAD  
Oregon City, Oregon

DATE: 11-28-02  
PROJECT # 644-8875-80

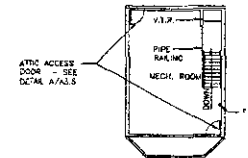
## GENERAL NOTES

1. DIMENSIONS ARE FROM FACE OF STUD TO FACE OF STUD AS INDICATED ON FLOOR PLAN.
2. SEE WALL TYPES PLAN ON SHEET A-2 FOR WALL FINISH MATERIALS AND NOTES.
3. INTERIOR WALLS AROUND VESTIBULES 101 AND 102, CLASSROOMS 110 AND 111, OFFICES 106, 108, AND 110, SECRETARY 112 AND MECHANICAL ROOM 201 TO BE INSULATED.
4. PROVIDE SOUND BLOCKING IN THE WALLS AT ALL DOOR SLOPE, HANDBLOCKS, TOLLEY EQUIPARTMENTS, VAULTY BRACKETS, DRAWING FOUNTAINS, HALLWAYS AND CABINETS AND AT ALL OTHER EQUIPMENT AND ACCESSORY LOCATIONS. SEE DETAIL B/A3.1 (TYPICAL).
5. SEAL ALL ELECTRICAL AND MECHANICAL PENETRATIONS IN WALLS ABOVE AND BELOW CEILING IN ALL CLASSROOMS AND OFFICES. PROVIDE SEALANT BOTH SIDES OF BOTTOM PLATE.
6. WALLS AROUND ROOMS 103, 104, 110, 111, 112, AND 201 EXTEND TO UNDERFLOOR OF STRUCTURE ABOVE. SEE DETAIL G/A3.2 FOR WALLS TERMINATING AT CEILING LINE. SEE DETAIL F/A3.3.
7. FOR DETAILS OF HANDBLOCKS AND TACK BOWERS - SEE FINISH SCHEDULE ON SHEET A5.1.
8. INSTALL VAPOR BARRIER UNDER CONCRETE SLAB - SEE DETAIL C/A3.3.
9. INSTALL EDGE BLOCKING WHERE REQUIRED FOR INSTALLATION OF CYPRESS BOARD AT WALL AND CEILING AREAS.
10. INSTALL PENETRATION FLASHING AS REQUIRED BY GOVERNING CODES.
11. FOR FIRE EXTINGUISHER CABINET - SEE A/A3.1.
12. PROVIDE 2" HOLE WITH GROMMET IN COURSEWORK FOR ELECTRICAL CORDS. SEE SHEET A6.2 FOR LOCATION.

| KEY TO ABBREVIATIONS |                                  |
|----------------------|----------------------------------|
| ABBREVIATION         | DESCRIPTION                      |
| F.E.                 | FIRE EXTINGUISHER - WALL MOUNT   |
| F.E.C.               | FIRE EXTINGUISHER WITH CABINET   |
| F.A.P.               | FIRE ALARM CONTROL PANEL         |
| E.W.C.               | ELECTRIC WATER COOLER (FOUNTAIN) |

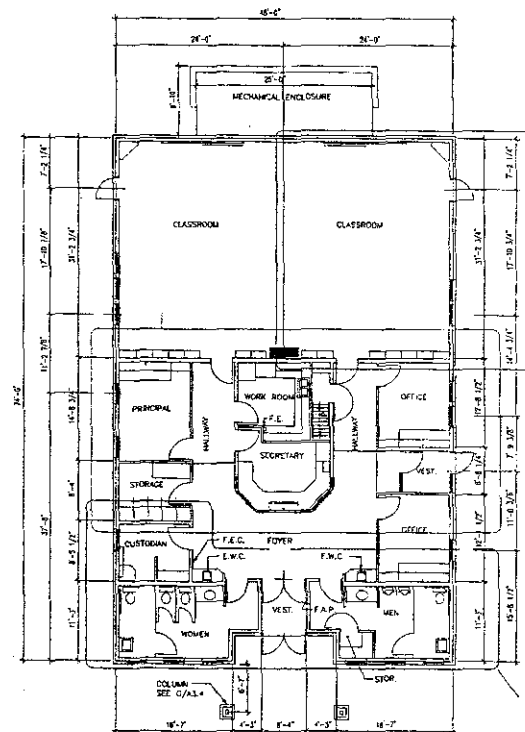
Key Floor Plan

scale: 1/8" = 1'-0"



MECHANICAL RM. PLAN

SCALE: 1/8" = 1'-0"



MAIN FLOOR PLAN

SCALE: 1/8" = 1'-0"



PROJECT TITLE:  
OREGON CITY SEMINARY  
1987 S. SOUTH BEACH CREEK ROAD  
OREGON CITY, OREGON

ARCHITECTS and PLANNERS

4040 SEE International Way  
Milwaukee, WI 53222 800.664.9772

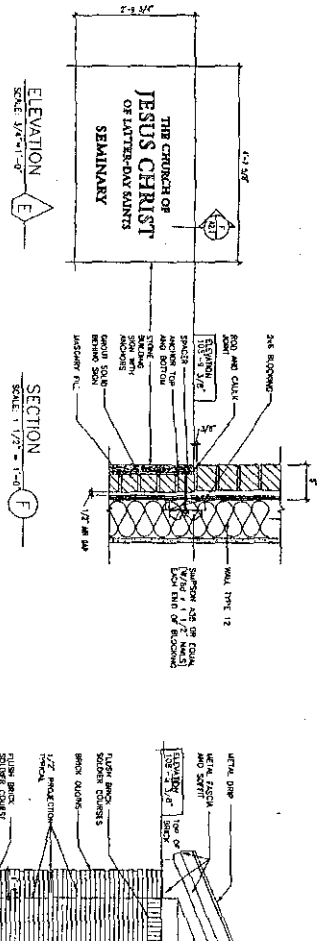
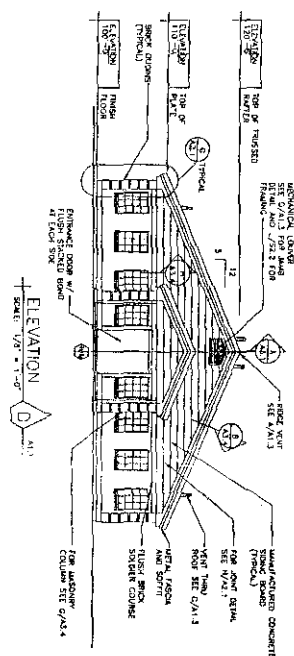
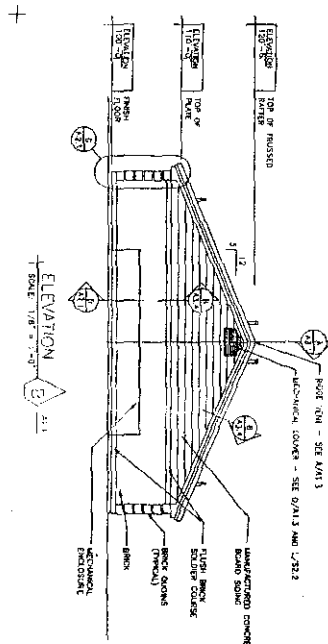
SHEET TITLE:  
SITE LAYOUT PLAN

|               |         |
|---------------|---------|
| DATES:        | 1/15/93 |
| DESIGN:       | 1/15/93 |
| CONSTRUCTION: | 1/15/93 |
| REVISION:     | 1/15/93 |

PROJECT #  
544-8875-80

CO. 4





NOTE: GRAPHIC IS INTENDED ONLY TO BE USED TO DETERMINE LOCATION AND PLACEMENT OF AN APPROVED SIGN. SIGN FROM AN APPROVED SUPPLIER HAS GRAPHIC SHALL NOT BE USED AS A TEMPLATE OR PATTERN FOR ANY OTHER PURPOSE. ANY MODIFICATION IS PROHIBITED. CONTACT NOTICES ARE TO USE THIS SIGN ONLY.

STONE BUILDING SIGN

ELEVATION 6

NOT USED ☒ 2

REGISTERED ARCHITECT  
LAWRENCE T. KESTER

|            |   |   |    |   |    |
|------------|---|---|----|---|----|
| DATE:      | 1 | / | 15 | / | 03 |
| RAW REC'D  | - | - | -  | - | -  |
| SUB/PIC    | - | - | -  | - | -  |
| CMSI       | - | - | -  | - | -  |
| ENVIRON    | - | - | -  | - | -  |
| EVALUATION | - | - | -  | - | -  |
| REMARKS    | - | - | -  | - | -  |

PROJECT #  
544-8875-B0

**ARCHITECTS and PLANNERS**

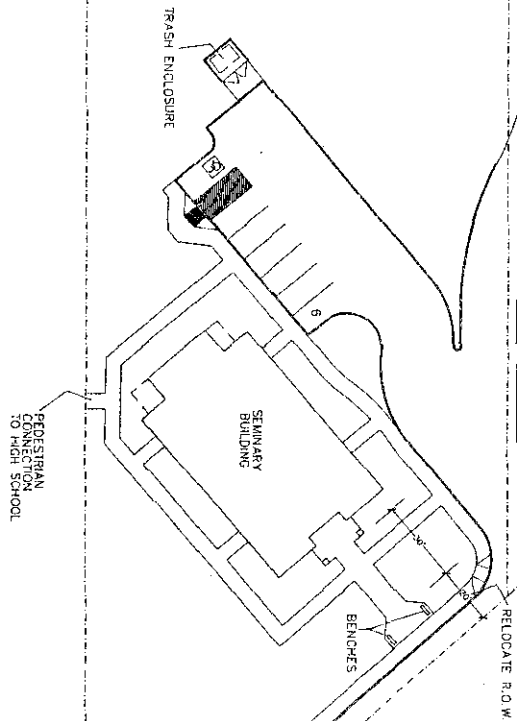
**4040 SE International Way, E-204  
Milwaukie, OR 97222 \$03.654.9772**

PROJECT TITLE:  
OREGON CITY SEMINARY  
19675 SOUTH BEAVERCREEK ROAD  
OREGON CITY, OREGON

**McSWAIN & WOODS**

# Site Layout Plan

scale: 1" = 20'-0"



CO.2

PROJECT # 544-8875-80

| DATE    | BY       | CHKD     | APPD     |
|---------|----------|----------|----------|
| 1/15/02 | J. WOODS | J. WOODS | J. WOODS |
| 1/15/02 | J. WOODS | J. WOODS | J. WOODS |
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| 1/15/02 | J. WOODS | J. WOODS | J. WOODS |

SHEET TITLE: SITE.LAYOUT.PLAN

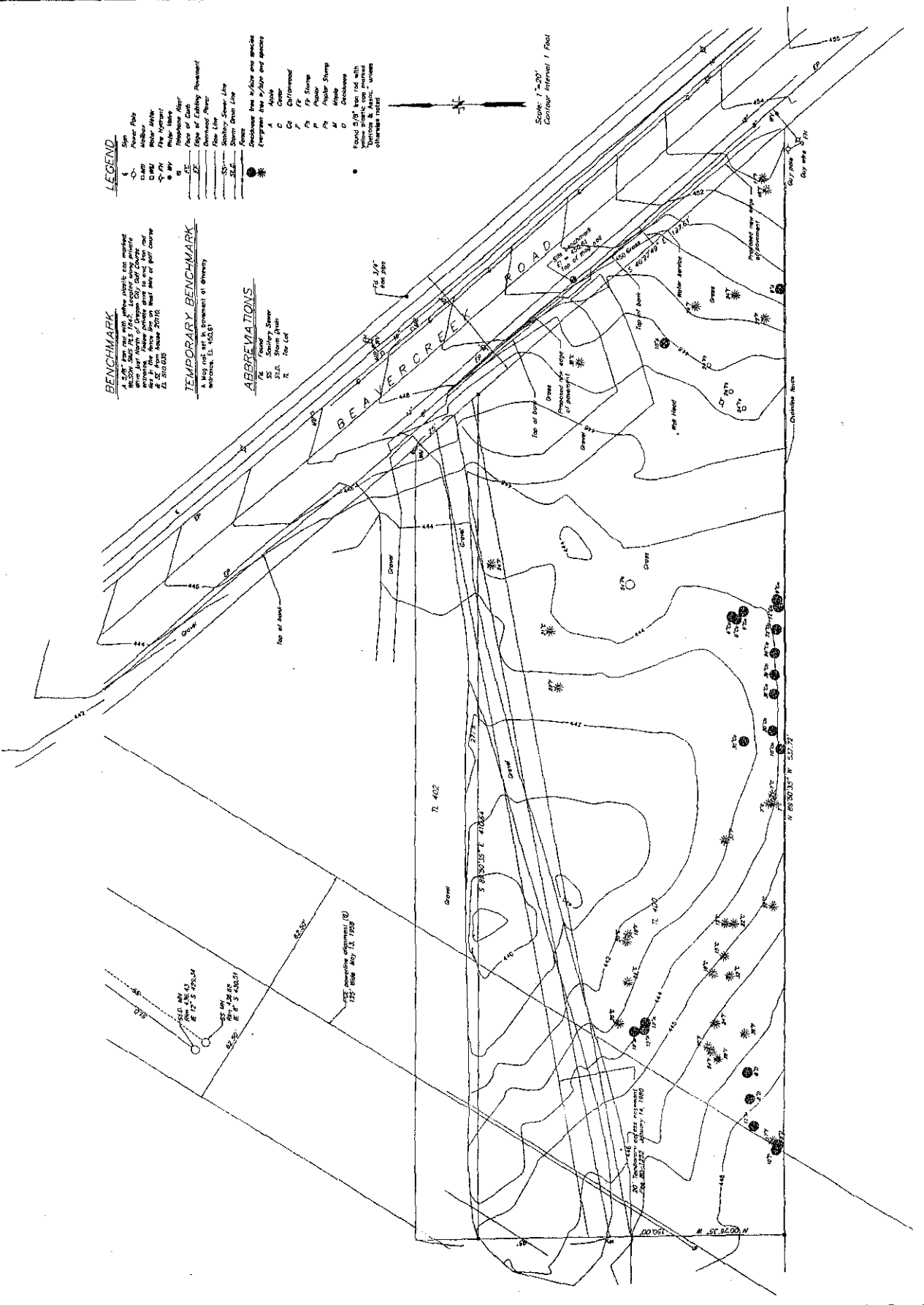
## ARCHITECTS and PLANNERS



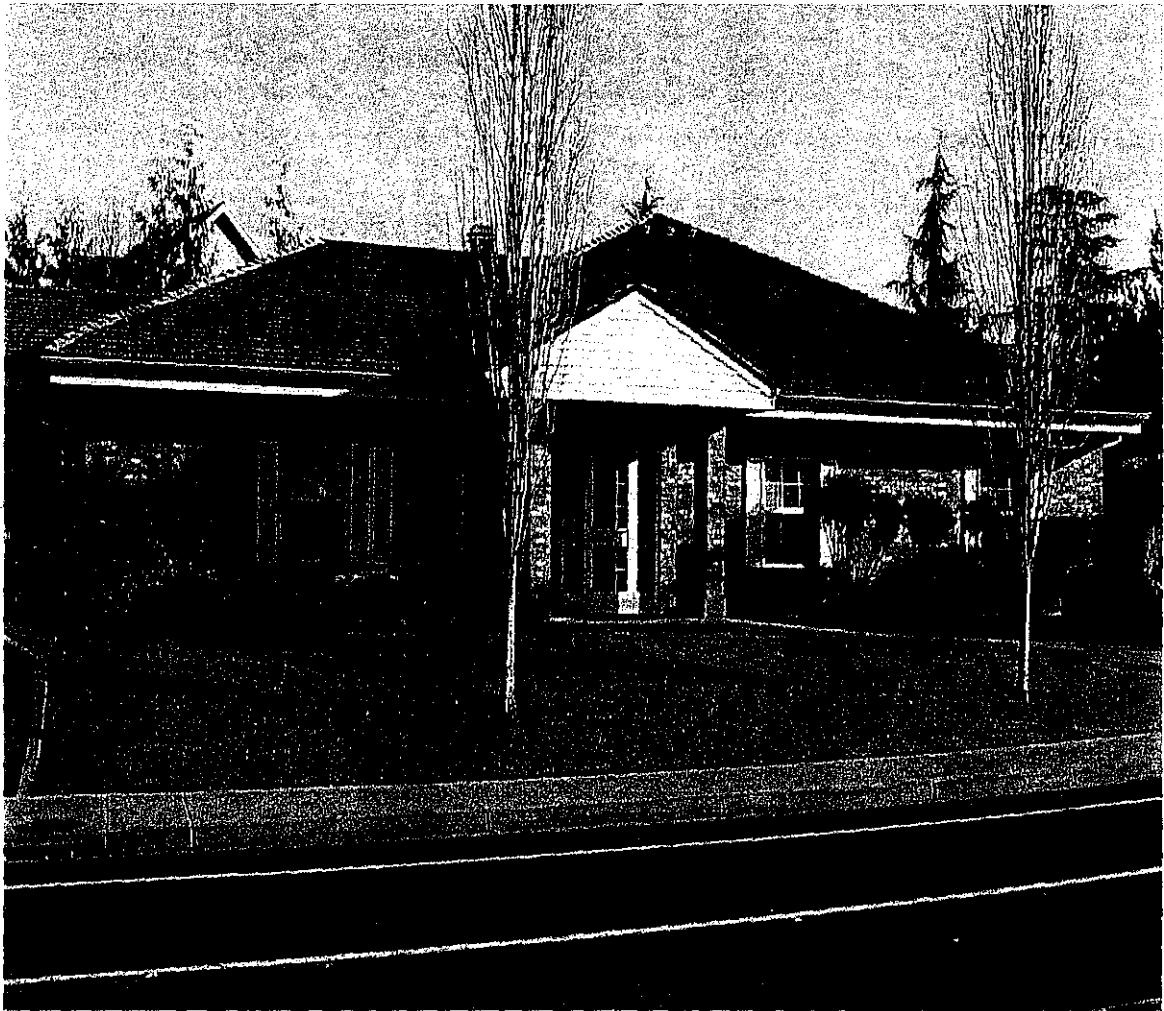
4040 SE International Way E-204  
Milwaukee, OR 97222 503.654.9772

PROJECT TITLE:  
OREGON CITY SEMINARY  
19675 SOUTH BEAVERCREEK ROAD  
OREGON CITY, OREGON





The Church of Jesus Christ of Latter Day Saints  
Proposed Seminary Building  
19675 S. Beaver Creek Road



This is the Tualatin seminary building, the roof line, the brick siding and general appearance are very similar to the proposed building.

Exhibit 3

# CITY OF OREGON CITY

Community Development Department, 320 Warner Milne Road,  
P.O. Box 3040, Oregon City, OR 97045, (503) 657-0891 Fax: (503) 657-7892  
www.ci.oregon-city.or.us

## LAND USE APPLICATION FORM

### REQUEST:

- | Type II  | Type III  | Type III / IV                           |
|--|---|---|
| <input type="checkbox"/> Partition               | <input checked="" type="checkbox"/> Conditional Use | <input type="checkbox"/> Annexation     |
| <input type="checkbox"/> Site Plan/Design Review | <input checked="" type="checkbox"/> Variance        | <input type="checkbox"/> Plan Amendment |
| <input type="checkbox"/> Subdivision             | <input type="checkbox"/> Planned Development        | <input type="checkbox"/> Zone Change    |
| <input type="checkbox"/> Extension               | <input type="checkbox"/> Modification               |   |
| <input type="checkbox"/> Modification            |   |   |

OVERLAY ZONES: ☐ Water Resources ☐ Unstable Slopes/Hillside Constraint

Please **print or type** the following information to summarize your application request:

APPLICATION # \_\_\_\_\_ (Please use this file # when contacting the Planning Division)

APPLICANT'S NAME: LDS Church

PROPERTY OWNER (if different): LDS Church

PHYSICAL ADDRESS OF PROPERTY: 19675 S. Beaver Creek Rd. O.

DESCRIPTION: TOWNSHIP: 3S RANGE: 2E SECTION: 090 TAX LOT(S): 400

PRESENT USE OF PROPERTY: NONE

PROPOSED LAND USE OR ACTIVITY:

L.D.S. Seminary building

DISTANCE AND DIRECTION TO INTERSECTION:

CLOSEST INTERSECTION: \_\_\_\_\_

PRESENT ZONING: M-1

TOTAL AREA OF PROPERTY: 1.8

### Land Divisions

PROJECT NAME: \_\_\_\_\_

NUMBER OF LOTS PROPOSED: \_\_\_\_\_

MINIMUM LOT SIZE PROPOSED: \_\_\_\_\_

MINIMUM LOT DEPTH PROPOSED: \_\_\_\_\_

MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS  
CHAPTER 227 REQUIRES THAT IF YOU RECEIVE THIS  
NOTICE, IT MUST BE PROMPTLY FORWARDED TO  
PURCHASER

### VICINITY MAP

*To be provided by the APPLICANT  
at the time application is submitted*



## INSTRUCTIONS FOR COMPLETING LAND USE APPLICATIONS:

1. All applications must be either typed or printed (black ink). Please make the words readable.
2. The application must be submitted with the correct fee(s).
3. If you mail in the application, please check with the Planning Division to ensure that it was received and that all necessary fees and information are with the application form.
4. If you wish to modify or withdraw the application, you must notify the Planning Division in writing. Additional fees may be charged if the changes require new public notice and/or if additional staff work is necessary.
5. With the application form, please attach all the information you have available that pertains to the activity you propose.
6. Prior to submitting the application, you must make complete a Pre-Application meeting to discuss your proposal with members of the Planning Division and any other interested agencies. Applicant is then to provide all necessary information to justify approval of the application.
7. The front page of the application contains a brief description of the proposal and will serve as the public notice to surrounding properties and other interested parties of the application. This is why neatness is important.
8. Detailed description, maps, and other relevant information should be attached to the application form and will be available for public review. All applicable standards and criteria must be addressed prior to acceptance of the application. The content of the attached information may be discussed with the planner who conducted the Pre-Application Conference prior to submission of the application.
9. Incomplete applications will be returned.

APPLICANT'S SIGNATURE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: Sherwood

STATE: OR

ZIP: 97140

PHONE: (503) 625 5529

PROPERTY OWNER SIGNATURE(S): \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: Sherwood

STATE: OR

ZIP: 97140

PHONE: (503) 625 5529

If this application is not signed by the property owner,  
then a letter authorizing signature by an agent must be attached

\*\*\*\*\*

DATE SUBMITTED: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

FEE PAID: \_\_\_\_\_

RECEIPT #: \_\_\_\_\_

## **CONDITIONAL USE APPLICATION**

SITE ADDRESS: 19675 S. Beaver Creek Rd., Oregon City, Oregon

OWNERS: The Church of Jesus Christ of Latter Day Saints ("LDS")

CONTACT: Mark Cottle PO Box 1124 Sherwood, OR 97140

TAX LOT NUMBER: 32E09D 00400

SITE SIZE: 1.8 ACRES

LOCATION: Next to the High School

ZONE DESIGNATION: M1

### **NARRATIVE:**

The LDS Church is applying to the City for permission to build a seminary building. Seminary is an instructional program offered by the LDS Church to its members who attend high school. (9<sup>th</sup> through 12<sup>th</sup> grade.) The Youth will attend either prior to school commencing or while school is in session during a release time offered by the School District. However, the vast majority will attend while school is in session. The length of a particular class will be the same as the length of a class period offered by the school.

The youth will walk from school to the seminary building and back. There is no parking offered to the youth because LDS youth that attend the high school are the same youth using the seminary at the same time high school will be in session, or just prior to high school being in session.

The early morning attendees will be either dropped off or park at the high school. There will be approximately 100 to 150 youth utilize this facility. The instructional material will be based upon the doctrine of the LDS Church. There will be two full-time employees with a part-time staff.

Attached are two area maps, one being a zoning map, the other a general area map. In addition are pictures of the site as it currently sits. There is also a picture of a typical LDS seminary building, the one presented is the Tualatin seminary building which is of the same general type and design of the proposed Oregon City seminary building.

## UNDERLYING ZONE M-1

### Chapter 17.36.04

| Issue                   | Code                            | Proposed                               |
|-------------------------|---------------------------------|--|
| Minimum Lot Area        | None                            | 1.08 acres                             |
| Maximum Building Height | 3 stories no greater than 40 ft | less than 40 feet                      |
| Front Yard setback      | 10 feet                         | N.E. Corner is 43'<br>S.E. Corner 85'  |
| Interior Side yard      | None                            | 45' 2"                                 |
| Corner side yard        | 10 feet                         | 56' not including driveway             |
| Rear yard               | 10 feet                         | 245' not including parking lot         |
| Buffer zone             | 25 feet                         | greater than 25 feet in all directions |
|                         |                                 |  |

#### 17.52.010 Number of spaces required.

"At any time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district in the city, off-street parking spaces shall be provided in accordance with this section. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this section. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property, but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Where calculation in accordance with the following list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space:

Church or other religious assembly building

One space per four seats or eight feet of bench length in the auditorium.

Preschool nursery; kindergarten

Two spaces per teacher.

Elementary, junior high school or high school

One space per classroom plus one space per administrative employee plus one space per four seats or eight feet of bench length in the auditorium, assembly room or stadium, whichever is greater.”

*The applicant requests an variance from this standard as it doesn't make sense to require this facility to build, at a minimum, 15 parking space for the young adults who will be parking at the high school.*

**17.52.040 Carpool and vanpool parking.**

*Not applicable.*

**17.52.060 Bicycle parking standards.**

*There will be four parking stalls provided for the bicycles.*

**17.52.070 Pedestrian access in off-street automobile parking areas.**

A. The off-street parking and loading plan shall identify the location of safe, direct, well lighted and convenient pedestrian walkways connecting the parking area and the use being served.

*See site plan.*

B. All pedestrian walkways constructed within parking lots shall be raised to standard sidewalk height. All surface treatment of pedestrian walkways shall be firm, stable and slip resistant, and shall comply with Chapter 31 of the Uniform Building Code.

*See site plan.*

C. Where an accessible pedestrian walkway crosses or adjoins a vehicular way, the boundary between the areas shall be defined by a marked crossing having a continuous, detectable marking not less than thirty-six inches wide. Where pedestrian walkways cross driving aisles, they shall be clearly marked with contrasting slip resistant materials. (Ord. 95-1001 §§2(part), 1995)

*See site plan.*

**17.52.080 Conversion of existing required parking.**

*See Bicycle parking standards.*

**17.52.090 Parking lot landscaping.**

*See Site plans, specifically landscaping plans, all code requirements shall be met.*

**Chapter 17.54 Supplemental zoning regulations and exceptions**

Not applicable or the site plan shows compliance.

## CONDITIONAL USE STANDARDS

### **Chapter 17.56.010 A.**

1. Use Listed as a conditional underlying zone:

17.36.030 includes all conditioned uses specified in 17.56 which includes churches, schools and social welfare institutes.

2. Characteristics of site or suitable for proposed use, considering size, shape, location, Topography, improvements natural features:

This site is ideal for the seminary building. It sits next to the school and has minimum traffic impact because the students will already be at the school. The topography (which is flat), shape (rectangle) and size (1.8 acres) all accommodate the proposed use; There is available all services to the site. There are no natural features at issue.

3. The development is timely made, in that there are sufficient public facilities existing or planned.

All public or quasi public facilities are in place, including transportation, water, power and sewer.

4. The proposed use will not alter the character of the surrounding area in a manner that impairs or precludes the use of surrounding properties as zoned.

This facility fits in with the school and is ancillary to the school use. Therefore, it will have limited impact. Because the size of the site is relatively small, it will not materially diminish the available M-1 land in the area. Nor is there a "critical mass" of M-1 property that is impacted as this site is essentially an Island of currently zoned M-1 property. (See zoning map.) Because it will produce very little traffic, its impact on the transportation system will be minimal.

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

The comprehensive plan designates a need for Industrial land. Recognizing that the numbers designated for the plan 107 acres, is not "infallibly accurate," but is intended "to give a general picture of the future". It appears from the Comprehensive plan, that generally Beavercreek is regarded as "highway commercial." However, it appears of late, that some industrial land is desirable. The list of Targeted Industries on page D-20 clearly shows that the vast majority of the "targeted industries" are industries that need more land than 1.8 acres.

Since this type of zoning also allows for community type development through a

conditional use application, it stands to reason that a portion of the 107 acres was to be used for development other than industrial uses.

The real issue should be, does the use of this site harm the industrial plan. The answer is no. The reason is that the site is small for industrial use, it sits next to a school and adds a nice buffer between future development and the school area.

### 17.60.020 VARIANCES-GROUNDS.

It is requested that the applicant be granted a variance in regards to its off street parking requirements.

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;

*The extraordinary circumstances are that the applicant is positioning the building next to the high school so as to minimize the traffic which utilizes the building. Instead of requiring the participants to travel to and from the current site (next to the old high school) which would cause numerous traffic trips, by placing this facility next to the new high school, the participants will be able to walk to the facility.*

*As a result, the applicant requests a variance from the off-street parking requirement.*

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;

*There is no negative impact on the neighboring property owners.*

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;

*This is not a "hardship" but rather an extraordinary circumstances due to the ancillary nature of this site to the high school.*

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

*The only practical alternative is to require parking that isn't needed.*

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

*It is proposed that instead of the 15 parking stalls, (30 chairs per class room, two class rooms) that the applicant be allowed to build 7 stalls, to accommodate two and a half employees and the occasional visitor.*



F. That the variance conforms to the comprehensive plan and the intent of the ordinance being varied. (Prior code §§11-8-2).

*The Comprehensive plan as well as this code, in regards to traffic attempts to minimize vehicular traffic and increase alternative traffic. This site does just that what this code attempts to do. By allowing the variance you encourage ancillary uses in zoning which allows uses to feed off each other thereby diminishing some of the negative affects of development such as:*

*Traffic problems;  
Strom Water problems;  
Impact on existing uses.*

*In addition, you encourage alternative traffic flow between uses, such as pedestrian and bicycle uses.*

*Applicant has established the right to a variance from the off-street parking requirements of this code.*

## SITE PLAN

### Chapter 17.62.050 Standards

1. Fifteen percent of Lot area shall be landscaped.

|  |       |
|--|-------|
| Front area landscaped                    | 8,235 |
| Side next to School                      | 5,790 |
| Side                                     | 3,900 |
| Real (includes 25' rear of parking area) | 6,000 |

|                                      |        |
|--------------------------------------|--------|
| Total Landscaped area in square feet | 23,925 |
|--------------------------------------|--------|

Improvements (excluding driveway)

|                        |                      |
|------------------------|----------------------|
| Building               | 3,868                |
| Sidewalks              | 2,791                |
| Parking lot            | 3,312                |
| Trash pad              | 228                  |
| Total                  | 10,199 ± square feet |
| Landscaped area        | 23,925 ± square feet |
| Total area of lot used | 34,124 ± square feet |
| Remaining area         | 30,750 ± square feet |

Percentage of landscaping against the area lot utilized is sixty-one percent.

2. Size, shape, height, and spatial and visual arrangements.

The building will be situated in a East and West manner, with the front plaza facing the street. There will be two side entrances on the North side of the building. The roof line is comparable to a single family home with a brick exterior. Because this is for a small type school, it will blend into the lot rather than over power the lot.

With a pedestrian path leading to the school, where the majority of the youth will be coming from, the use of the building will give the appearance of an ancillary building to the High School.

The parking lot will be behind the building so as to maximize the landscaping in the front. There will be a garbage receptacle which will be fenced and appurtenant to the parking area.

The surrounding land is zoned either campus/industrial or Future Urban. The City's current comprehensive plan calls for all the Future Urban property to become Industrially zoned.

The proposed comprehensive plan call for the Future Urban property to be zoned

Industrial of some type. (M-1 or Campus Industrial). From the appearance of the current and future plans for this area of the City, the proposed use will fit in and blend with the present and future uses. Right now, it is an island of M-1 sandwiched into a campus industrial area.

3. Grading shall conform to the requirements of Chapter 15.48.
4. This standard is not applicable (Unstable slopes).
5. Drainage shall comply with the City's master plan.
6. Parking. This site has six parking stalls and one handicapped stall. Per Chapter 17.52 a school needs one space per class room plus one space per administrative employee plus one space per four seats or eight feet of bench length in the auditorium, which ever is greater. There isn't an auditorium in this building and this site is specifically situated so as not to need additional parking.

All the students will be parking at the High School if they drive. This building is designed to accommodate those students attending the High School. There isn't any reason for there to be more parking than one space per administrative employee and one space per class room. There will be two full-time employees and a part-time secretary. There will be an occasional visitor. Six parking stalls plus the handicapped stall is more than enough space to meet the parking needs of those that will utilize this building.

This site was purchased specifically to meet the needs of the students who attend class at the high school to accommodate those students who have released time from the high school so that the religious instruction can occur during the school hours. Those students who attend earlier morning classes, will still be allowed to park at the high school and walk over to the building.

There will not be an unloading or loading area because it is not needed. There will be bicycle stalls next to the back door.

There will be lighting, for security reasons, in the parking lot and at the entrance. The lighting will not spill off the site.

7. Sidewalks and curbs. Sidewalks are provided pursuant to the city's transportation plan. Namely along S. Beaver Creek Road, down the private driveway to the parking area and from the parking area to the building. Additionally, there is a sidewalk that will run from the school to the building and from the building to the sidewalk along the driveway. Of course, there is the need to place a sidewalk along the road, but for this project, with most of the pedestrian traffic coming from the high school, a sidewalk from the high school to the building was also appropriate.

8. Circulation for pedestrian and bicycle access. Please see number 7.

9. Continued maintenance. While the LDS Church has a long history in Oregon City, and the history of the Church clearly demonstrate a willingness to comply with all upkeep needs. This standard is best taken care of by the material used in the building and building the driveway, landscaping etc., to the standards established by the Code.

For example, this building will be brick. The landscaping will be professionally done and professionally maintained. If the City desires that the driveway be built to City standards, (not in width) but in material and grade, that would be acceptable. The screening is only necessary between the Church and the High School and a fence is already in place.

10. Lighting plan map demonstrates that this has been accomplished.

11. The site plans have a tree inventory and a designation of which trees will be removed.

12. Protect Water. The site and building will be built to City standards. Sprinkling systems will be put into place to minimize water waste. The building will be built to standards and will implement all applicable water saving features in the building code.

13. The Site plan will designate any applicable natural resources. The Land has one small area or natural resource area (approximately one square foot is within 300 feet of water) and the staff is not requiring a study of the area. The land is flat, with no water or flood plain.

14. Nuisances: The site will comply to all Federal, State, County and City ordinances related thereto.

15. There is public water and quasi public Sewer. The site was authorized to utilize the sewer line which transverses the property and has hooked in.

16. Right-of-way. As explained above, the Church has proposed to build side walks and curb and cutter on Beavercreek. Any required improvements necessary to facilitate the use will be built per the transportation code adopted by the City.

The church and the neighboring property owner has a joint ingress and egress agreement that both will utilize the new driveway constructed as part of this development.

17. There is additional bicycle and pedestrian travel across the site, in addition to the Beavercreek road improvements as designated above and on the site plan.

18. Tri-met: All recommendations for a bus stop and/or turnout lanes, bus shelter and bus landing pad will be allowed per the City's and Tri-met's code, so long as there is a rough proportionality between the improvement and the use. Per City staff, Tri-met doesn't service this area yet.

19. All utility lines shall be placed underground.
20. Handicapped requirements will be met per Federal, State, County and City codes.
21. Pedestrian/bicycle access ways are incorporated per Chapter 12.24 of the building code.
22. Not applicable.

### **17.62.055 Institutional and commercial building standards**

C. 1. This building will be built with brick, it will have an entrance facing the street which gives it a feel of institutional use, it is designed to tie into the school by way of a pedestrian through way.

C. 2. Although there is a prototype design, the design shall be modified to accommodate the site.

C. 3. There is only one building.

C. 4. Duly noted.

D. 1. This standard conflicts with the underlying zoning. There is a pedestrian walk way, a plaza which is at the entrance.

D.2. The main entrance is defined and oriented toward the street.

D.3. The parking area is located behind the building.

E.1. There is only one building.

E.2. The horizontal height shall not exceed the zoning allowance.

E.3. The building will be oriented towards the entrances.

F.1.a. The building is functional and facades limited except as required by or allowed by the code. See site plan.

F.1.b. Not applicable.

F.1.c. Not applicable.

F.1.d. Not applicable.

F.1.e. Not applicable.

F.1.f. Not applicable.

F.2. Facade Transparency. The building will be designed so that 60% of the street entrance will be transparent and the side elevations shall be 30%.

F.3. Not applicable

F.4. There is no difference between the side material used for siding and the front.

F.5. Not at issue or not applicable.

G. Is not applicable to the matter at issue. He designed roof meets this criteria.

G. 2. Not at issue.

H. Not at issue, as there is no customers.

#### **17.62.060 Building structures**

The building will compliment the surroundings. While not just a religious school, it will also serve as offices for the limited staff. It will be built to blend with the school and act as a buffer between the school use and the neighboring light industrial.

This building will meet all requirements of the code.

#### **17.62.070 On-site pedestrian access**

A. There is only one building. It will connect to by way of a pedestrian access to the high school. There will be a sidewalk built on Beavercreek which will have an access from the street to the front of the building by way of a sidewalk down the driveway. The sidewalk which runs down the driveway has two connecting points to the building.

A.1. There is only one building.

A.2. Not at issue.

A.3. There is connectivity between the parking lot and the building by way of a sidewalk.

A.4. In regards to the future development. The property to the North will be across the driveway, will allow the connectivity. To property to the West can be developed so that there will be connectivity if required when it is developed.

B. The On-site walkways will meet the standards required by the City.

C. The lighting plan meets this requirement.

D. There is a green buffer between the sidewalk along the driveway and the sidewalk. There is no cross of any vehicle traffic to access the building from either the parking lot or the School. There will be appropriate makings on driveway and parking area as required by the City code.

17.62.080 Special development standards along transit streets.

This standard isn't applicable.

### **Traffic**

According to Brent T. Ahrend, PE a traffic engineer for the LDS Church, this site will generate the following trips:

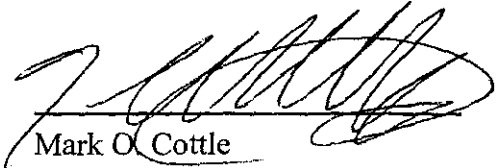
|          |       |
|----------|-------|
| AM Enter | 1 VPH |
| AM Exit  | 1 VPH |
| PM Enter | 1 VPH |
| PM Exit  | 1 VPH |

This information was taken from the Institute of Transportation Engineer's (ITE) Trip Generation, Sixth Edition. The ITE states that the above rate to trips is applicable for a 3,500 SF seminary.

With three employees (2 full-time and a part-time employee) there will is expected 32 daily, 2 AM peak hour, and 2 PM peak hour trips. Clackamas County Year 2000 average daily traffic (ADT) along Beavercreek Road, north of Henrici Road, is 11,150 vehicles. The daily trip generation of this site is less than 0.3% of this roadway volume.

For this reason, our Traffic Engineer has requested that David Evans and Associates waive the obligation for a full-traffic report.

If there is any additional information needed, please contract me.

  
Mark O Cottle

Land Use Consultant for Applicant

1-10-03  
Date



## **CONDITIONAL USE APPLICATION**

SITE ADDRESS: 19675 S. Beavercreek Rd., Oregon City, Oregon

OWNERS: The Church of Jesus Christ of Latter Day Saints ("LDS")

CONTACT: Mark Cottle PO Box 1124 Sherwood, OR 97140

TAX LOT NUMBER: 32E09D 00400

SITE SIZE: 1.8 ACRES

LOCATION: Next to the High School

ZONE DESIGNATION: M1

### **NARRATIVE:**

The LDS Church is apply to the City for permission to build a seminary building. Seminary is an instructional program offered by the LDS Church to its members who attend high school.(9<sup>th</sup> through 12<sup>th</sup> grade.) The Youth will attend either prior to school commencing or while school is in session during a release time offered by the School District. However, the vast majority will attend while school is in session. The length of a particular class will be the same as the length of a class period offered by the school.

The youth will walk from school to the seminary building and back. There is no parking offered to the youth because LDS youth that attend the high school are the same youth using the seminary at the same time high school will be in session, or just prior to high school being in session.

The early morning attendees will be either dropped off or park at the high school. There will be approximately 100 to 150 youth utilize this facility. The instructional material will be based upon the doctrine of the LDS Church. There will be two full-time employees with a part-time staff.

Attached are two area maps, one being a zoning map, the other a general area map. In addition are pictures of the site as it currently sits. There is also a picture of a typical LDS seminary building, the one presented is the Tualatin seminary building which is of the same general type and design of the proposed Oregon City seminary building.

## UNDERLYING ZONE M-1

### Chapter 17.36.04

| Issue                   | Code                            | Proposed                               |
|-------------------------|---------------------------------|--|
| Minimum Lot Area        | None                            | 1.08 acres                             |
| Maximum Building Height | 3 stories no greater than 40 ft | less than 40 feet                      |
| Front Yard setback      | 10 feet                         | N.E. Corner is 43'<br>S.E. Corner 85'  |
| Interior Side yard      | None                            | 45' 2"                                 |
| Corner side yard        | 10 feet                         | 56' not including driveway             |
| Rear yard               | 10 feet                         | 245' not including parking lot         |
| Buffer zone             | 25 feet                         | greater than 25 feet in all directions |
|                         |                                 |  |

#### 17.52.010 Number of spaces required.

“At any time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district in the city, off-street parking spaces shall be provided in accordance with this section. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this section. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property, but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Where calculation in accordance with the following list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space:

Church or other religious assembly building

One space per four seats or eight feet of bench length in the auditorium.

Preschool nursery; kindergarten

Two spaces per teacher.

Elementary, junior high school or high school

One space per classroom plus one space per administrative employee plus one space per four seats or eight feet of bench length in the auditorium, assembly room or stadium, whichever is greater.”

*The applicant requests an variance from this standard as it doesn't make sense to require this facility to build, at a minimum, 15 parking space for the young adults who will be parking at the high school.*

**17.52.040 Carpool and vanpool parking.**

*Not applicable.*

**17.52.060 Bicycle parking standards.**

*There will be four parking stalls provided for the bicycles.*

**17.52.070 Pedestrian access in off-street automobile parking areas.**

A. The off-street parking and loading plan shall identify the location of safe, direct, well lighted and convenient pedestrian walkways connecting the parking area and the use being served.

*See site plan.*

B. All pedestrian walkways constructed within parking lots shall be raised to standard sidewalk height. All surface treatment of pedestrian walkways shall be firm, stable and slip resistant, and shall comply with Chapter 31 of the Uniform Building Code.

*See site plan.*

C. Where an accessible pedestrian walkway crosses or adjoins a vehicular way, the boundary between the areas shall be defined by a marked crossing having a continuous, detectable marking not less than thirty-six inches wide. Where pedestrian walkways cross driving aisles, they shall be clearly marked with contrasting slip resistant materials. (Ord. 95-1001 §§2(part), 1995)

*See site plan.*

**17.52.080 Conversion of existing required parking.**

*See Bicycle parking standards.*

**17.52.090 Parking lot landscaping.**

*See Site plans, specifically landscaping plans, all code requirements shall be met.*

**Chapter 17.54 Supplemental zoning regulations and exceptions**

Not applicable or the site plan shows compliance.



**WALKER/DILORETO/YOUNIE, INC.**  
CONSULTING STRUCTURAL • CIVIL ENGINEERS

November 26, 2002

*Principals*

*Robert A. Walker*

*Dale J. DiLoreto*

*Wade W. Younie*

*Cole G. Presthus*

*Michael Coronel*

*Greg G. Munsell*

*Associate*

*Douglas E. Paola*

McSwain & Woods Architects  
4040 SE International Way E-204  
Milwaukie, OR 97222

Attn: Mac McSwain

**RE: LDS OREGON CITY SEMINARY  
19675 BEAVERCREEK RD, OREGON CITY, OREGON  
"SITE VISIT" – NOVEMBER 12, 2002/LOCATE SANITARY SEWER**

Dear Mr. McSwain,

On November 12, 2002, WDY, Inc. visited the site with "Locate Down Under, Inc." personnel to locate the existing sanitary sewer crossing the northwest corner of the property. From conversations with the City of Oregon City Engineering Department, this sanitary sewer line is a private line for the adjacent City of Oregon City High School facility south of the proposed seminary site. A private storm drain line also for the school runs parallel to the sanitary sewer line across the seminary site. The sanitary line is an 8" diameter concrete pipe and the storm drain is a 15" diameter concrete pipe. See the attached topographic survey plot for alignment location across the property. Note that the manhole placement of sanitary and storm lines are not shown graphically correct as to their actual field locations, and WDY recommends the surveyor provide additional dimensional information locating the manholes.

In conversation with the next door neighbor to the north (Tax Lot #100), it was reported that the proposed seminary site did have a sanitary sewer lateral installed for it into the school's private 8" sanitary line as a result of septic system violations of the previous residence.

A television camera was run down the existing 8" sanitary sewer line 200 feet to determine if any sewer lateral connections existed. One (1) 4" diameter "inserta-tee" service connection was noted coming into the top of the existing 8" sanitary sewer line located 112 feet northeast of the existing sanitary manhole at the site's west property line. This connection appears to be the sewer lateral that the neighbor referred to as it is located on the proposed seminary site, no other connections were observed and all other neighbors reported to be on private onsite septic systems. The ground surface was spray painted green at the sanitary sewer location for future reference.

*Raleigh West  
Executive Building*

443 SW Beaverton-  
Hillsdale Hwy, #210  
Portland, OR 97221  
Fax 503/203-8122  
Voice 503/203-8111  
email: wdy@wdyi.com

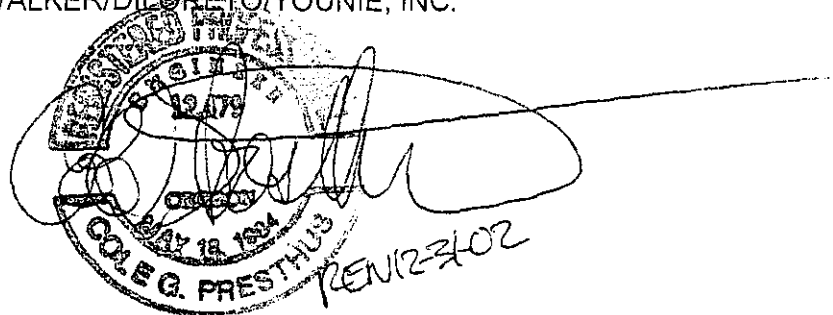
LDS Oregon City Seminary  
Review of Proposed Grading at Adjacent Lot  
Page 2

Enclosed please find a copy of the 1995 Clackamas County Septic System Violation Notice for the previous residence on the site. The notice states that the violation was resolved by connection into sanitary sewer in the City of Oregon City. Also, enclosed are copies of the contents of the Clackamas County Community Environment Section's folder for this tax lot detailing all communications regarding violations previously occurring on this site.

If you have any questions regarding the above please contact our office.

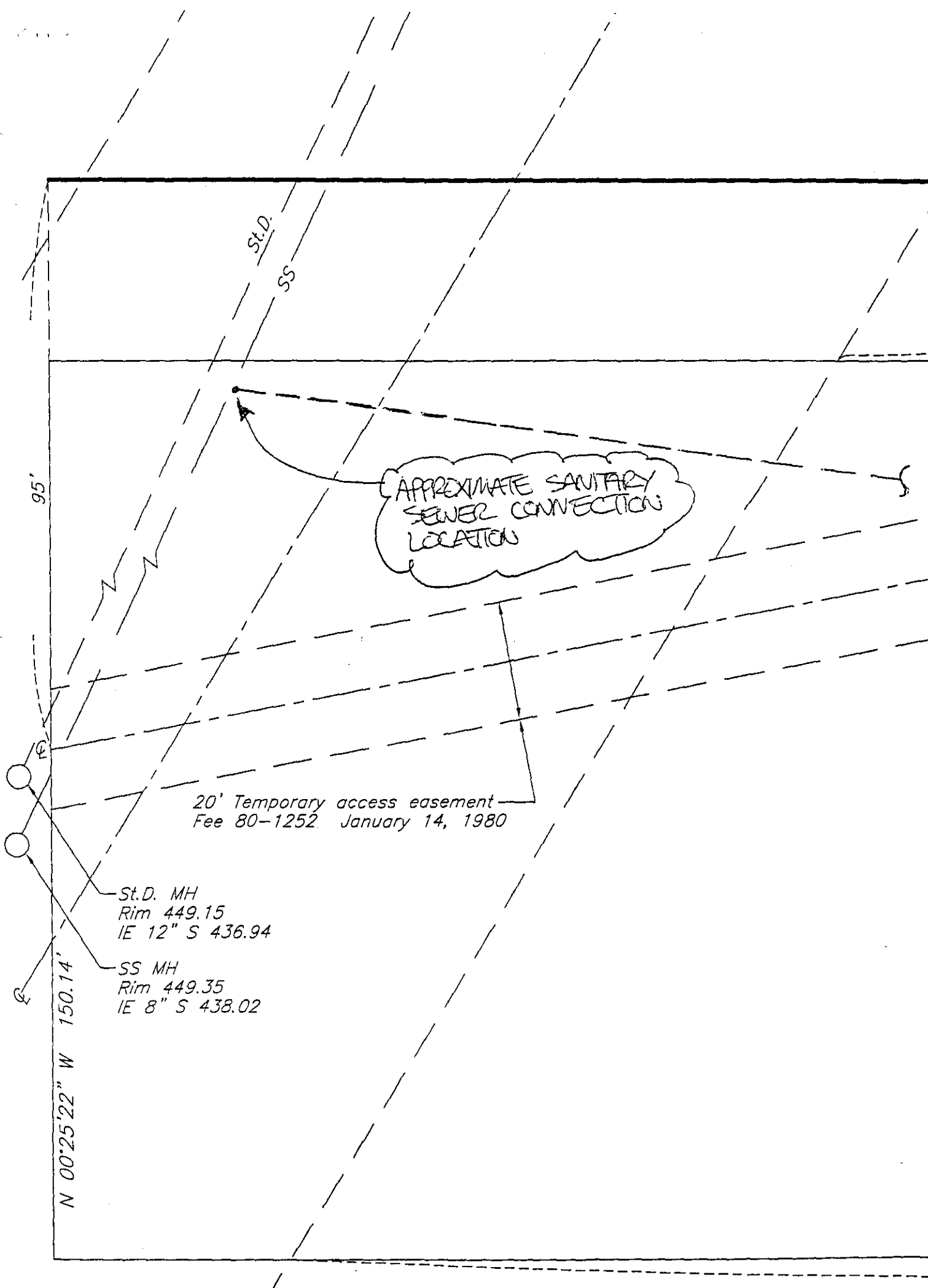
Sincerely,

WALKER/DI LORENTO/YOUNIE, INC.

A circular professional engineer seal for the State of Oregon. The seal contains the text "STATE OF OREGON", "12479", "COLE G. PRESTHUS", and "P.E.". A handwritten signature is written over the seal, and the number "12479" is handwritten below the seal.

Cole G. Presthus, P.E.

Enclosures



St.D.

SS

APPROXIMATE SANITARY  
SEWER CONNECTION  
LOCATION

20' Temporary access easement  
Fee 80-1252 January 14, 1980

St.D. MH  
Rim 449.15  
IE 12" S 436.94

SS MH  
Rim 449.35  
IE 8" S 438.02

95'

N 00°25'22" W 150.14'

COPY

BEFORE THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS

COUNTY OF CLACKAMAS, Petitioner

v.

Mary Ann DeFrancisco  
Robert Nicol  
Vicki R. Vernon, Esq.

Respondents.

Hearing No. 95-1999

File Nos: V0694-95-V-SS / V1036-95-  
V-SW / V1039-95-V-Z

POST HEARING  
STATUS REPORT

- 1 Respondents have properly connected the residence on the subject property to the City of Oregon City Public Sewerage System and have properly pumped and abandoned the existing septic tank. Respondents provided the County on March 3, 1996 copies of all necessary documentation from the City of Oregon City and signed tank abandonment certificate.
- 2 Respondents are in compliance with the Order dated January 18, 1996.
- 3 The County requests that the above matter:

Be dismissed without penalty or costs to Respondents.

Dated: March 5, 1996

  
Steve Marshall  
Code Compliance Specialist  
Community Environment Section

Copy sent to Respondents  
on March 5, 1996

c: Jackie Moffitt.



**CITY OF OREGON CITY**  
**Pre-Application Form**

File No. \_\_\_\_\_

Meeting Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: 9 A.M. Location City Hall-320 Warner Milne Rd.  
City Hall Phone No: (503) 657-0891 Fax No: (503) 657-7892

*Note: Pre-App summaries and meeting notes expire six (6) months from date of review. The subsequent application may be submitted to any member of the Planning Staff.*

**Please Complete the Following Information**

**Applicant:**

Name Church of Jesus Christ of LDS  
Contact Person Mark Coffe  
Address PO Box 1124  
Sheswood, OR  
Phone 625-5529 Fax 625-4169

**Applicant's Representative  
(Primary Contact for the City):**

Contact Person \_\_\_\_\_  
Company Name SAME AS ABOVE  
Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

**Owner(s):**

Name Church of Jesus Christ of LDS  
Address \_\_\_\_\_  
SAME AS ABOVE  
Phone \_\_\_\_\_ Fax \_\_\_\_\_

**With the above completed material**

☒ Narrative ☒ Site Plan ☒ Vicinity Map

**Property Description:**

Assessor Map No. 32E090 Tax Lot No(s). 00400

Site Size: 1.8 ACRES  
Address: 19675 S. Beaver Creek Rd.  
Location: NEXT TO HIGH SCHOOL  
Zone: M1

**Proposed Development Action:**

LDS SEMINARY  
(Church/School use)

**Proposed Structure:**

Valuation (Estimate): \$ 450,000 ±  
Size in Sq. Feet: 3800 ±  
No. Stories: 1  
Basement: ☐ Yes ☒ No  
No. Buildings: 1  
Construction Type: STICK & MASON  
Occupancy Type: Church/School  
Materials: BRICK & STICK  
Sprinklered? ☐ Yes ☒ No  
No. Employees: 1.5

Submit 15 copies of a short narrative, site plan drawings and vicinity maps. These plans are to be to scale (see attached example) and show all existing and proposed structures, traffic circulation, public rights-of-way and indicate if existing roads will continue in proposed subdivision. **Fold** plans to 8 1/2 x 11".

Name Printed [Signature] Date 10-7-02

Staff: \_\_\_\_\_ Date Received: \_\_\_\_\_ Fee: \_\_\_\_\_ Receipt No: \_\_\_\_\_

Routing: PubWks ☐ ; Bldg ☐ ; Eng ☐ ; Fire ☐ ; Finance ☐ ; Clack Co (E) ☐ ; Clack Co (T) ☐ ;  
ODOT (Sonya) ☐ ; ODOT (Gary) ☐ ; Schools ☐ ; Tri-Met ☐ ; Metro ☐ ; Other \_\_\_\_\_

**Please review this material and return comments by the above review date (and/or attend the meeting). Send to the Oregon City Planning Department, Attn.: Planning Tech, PO Box 3040, Oregon City, Oregon 97045. Contact us at (503) 657-0891 if you have questions.**

## CONDITIONAL USE PRE-APPLICATION NARRATIVE

### CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS PROPOSED SEMINARY FACILITY

#### FACTUAL INFORMATION:

1. *Background:* The Church of Jesus Christ of Latter-Day Saints ("LDS Church") has developed a program over the last half century in which its youth, between the grades of 9<sup>th</sup> and 12<sup>th</sup>, participate in religious instruction while school is in session. To accomplish this, the LDS Church has seminary buildings within a three minute walking area of high schools in Oregon which has an enrollment of LDS students which justify the cost.

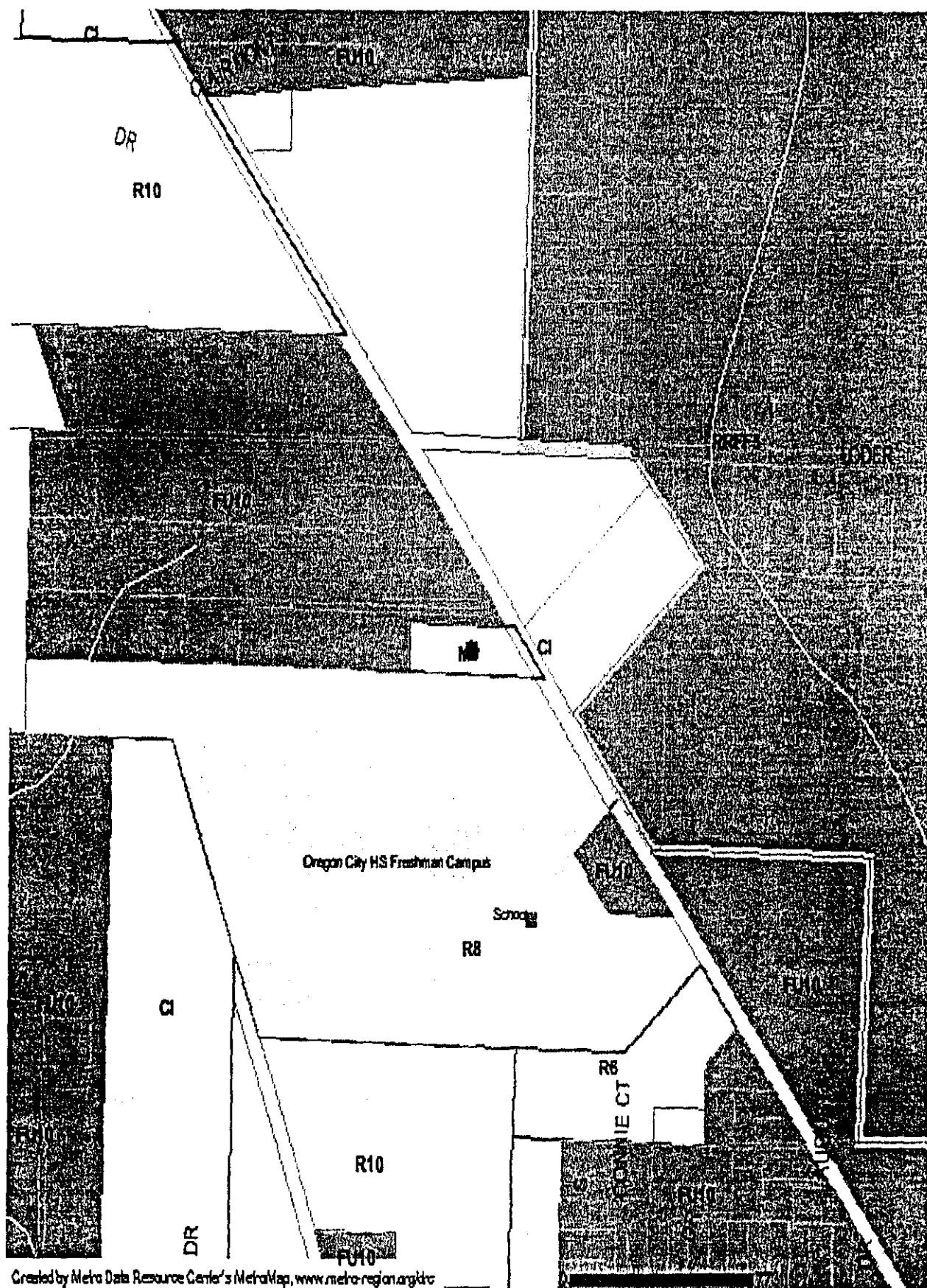
2. *Area:* The LDS Church has a seminary building next to following schools which are in the approximate area of Oregon City:

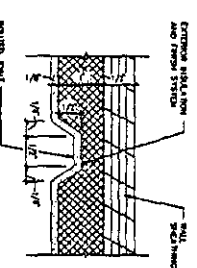
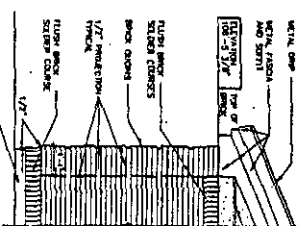
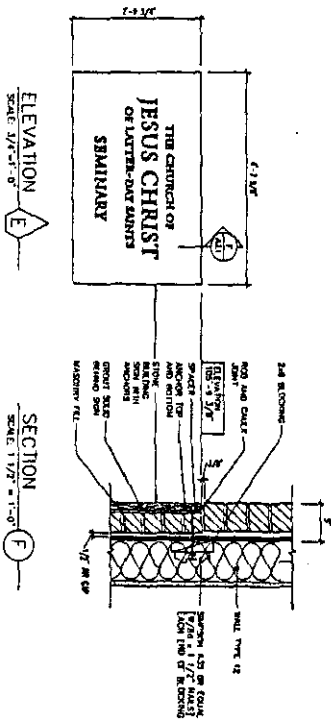
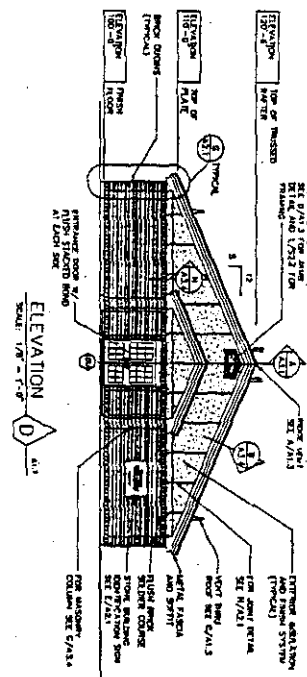
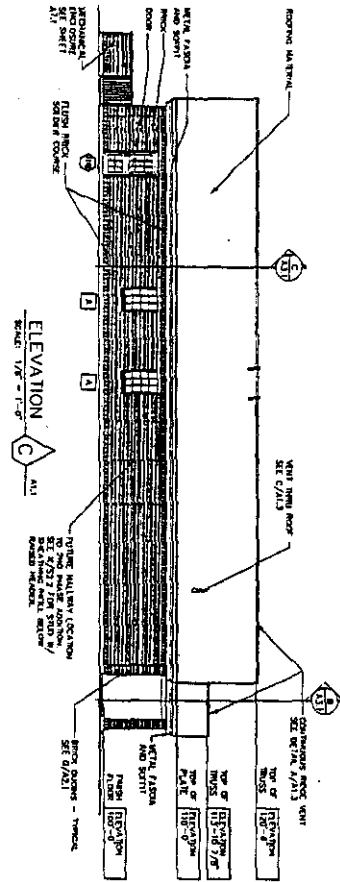
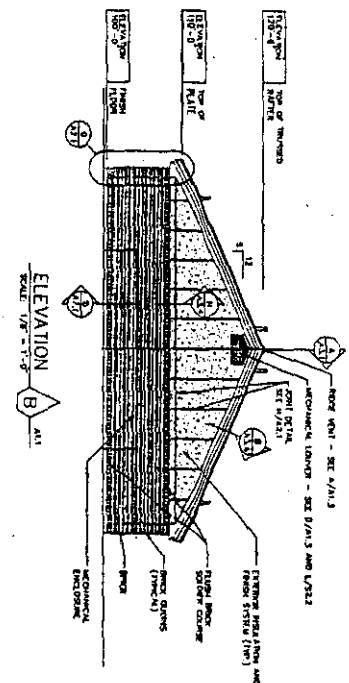
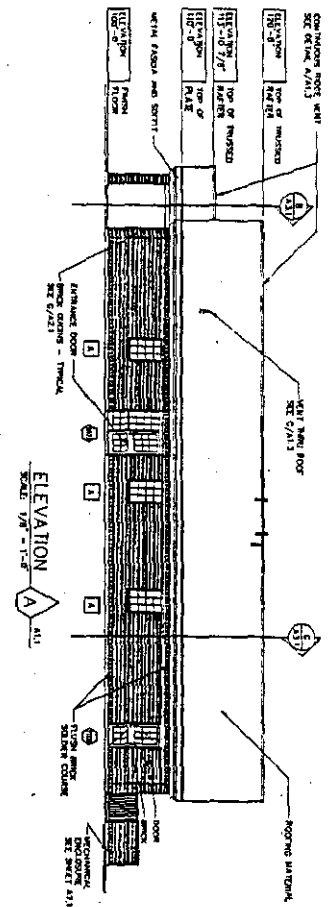
Aloha High School  
Beaverton High School  
Westview High School  
Sunset High School  
Tualatin High School  
Oregon City High School

#### 3. *Proposed Site:*

- A. Address: 19675 S. Beaver Creek Rd. Oregon City, Oregon.
- B. Current Use: This is a vacant field.
- C. Proposed Use: The site would be utilized as a Seminary Building for the Church of Jesus Christ of Latter-Day Saints.
- D. There will be approximately 75-110 students who utilize the building on the weekdays to receive religious instruction prior to school and during school hours. There will be very little, if any, outside use.
- E. There will be one instructor on site, a part-time instructor and a part-time secretary. The students will not be allowed to drive to the site.
- F. The Seminary Building will not generally be open on the weekends.
- G. Instructional materials, related equipment and standard office equipment will be on site.
- H. This structure is a one story home.

There will be two classrooms on site, an administrative area (office and secretary station) and a storage area.





STONE BUILDING SIGN

ELEVATION G

JOINT DETAIL H



ARCHITECTS and PLANNERS

PROJECT TITLE:  
OREGON CITY SEMINARY  
19675 SOUTH BEAVER CREEK ROAD  
OREGON CITY, OREGON



CO.3

544-8875-80

PROJECT #

DATES

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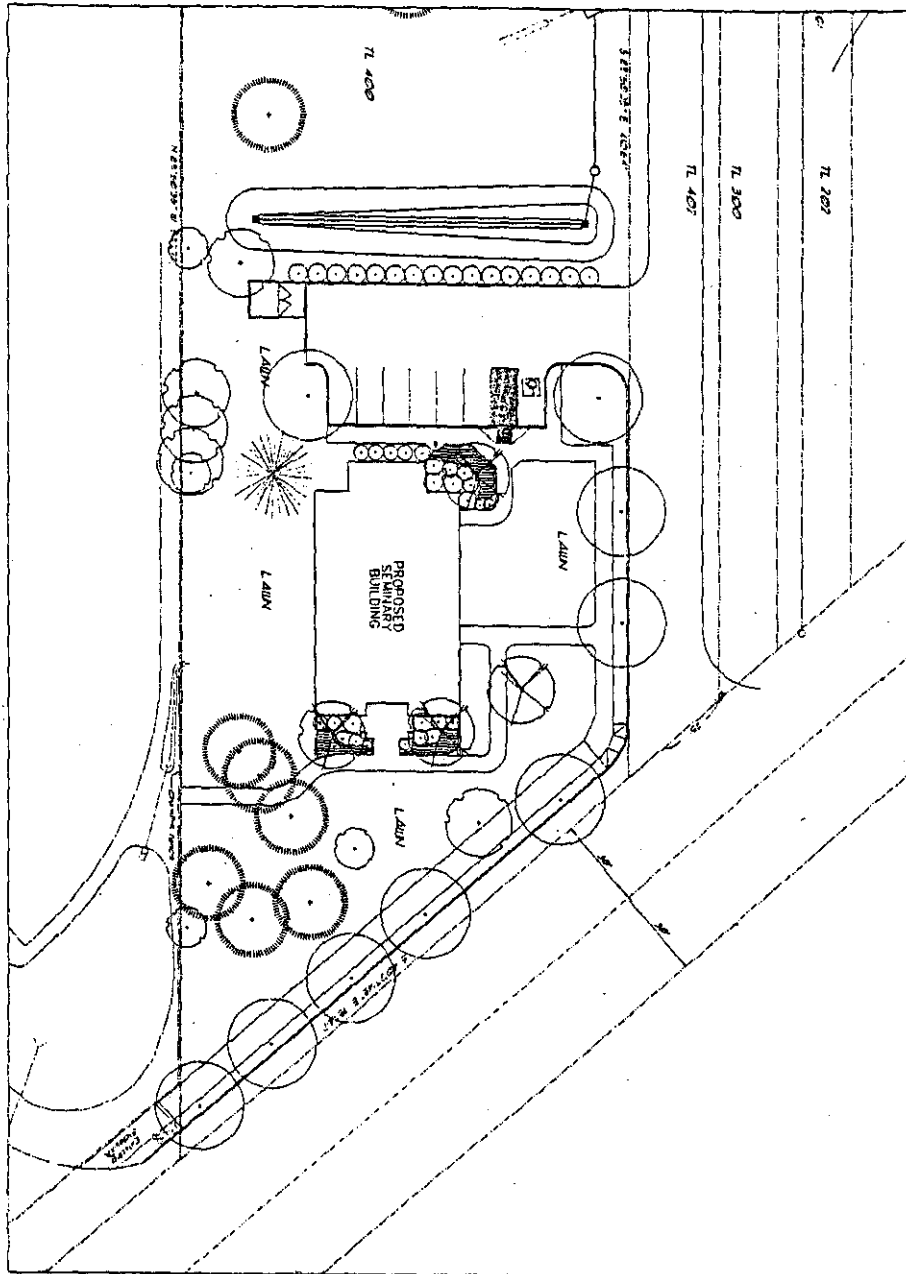
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# Plant Legend

- EXISTING DECIDUOUS TREES (TO REMAIN)
- EXISTING EVERGREEN TREES (TO REMAIN)
- LARGE EVERGREEN TREE  
Western Red Cedar
- MEDIUM EVERGREEN TREE  
Japanese Black Pine
- LARGE DECIDUOUS TREE  
L. Michauxii Linden  
Oakleaf Cherry Maple
- MEDIUM ORNAMENTAL TREE  
Japanese Spinning Tree  
Red Japanese
- LARGE SHRUB  
Dwarfed Japanese  
Majori Trunked  
Eastern Garden Alder
- MEDIUM SHRUB  
Majori Trunked  
Majori Trunked  
White Dwarf Camellia
- SMALL SHRUB  
Majori Trunked  
Majori Trunked  
Majori Trunked
- GROUND COVER  
Majori Trunked  
Majori Trunked

NOTE: The above list represents a variety of plants by category that may be used in the landscape. The actual plants to be used in the landscape shall be selected by the architect in consultation with the landscape architect.

## Planting Plan

SCALE: 1" = 20'



ARCHITECTS and PLANNERS

4040 NW International Way, R-204  
Milwaukee, WI 53222 205.864.9772

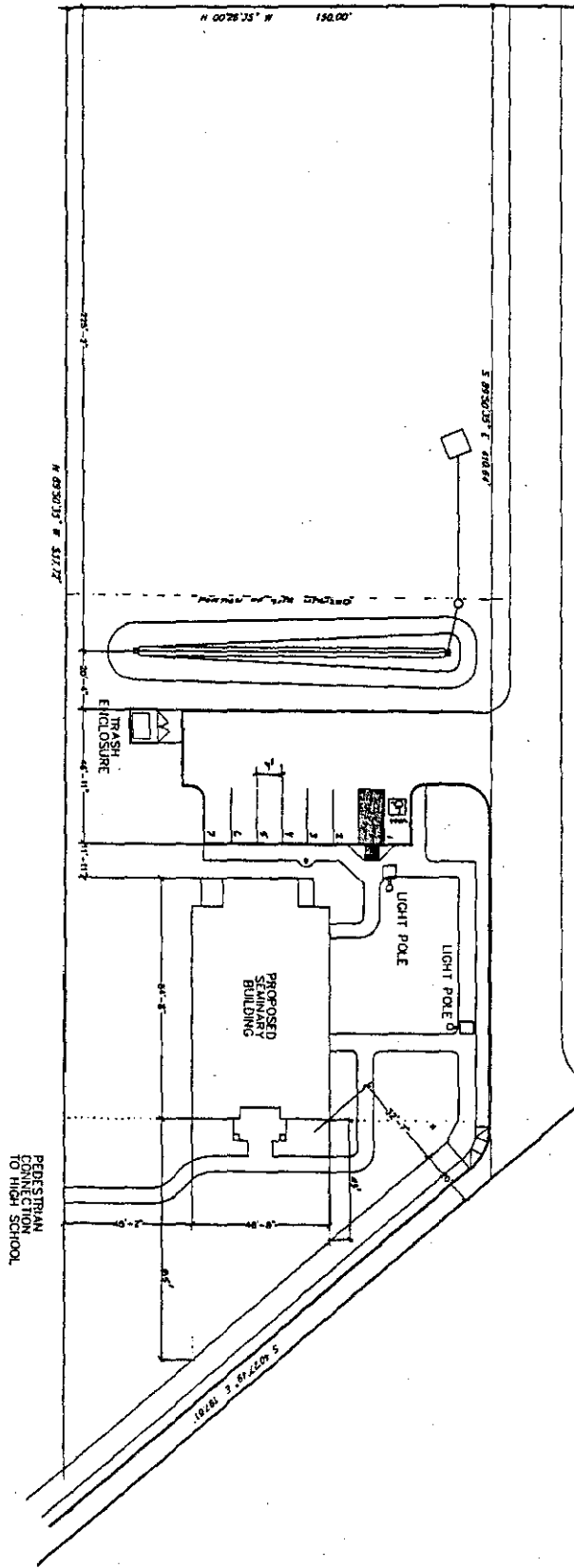
SHEET TITLE:  
SITE, PLANTING, PLAN

PROJECT TITLE:  
OREGON CITY SEMINARY  
19675 SOUTH BEAVERCREEK ROAD  
OREGON CITY, OREGON



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| PLAN NO.   | -/-     |
| DATE/REV   | -/-     |
| CONTR. SET | -/-     |
| REVISION A | -/-     |
| REVISION B | -/-     |
| REVISION C | -/-     |
| REVISION D | -/-     |

PROJECT # 544-8875-80

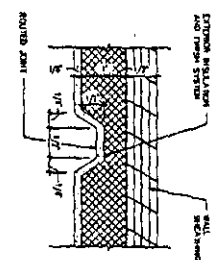
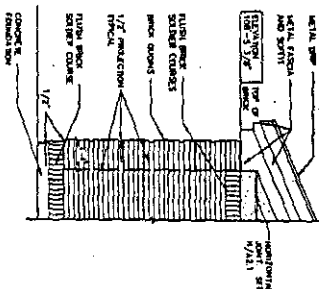
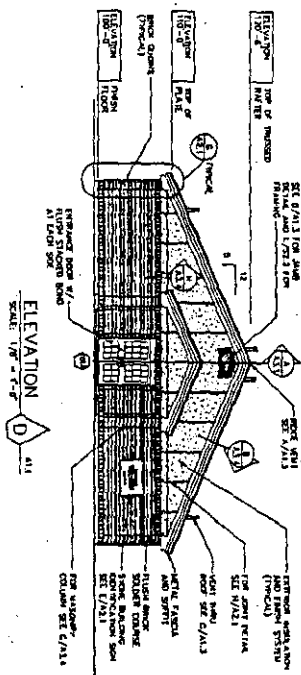
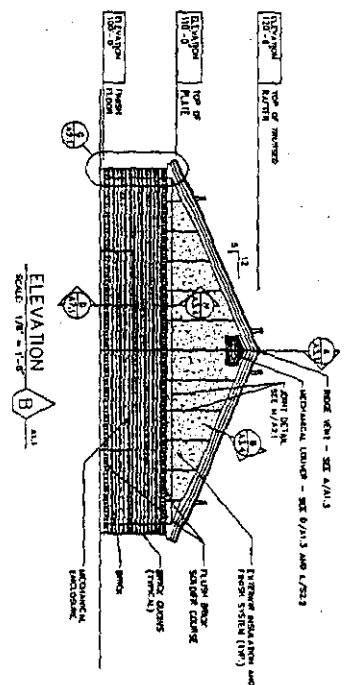
SHEET TITLE:  
SITE.LAYOUT.PLAN

## ARCHITECTS and PLANNERS



PROJECT TITLE:  
OREGON.CITY.SEMINARY  
19675.SOUTH.BEAVERCREEK.ROAD  
OREGON.CITY.,OREGON

**THE**  
**McSWAIN**  
**&**  
**WOODS**













**STONE BUILDING SIGN**

ELEVATION

JOINT DETAIL (H)  $\frac{A13}{A14}$



### Plant Legend

|   |   |
|---|---|
|    | <b>EXISTING DECIDUOUS TREES<br/>(TO REMAIN)</b>                                     |
|    | <b>EXISTING EVERGREEN TREES<br/>(TO REMAIN)</b>                                     |
|    | <b>LARGE EVERGREEN TREE</b><br>Douglas Fir<br>Western Red Cedar                     |
|    | <b>MED./SMALL EVERGREEN TREE</b><br>Korean Cypress<br>Japanese Black Pine           |
|    | <b>LARGE DECIDUOUS TREE</b><br>Lime-leaf Linden<br>October Glory Maple              |
|   | <b>MED./SMALL ORNAMENTAL TREE</b><br>Japanese Snowdrop Tree<br>Star Magnolia        |
|  | <b>LARGE SHRUB</b><br>Doublefile Yucca<br>Alfred Hitchcock<br>Edward Goucher Abelia |
|  | <b>MEDIUM SHRUB</b><br>Mexican Orange<br>Japanese Pieris<br>White Dove Camelia      |
|  | <b>SMALL SHRUB</b><br>S. procumbens<br>David Yucca<br>Goldfinger Potentilla         |
|  | <b>GROUND COVER</b><br>Japanese Sedge<br>Kiretschik                                 |

NOTE: The above list represents a sample of plants by category that may be used in landscaping this project. Final landscape plans may include a variety of other species from each category.



PROJECT TITLE:  
OREGON CITY SEMINARY  
19675 SOUTH BEAVER CREEK ROAD  
OREGON CITY, OREGON

## ARCHITECTS and PLANNERS

**THE**

SHEET TITLE:  
SITE PLANTING PLAN

|            |          |
|------------|----------|
| DATE:      | 12/18/02 |
| NAME:      | 12/18/02 |
| ISSUE:     | 12/18/02 |
| CONC. SET: | 12/18/02 |
| REVISION:  | 12/18/02 |
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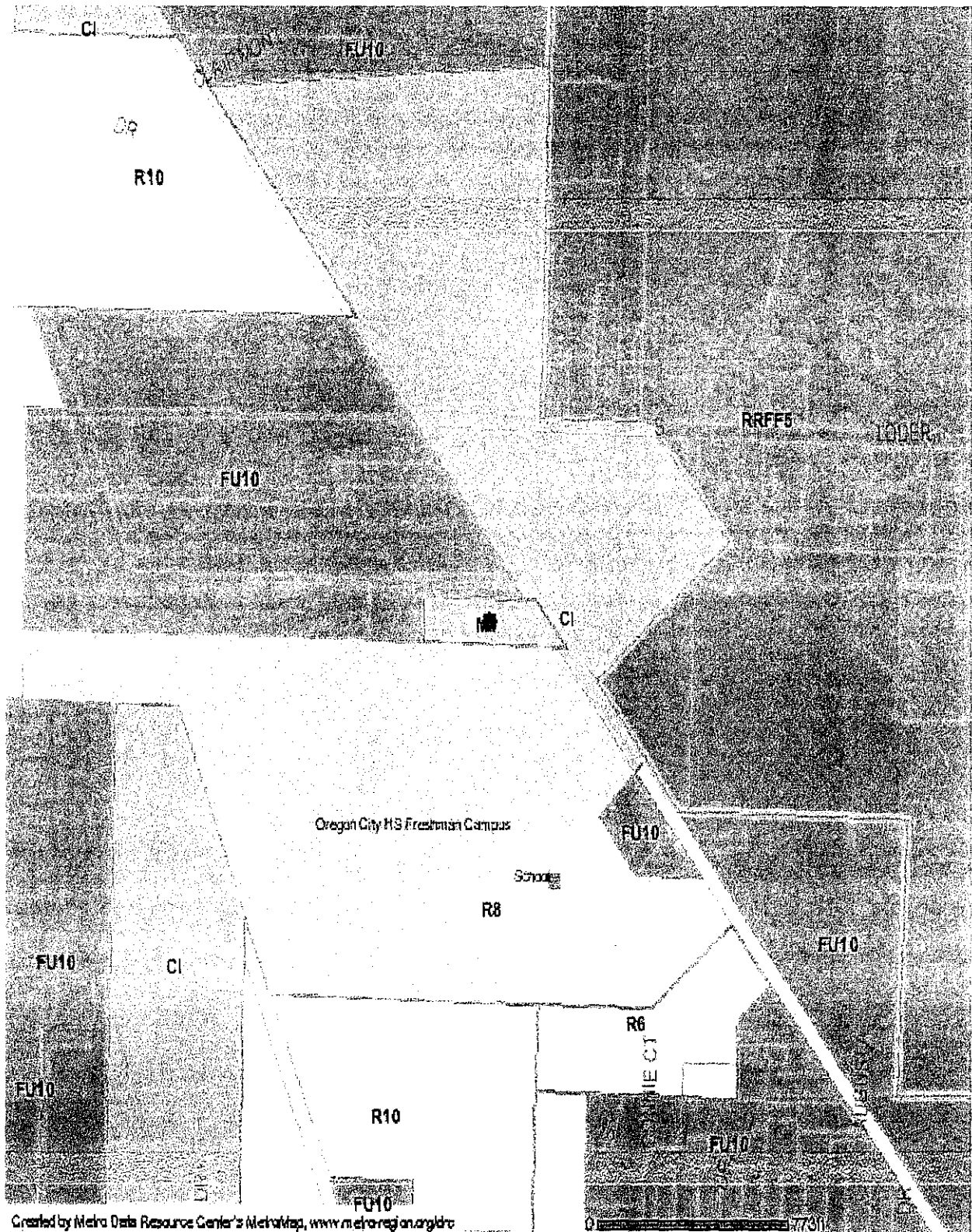
PROJECT #  
544-8875-80

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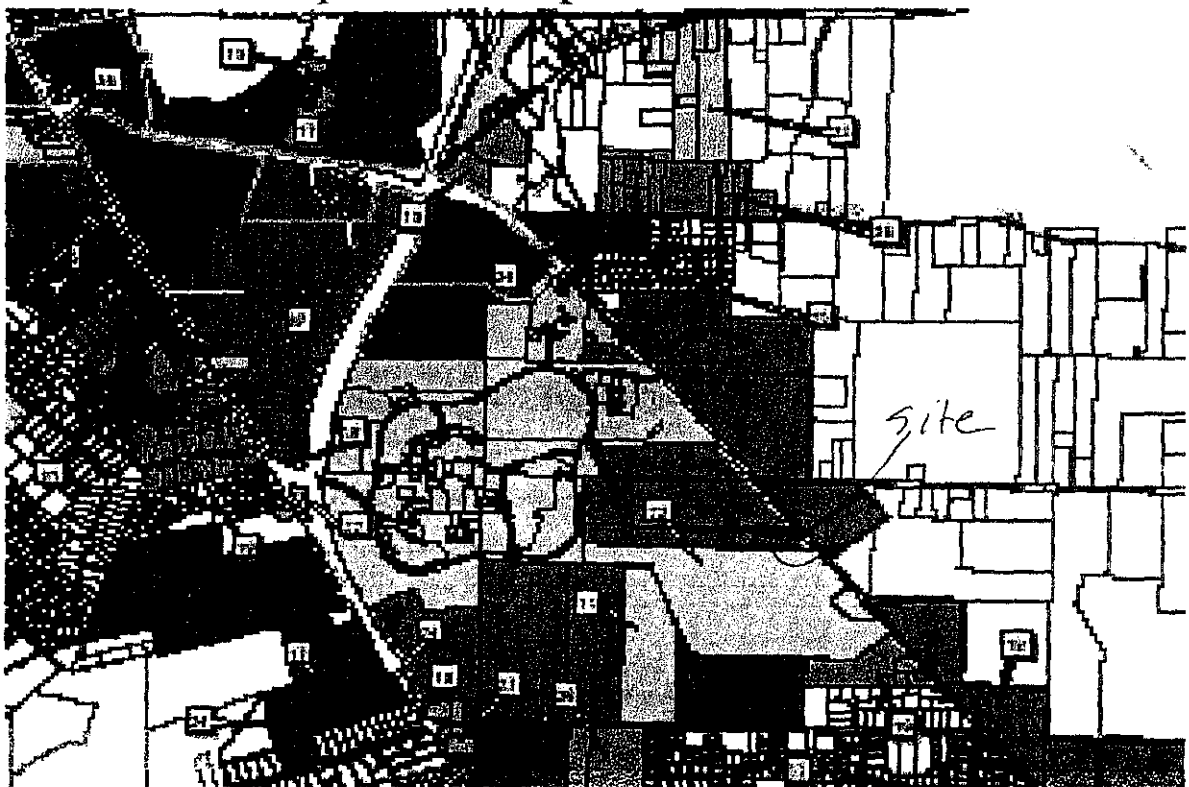
# ZONING MAP



Current Comprehensive Plan



Proposed Comprehensive Plan



This is a LDS seminary building in Tualatin. The High School is in the background.



This seminary building faces Boones Ferry in Tualatin. The grounds are maintained by a professional landscape company. Notice the roof line, windows and professional appearance.



## **ANALYSIS AND FINDINGS**

The applicant has razed the existing single family home and proposes to construct a 3,868 S.F. Seminary building to serve its members who attend Moss High School. As part of this application the applicant is proposing to construct seven parking places, which includes one ADA parking space, landscaping, sidewalks and a new access to Beaver Creek Road.

The site is located at 19675 Beaver Creek Road. The property is zoned M-1, Light Industrial. The site is surrounded by CI, and R-10 zoning.

The proposed site layout will modify the existing ingress/egress on Beaver Creek Road. The access will be improved by entering Beaver Creek Road perpendicular. The modified entrance is located on the flagpole to the north. The applicant will be required to provide a joint access easement for all existing and future properties that will use this entrance.

The applicant shall be required at the Site Plan and Design Review stage to improve their site and site's frontage along Beaver Creek Road.

The proposed site is large enough to adequately accommodate the proposed infrastructure.

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

There is a 16-inch ductile iron City water line in Beaver Creek Road. The existing water system appears to be adequately sized to accommodate the proposed improvements.

There is an existing private sanitary sewer and storm sewer crossing the back corner of the property. The County, not realizing that the sanitary sewer crossing the property was a private line, required the applicant to connect to it in 1995 when their septic system failed. The City has not accepted the private sanitary sewer serving Moss Campus because it was not built to city standards and is not deep enough to serve adjacent properties on Beaver Creek Road.

Engineering staff recommends approval of the LDS High School Seminary Building's Conditional Use only with the following conditions of approval:

### **Conditions:**

1. The applicant may reconnect this building to the existing house lateral if they obtain approval to connect from Moss Campus and they provide a maintenance agreement to the City that they will maintain the private line. If an easement and maintenance agreement is not obtainable, the applicant will be required to extend the City sanitary sewer in Beaver Creek Road (near the Money Saver Storage units) to and across the site's frontage.

Exhibit 4

2. The Applicant shall provide an agreement acceptable to the City attorney that:
  - a) Once a Public sewer is available to this site, the property owner will connect to the public sewer. The property owner will pay the connection to the sewer.
  - b) The property owner will be responsible for paying for the extension of the sanitary sewer along their property once it is available.
3. The Applicant shall meet all the conditions of approval as required in the Site Plan and Design Review for this project currently known as City File SP03-01.
4. The Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement.
5. The Applicant shall be responsible for paying all fees associated with the recording of documents such as non-remonstrance agreements, easements, dedications, etc.

February 10, 2003

Mrs. Christina Robertson-Gardiner  
City of Oregon City  
PO Box 351  
Oregon City, OR 97045

**SUBJECT: REVIEW OF LDS SEMINARY ALONG BEAVERCREEK ROAD**

Dear Mrs. Robertson-Gardiner:

In response to your request, David Evans and Associates, Inc. (DEA) has reviewed the Traffic Impact letter submitted by Group MacKenzie for the proposed LDS Seminary located in Oregon City along Beaver Creek Road just north of the Oregon City High School Moss campus. The most current letter is dated January 31, 2003.

Group MacKenzie was asked to specifically address intersection sight distance, access spacing, trip generation, and required on-site parking. I believe they have addressed each of the issues accordingly and I offer the following comments:

**Sight Distance-** The applicant asserts that intersection sight distance from the site access is in excess of 600 feet looking both north and south from the site access, while the City requires only 500 feet of sight distance based on roadway speed. I have not verified the available sight distance but have no reason to doubt that adequate sight distance is available.

**Trip Generation-** The applicant offers new information indicating that the LDS Seminary is expecting to conduct two to three evening activities each week serving up to 20 people. As such, I concur that the ITE Trip Generation estimate of 32 daily trips seems appropriate. By starting at 7 pm, these events should generally miss the PM peak hour.

**On-site parking-** The applicant indicates that the proposed seven parking spaces are needed to support on-site functions. For a typical evening event that serves 20 people, seven parking spaces would support automobile occupancy of three persons per vehicle. This seems appropriate. An appropriate level of on-site bicycle parking needs to be offered per the City's development code.

**Access Spacing-** The proposed facility will share an existing access that currently serves a residence. The existing access does not meet the City's Draft access spacing guidelines. A variance is needed.

**Pedestrian Access-** The applicant has previously indicated that a multi-use path will be constructed that links the LDS Seminary with the Moss campus. This path should be constructed prior to granting occupancy.

Exhibit 5

Mrs. Christina Robertson-Gardiner  
LDS SeminaryFebruary 10, 2003  
Page 2

Overall, based on the information provided to me for review, I expect the transportation impacts from this development to be minor.

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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DEPARTMENT OF  
TRANSPORTATION AND DEVELOPMENT

Sunnybrook Service Center

2003 MAR 26 AM 7:45  
CITY OF OREGON CITY  
RECEIVED

## Memorandum

**TO:** Christina Robertson-Gardiner – Assistant Planner  
City of Oregon City Planning

**FROM:** Robert Hixson, Traffic Engineering and Development Review  
Deana Mulder, Traffic Engineering and Development Review

**DATE:** March 24, 2003

**RE:** CU03-01, LDS Church Seminary Building  
Located on Beavercreek Road, County Road Maintenance No. 52033  
T3S., R2E., Section 9D, Tax Lot 400

The Traffic Engineering and Development Review section has reviewed this application for the construction of an LDS seminary building. We have the following comments and recommendations:

### Facts and Findings:

1. The subject property is located adjacent to the westerly side of Beavercreek Road south of Mapelane Road within the Urban Growth Boundary and within the city limits of Oregon City. Beavercreek Road is classified as a minor arterial roadway and is under the jurisdiction of Clackamas County. Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics and access standards for minor arterial roads.
2. This portion of Beavercreek Road is listed as a planned bicycle facility in the *Bicycle Master Plan 1996*. Currently, Beavercreek Road has minimum six-foot wide shoulders on both sides of the road. Minimum six-foot wide shoulder/bike lanes shall be maintained. In addition, this portion of Beavercreek Road is within the Urban Growth Boundary and will require sidewalks and potentially landscape strips based on City of Oregon City requirements.
3. *Clackamas County's Roadway Standards* indicate that five (5) lane minor arterial roads shall have a minimum right-of-way width of 100 feet with five (5) foot wide sign, slope, utility, and sidewalk easements on each side of the roadway. Details of the actual road configuration will need to be settled as part of this review process. In order to facilitate a five-lane section, a minimum ½ street right-of-way width of 45 feet is necessary based on a seven-foot wide sidewalk and no landscape strip. Thus, this right-of-way width may increase based on City of Oregon City standards. Generally, the five lane sections consist of 12-foot wide travel lanes, 14-foot wide turn lanes and six-foot wide bike lanes.

Exhibit 6



4. The applicant has proposed the construction of one building on property with frontage on Beaver Creek Road utilizing one access point intersecting Beaver Creek Road. Under City of Oregon City requirements, frontage improvements are a requirement. Design and construction of roadways under County jurisdiction shall comply with *Clackamas County Roadway Standards*, in cooperation with City of Oregon City.
5. Right-of-way dedication and granting of easements shall be consistent with those required of the high school to the south. Frontage improvements shall also match those required and provided by the high school. It appears that a 45-foot wide one half right-of-way width and a five-foot wide sign, slope, utility and sidewalk easement was required by Oregon City following recommendation by Clackamas County.
6. The application contains at least two significantly different site plans. The site plan that provides a 90-degree access to Beaver Creek Road is the plan that is acceptable to Clackamas County and is consistent with discussions held between the applicant and County staff.
7. Minimum adequate sight distance of 500 feet shall be provided and maintained at the access point to Beaver Creek Road.
8. Prior to commencement of work within the County road right-of-way, a Street Construction and Encroachment Permit and a Utility Placement Permit are required and shall be obtained from this office.
9. Streetlights are a requirement of this development and shall be installed to comply with the requirements of the City of Oregon City.

**Recommended Conditions of Approval:**

- 1) All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards* in cooperation with City of Oregon City.
- 2) The applicant shall dedicate right-of-way, along the entire site frontage of Beaver Creek Road, to provide for a minimum of a 45-foot wide, ½ street right-of-way width on the westerly side of Beaver Creek Road, if the existing ½ street right-of-way width on the westerly side of Beaver Creek Road is less than 45 feet.
- 3) The applicant shall dedicate a five-foot wide sign, slope, utility and sidewalk easement along the entire site frontage on the westerly side of Beaver Creek Road.
- 4) The applicant shall design and construct improvements along the entire site frontage of Beaver Creek Road to match the improvements provided by the high school to the south. Design details shall be worked out as part of the City of Oregon City Design review process. Improvement shall result in a curb set along the entire Beaver Creek Road frontage to ultimately allow a five-lane section. The initial improvement shall allow for two southbound 12-foot wide travel lanes, a center 14-foot wide turn lane, a northbound 12-foot wide travel lane, six-foot wide bike lanes

on both sides of the road and an appropriate pavement taper. More specifically, the taper shall be in accordance with *Roadway Standards* Section 240.7 for the transition. No reduction in shoulder width on the opposite side of Beavercreek Road shall be allowed due to this improvement. In addition, necessary drainage facilities shall be provided. Sidewalk, seven-feet in width, shall be provided per City of Oregon City requirements. If mailboxes, fire hydrants, utility poles, etc, are located within the limits of the sidewalk, an eyebrow shall be constructed so that the full width of the sidewalk is provided around the obstruction. Additional easement, as necessary, shall be dedicated to provide for any sidewalk eyebrows. Sidewalks at transit stops shall be a minimum of eight feet in width. Also required will be one minimum 28-foot wide driveway in conformance with *Roadway Standards* Drawing D600. The structural section for Beavercreek Road improvements shall consist of four inches of Class "B" or Class "C" asphalt concrete placed in two lifts, consisting of two inches per lift, over four inches of 3/4"-0 aggregate leveling course, over ten inches of 1-1/2"-0 aggregate base course, over geotextile fabric.

- 5) Surface water runoff shall be detained on site in accordance with City of Oregon City requirements. The applicant shall provide a copy of the City of Oregon City approved drainage study and Engineer's detention calculations to DTD Engineering, Deana Mulder.
- 6) The applicant shall maintain adequate intersection sight distance at the driveway intersection with Beavercreek Road. In addition, no plantings at maturity, retaining walls, embankments, fences or any other object shall be allowed to obstruct vehicular sight distance. Minimum sight distance shall be 500 feet both northerly and southerly at the driveway intersection with Beavercreek Road.
- 7) The applicant shall submit an Engineer's cost estimate to be approved by Clackamas County Engineering for the asphalt concrete, aggregates, storm drainage improvements, driveway, curb, sidewalk, signal, and any other required public improvement.
- 8) The applicant shall provide a performance guarantee in the form of a performance bond for the Street Construction and Encroachment permit in the amount of 125% of the Engineer's approved cost estimate.
- 9) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.
- 10) Streetlights are a requirement of this development and shall be installed to comply with the requirements of the City of Oregon City.
- 11) The applicant shall provide ADA accesses to the sidewalks and driveway approach. All ADA construction shall comply with the *Uniform Building Code* and ODOT Standards.

- 12) Prior to the issuance of a building permit from the City of Oregon City, the applicant shall submit to the Clackamas County Engineering Office, a set of construction plans for review to Deana Mulder and obtain written approval, in the form of a Street Construction and Encroachment Permit. The permit will be for road, driveway, curb, sidewalk, and drainage improvements. The permit fee is a minimum of \$400.00. In addition, an inspection fee equal to 4% of the cost of the public improvements will be required. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
- 13) The applicant shall submit, at time of initial paving and before occupancy, reproducible As-Built plans for all improvements showing all construction changes, added and deleted items, location of utilities, etc. A professional engineer, registered in the state of Oregon, shall stamp and sign As-Built plans. In addition, the applicant shall provide one set of AutoCAD As-Built files on a floppy disk or in DXF format to be translated into AutoCAD format.
- 14) Prior to final acceptance of the project and release of performance surety, the right-of-way dedication, and the sign, slope, utility and sidewalk easement shall be recorded.
- 15) Prior to commencement of any work within the road right-of-way and prior to issuance of Building and Street Construction permits, the contractor shall:
  - a) Provide a traffic control plan for review and approval from Clackamas County's Engineering Office.
  - b) Provide a certificate of liability insurance, naming the County as additionally insured.
  - c) Obtain separate "Street Opening Permits" for utility installations within the County right-of-way. The applicant shall obtain these permits from the Engineering office prior to the issuance of a Building Permit or the Street Construction and Encroachment Permit.

\\VISA\common\DEVLPMNT\Cities\OregonCity\CU03-01-TE-RH-LDS-ChurchSeminaryBldg.doc

rfh

GROUP

**MACKENZIE**

January 31, 2003

David Evans and Associates  
Attention: Michael Baker, P.E.  
2100 SW River Parkway  
Portland, OR 97201

Re: LDS Oregon City Seminary  
*Response to Information Request*  
Project Number 2020292.00

Dear Mr. Baker:

At your request, Group Mackenzie is providing information requested after your review of our January 7, 2003 trip generation letter for the proposed 3,500 square foot (SF) Church of Jesus Christ of Latter-day Saints (LDS) Oregon City Seminary. Specifically, this letter will address the daily trip generation, sight distance, access spacing, and the parking proposed for this site.

#### TRIP GENERATION

Trip generation calculations for the proposed LDS Oregon City Seminary were made utilizing site-specific trip information. Trip generation for this seminary has been estimated as one trip per staff member arriving or leaving during the peak hours, occurring between 7:00 to 9:00 AM and 4:00 to 6:00 PM. The proposed seminary site is expected to have three staff members; thus the site will generate up to three trips during the AM peak and PM peak hours.

We recently learned that approximately two to three evening activities will be held each week at the seminary, with up to 20 people in attendance. The evening activities will be held generally between 7:00 PM and 9:00 PM.

Daily trip generation includes staff trips to and from the site during AM peak and PM peak hours and midday for lunch, evening activities, and service-related deliveries. The average daily traffic (ADT) was estimated as 32 trips using ITE Church rates (Land Use 560). With the activities proposed at the site, this estimate seems reasonable.

#### SIGHT DISTANCE

Oregon City Code (OCC 10.32.020) requires intersection sight distances to be a minimum of ten times the posted speed limit. Beaver Creek Road is posted at 50 mph south of Loder Road; thus 500 feet of sight distance is required. Sight distances along Beaver Creek Road from the site access are in excess of 600 feet to the north and to the south.

Exhibit 7

H:\PROJECTS\020292\WP\3a3111.doc

0690 SW Bancroft St / PO Box 69039 Portland, OR 97239-0039  
Tel: 503.224.9560 Web: www.grpmack.com Fax: 503.228.1285  
360.695.7879

**Group  
Mackenzie,  
Incorporated**  
Architecture  
Interior Design  
Land Use Planning

**Group  
Mackenzie  
Engineering,  
Incorporated**  
Civil/Structural  
Engineering

Transportation  
Planning

*The tradition of  
Mackenzie  
Engineering and  
Mackenzie/Saito  
continues.*

Michael Baker, P.E.  
Project Number 2020292.00  
January 31, 2003  
Page 2

#### ACCESS SPACING

Consistent with the City of Oregon City Street Design Standards, development of the site will not increase the number of access points to Beavercreek Road, an arterial. Instead, the seminary will share an existing access to Beavercreek Road with a single residence located west of the site. The shared access will ensure continued efficiency of traffic flow for vehicles traveling along Beavercreek Road.

The shared access is located approximately 40 feet south of a separate residential driveway and 275 feet north of the Oregon City High School access, measured between centerlines. The attached figure shows the spacing of the nearby accesses and public streets along Beavercreek Road.

Table 6 of the City's Street Design Standards identifies the minimum private access spacing as 400 feet. The site access does not meet this spacing requirement. A variance is required as no other access locations are available for this site that will meet the spacing standards.

Combination of the shared access with the residential driveway to the north is not proposed as it is not legally required nor will combining the accesses cause the spacing standard to be met.

#### SEMINARY PARKING

The proposed seven parking spaces will serve all of the proposed seminary activities.

#### RECOMMENDATIONS

The proposed LDS Oregon City seminary is expected to generate up to 32 daily trips. The site access has sight distances that exceed the City's requirements. A variance for the access is requested because no other access points are available that will meet the City's spacing standards.

If you have any questions or comments, please call me or Mary Kate Koonce at 503-224-9560.

Sincerely,



Brent T. Ahrend, P.E.  
Traffic Engineer

MKK/mpd

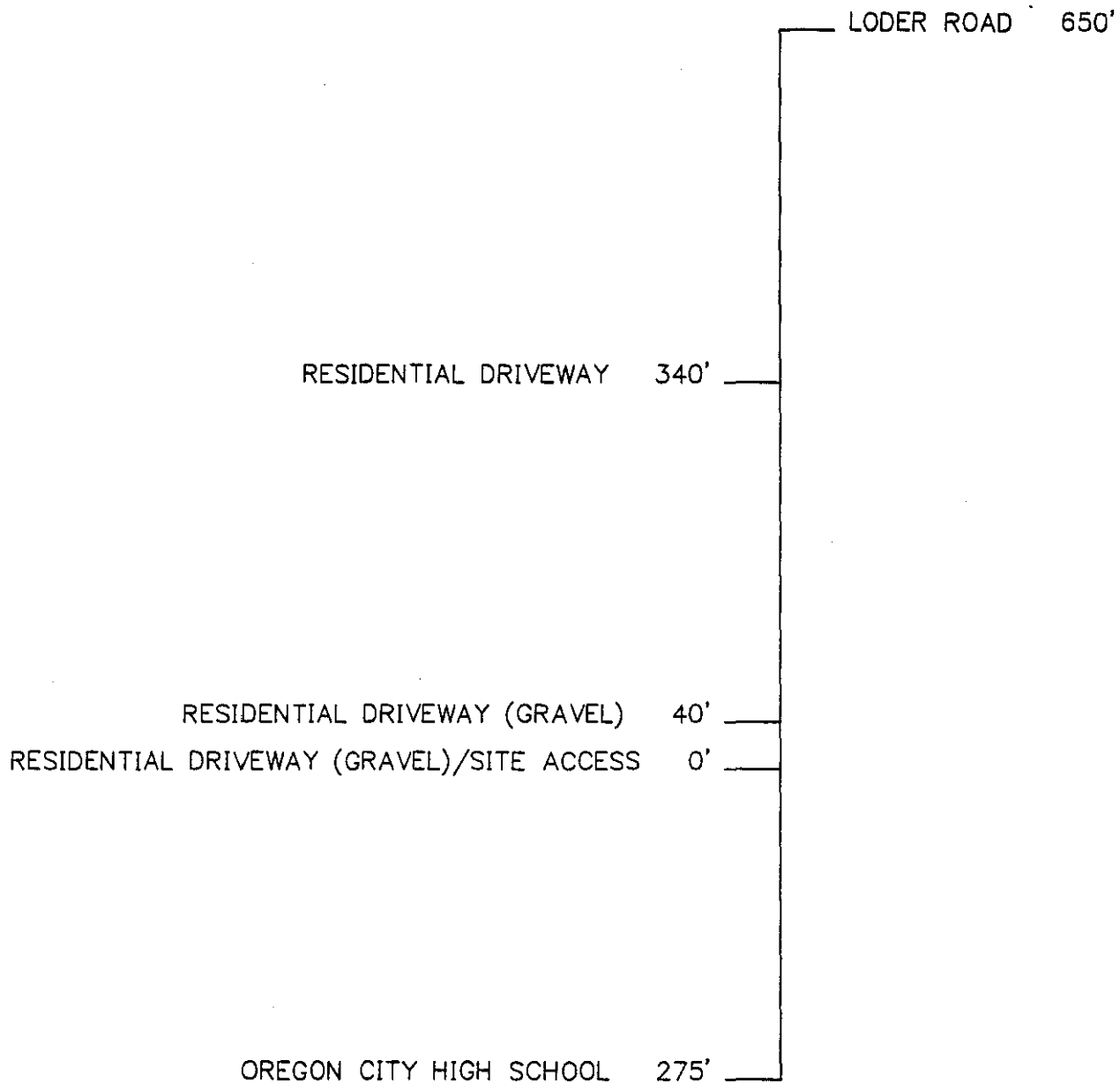
Enclosures

- c: Christina Robertson-Gardiner -- City of Oregon City  
Mac McSwain -- McSwain and Woods, AIA  
Clyde Weber -- The Church of Jesus Christ of Latter-day Saints  
Mark Cottle -- Newton, Cottle, Westenhaver





NORTH



(ACCESS SPACING WAS MEASURED BETWEEN CENTERLINES)

GROUP

**MACKENZIE**

690 SW Bancroft St / PO Box 69039 Portland, OR 97201-0039  
PH 503.224.9560 / 360.695.7879 Fax 503.228.1285

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USED OR REPRODUCED IN ANY MANNER, WITHOUT PRIOR WRITTEN PERMISSION

DATE: 01.16.03

DRAWN BY: MKK

CHECKED BY:

JOB NO:  
2020292.00

**BEAVERCREEK ROAD  
ACCESSES**

**LDS OREGON CITY SEMINARY  
OREGON CITY, OREGON**

FIGURE

To All Concerned;

I received a land use notice from the City regarding the L.D.S. property at 19675 Beaver Creek Rd. 35-2E-9D tax lot 400. I see this as an opportunity for one entrance from Beaver Cr. Rd. at the present we have three private roads side by side if you allow another road for L.D.S. It will be four roads.

I hope you have taken this into consideration. If at all possible could it be one road for all of us.

Yours truly

Henry H. Muth

19681 Beaver Cr Rd  
tax lots 401 and 300

Exhibit 8

RECEIVED  
CITY OF OREGON CITY  
03 APR - 7 AM 8:54



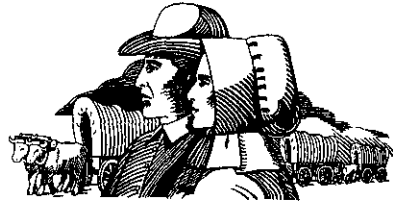


# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL (503) 657-0891

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



### STAFF REPORT Date: April 22, 2003

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

**HEARING DATE:** April 28, 2003  
7:00 p.m., City Hall  
320 Warner Milne Road  
Oregon City, Oregon 97045

**APPLICANT** The Church of Jesus Christ of Latter Day Saints  
C/O Mark Cottle  
PO Box 1124  
Sherwood, OR 97140

**OWNER:** The Church of Jesus Christ of Latter Day Saints  
50 East North Temple St  
Salt Lake City, UT 84150

**REQUEST:** Variance to the Off Street Parking Requirements; OCMC Ch. 17.52 Off  
Street Parking And Loading

**LOCATION:** 19675 Beavercreek Road; Clackamas County Map 3S-2E-9D, Tax Lot 400  
(Exhibit 1)

**REVIEWER:** Christina Robertson-Gardiner, Associate Planner  
Dean Norlin, Senior Engineer

**RECOMMENDATION:** Staff recommends approval of VR 03-01

## **BACKGROUND:**

The applicant is requesting Planning Commission Parking Variance to OCMC Chapter 17.52 Off Street Parking Requirements. City Code requires one space per four seats or eight feet of bench length in the auditorium for "Church or other religious assembly building". The Seminary proposes thirty chairs for each of the two classrooms. Per Code this would require fifteen parking spaces. The applicant, however, is requesting a Variance to allow a reduction to seven spaces to accommodate two and half employees and the occasional visitor. Occasional classes may also be offered at night from 7:00 PM and 9:00PM.

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. However, 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.

The applicant has indicated that the high school students will access the seminary building by foot. There is no parking offered for students at the site. Approximately 100 to 150 students will utilize the facility. The instructional material will be based on the doctrine of the LDS Church. Two full time employees with a part time staff person are proposed.

## **BASIC FACTS:**

### **Location and Current Use**

The subject property is located at 19675 Beavercreek Road. The subject property is also identified as a portion of Clackamas County Tax Assessor's Map # 3-2E-9D, Tax Lot 400 (Exhibit 1). The subject property is zoned as M-1 Light Industrial and is designated "I" Industrial in the Oregon City Comprehensive Plan. The M-1 zone does not list churches as a permitted use; however churches are permitted as a Conditional Use in this zone.

### **Dimensional Standards:**

- |                               |                                     |
|-------------------------------|-------------------------------------|
| A. Minimum lot area:          | 10,000 square feet;                 |
| B. Maximum building height:   | 2.5 stories, not to exceed 35 feet; |
| C. Minimum Required Setbacks. |                                     |
| 1. Front yard:                | 25 feet minimum depth,              |
| 2. Interior side yard:        | 10/8-foot minimum width,            |
| 3. Corner side yard:          | 20 feet minimum width, and          |
| 4. Rear yard:                 | 20 feet minimum width,              |

### **Surrounding Uses/Zoning:**

The subject property is bound to the north and west and east by single-family homes on large industrial zoned lots. The subject property is bound to the south by Oregon City High School (Moss Campus).

**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 concerning the Variance proposal.

**DECISION-MAKING CRITERIA:**

**Municipal Code Standards and Requirements**

**Title 17, Zoning:** Chapter 17.08, "R-10" Single Family Dwelling District  
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 that the extraordinary circumstances that apply to this property regarding this variance request is that the applicant is specifically locating the new Seminary building adjacent to the new Oregon City High School Campus. The students, the sole users of the building, will walk to and from the high school. The dedicated parking spaces will be for staff and visitors. The applicant has indicated that the students will be prohibited from using the parking located on the property.

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;**

A reduction in the size of the parking lot does not adversely affect the neighboring properties.

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 has enough space on the site to construct a parking lot, which meets OCMC Off Street Parking Standards. The applicant merely wants to install enough parking to reflect the true need. They believe that additional parking may even encourage high school students not associated with the seminary to use the spaces during the school day.

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;**

As stated by the applicant, the only practical alternative is to require parking that is not needed.

Therefore, the applicant satisfies this criterion.

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

The requested Variance will ensure adequate parking for the projected need.

Therefore, the applicant satisfies this criterion.

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

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

Therefore, the applicant satisfies the criterion.

**STAFF RECOMMENDATION:**

In conclusion, Staff has determined that the requested Variance before the Planning Commission, VR 03-01, from which the applicant is seeking a reduction in the required parking from 15 spaces to 7 spaces. Therefore, Staff would recommend approval of file VR 03-01 by the Planning Commission for the property located at 19675 Beavercreek Road; Clackamas County Map 3S-2E-9D, Tax Lot 400

**EXHIBITS:**

1. Vicinity Map
2. Revised Site Plan (January 15, 2003)
3. Applicant's Submittal



THE CHURCH OF  
JESUS CHRIST  
OF LATTER-DAY SAINTS

CONDITIONAL USE APPLICATION  
FOR THE  
OREGON CITY SEMINARY  
OREGON CITY OREGON STAKE

BEAVERCREEK ROAD  
OREGON CITY, OREGON

McSWAIN & WOODS, AIA  
ARCHITECTS and PLANNERS  
LONGLEY F. (Mac) McSWAIN, AIA  
PORTLAND, OREGON  
(503) 654-9772 - (503) 654-9769 FAX

WDY, INC.  
CONSULTING CIVIL ENGINEERS  
COLE PRESTHUS, P.E.  
PORTLAND, OREGON  
(503) 203-8111 - (503) 203-8122 FAX

ATHAY & ASSOCIATES, INC.  
ELECTRICAL ENGINEERS  
VANCOUVER, WASHINGTON  
(509) 285-2456 - (360) 574-0209 FAX

LOCKHART CONSULTING, INC.  
LANDSCAPE ARCHITECTS  
FRED LOCKHART, L.A.  
EUGENE, OREGON  
(541) 484-4591 - (541) 484-3659 FAX

DeHAAS & ASSOCIATES  
LAND SURVEYORS  
PORTLAND, OREGON  
(503) 682-2450 - (503) 682-4018 FAX

GEOENGINEERING  
GEOTECHNICAL ENGINEERS  
PORTLAND, OREGON  
(503) 624-9274 - (503) 620-5940 FAX

| DRAWING INDEX |   |
|---------------|---|
| SHEET NO.     | DESCRIPTION   |
| CD-0          | INDEX AND TITLE SHEET                                       |
| CD-1          | EXISTING PHOTOGRAPHIC PLAN                                  |
| CD-2          | SITE DEVELOPMENT LAYOUT PLAN                                |
| CD-3          | ARCHITECTURAL BUILDING ELEVATIONS                           |
| CD-4          | ARCHITECTURAL BUILDING FLOOR PLANS                          |
| CD-5          | PRELIMINARY ON-SITE UTILITY, GRADING & EROSION CONTROL PLAN |
| LI-1          | SITE PLANTING PLAN  |

Exhibit 2

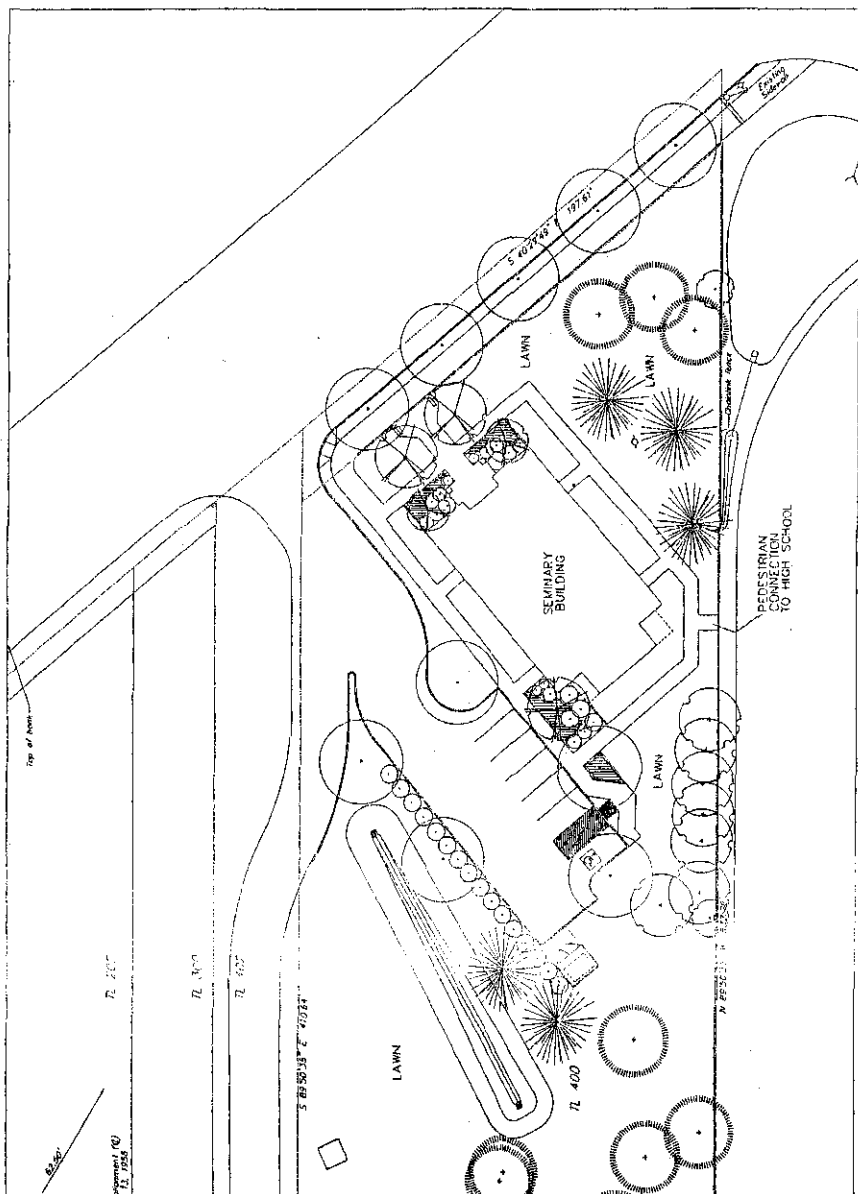


McSWAIN & WOODS  
ARCHITECTS and PLANNERS  
PROJECT TITLE:  
OREGON CITY SEMINARY  
1000 S. BEAVERCREEK ROAD  
OREGON CITY, OREGON 97131  
SHEET TITLE:  
TITLE & INDEX SHEET  
DATE: 1/2/85  
PROJECT # 544-8875  
CO.

### Plant Legend

- |   |   |  |   |   |  |  |  |   |  |
|---|---|--|---|---|--|--|--|---|--|
| EXISTING DECIDUOUS TREES<br>(TO REMAIN) | EXISTING EVERGREEN TREES<br>(TO REMAIN) | LARGE EVERGREEN TREE<br>Douglas fir<br>Western Red Cedar | MED/SMALL EVERGREEN TREE<br>Hawthorn<br>Japanese Black Pine | LARGE DECIDUOUS TREE<br>Douglas Elm<br>Deciduous Cherry Maple | MED/SMALL ORNAMENTAL TREE<br>Japanese Snowdrop Tree<br>Star Magnolia | LARGE SHRUB<br>Doubleday Viburnum<br>Spotted Baneberry<br>Evergreen Umbellifer Anemone | MED/SMALL SHRUB<br>Mexican Orange<br>Japanese Flowering Quince<br>White Doves Camellia | SMALL SHRUB<br>Spiraea<br>Dwarfed Yucca<br>Gaultheria Prostrata | GROUND COVER<br>Japanese Anemone<br>Kalmia latifolia |
|---|---|--|---|---|--|--|--|---|--|

**NOTE:** The above list represents a sample of plants by category that may be used in landscaping this project. Final landscape plans may include a variety of other species from each category.



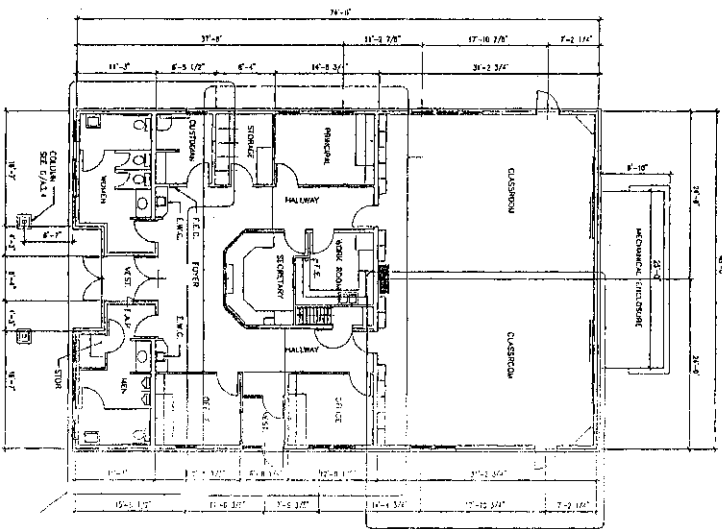
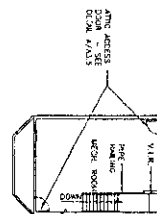
### Planting Plan

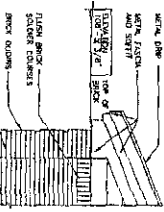
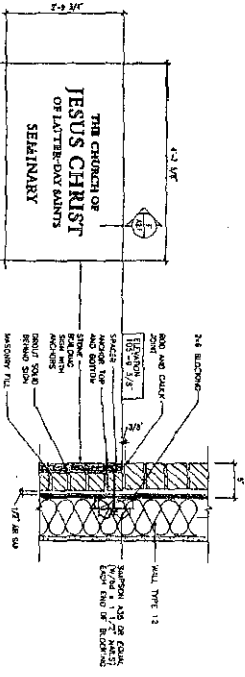
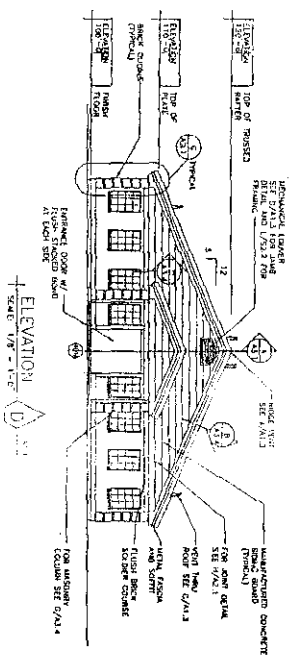
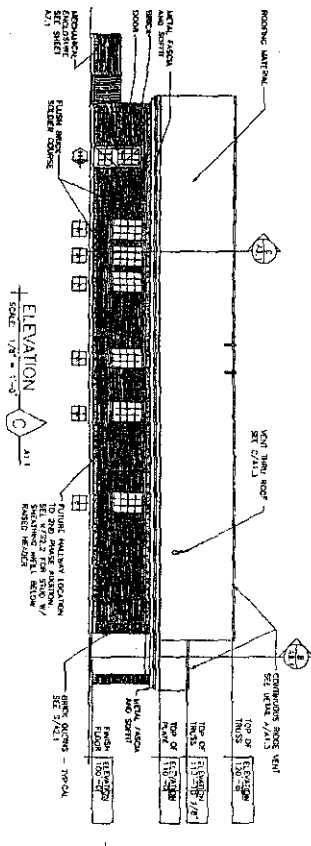
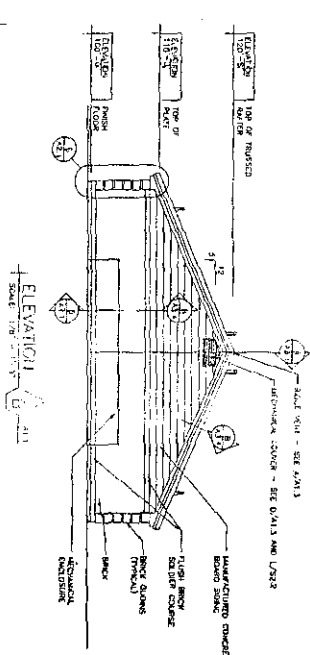
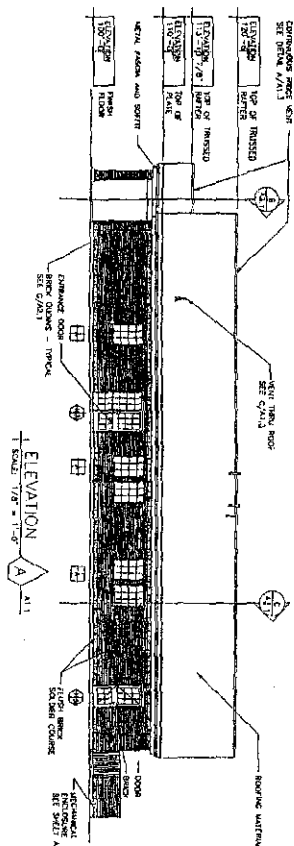




[illegible]

| KEY TO ABBREVIATIONS |                                  |
|----------------------|----------------------------------|
| ABBREVIATION         | DESCRIPTION                      |
| P.E.                 | FIRE CRYSTALLIZABLE - WILL MOUNT |
| E.C.                 | FIRE CRYSTALLIZABLE WITH CONDUCT |
| C.A.P.               | FIRE ALARM CONTROL PANEL         |
| A.M.C.               | ELECTRIC WATER COOLER (PROVIAN)  |





STONE BUILDING SIGN

ELEVATION G

NOT USED



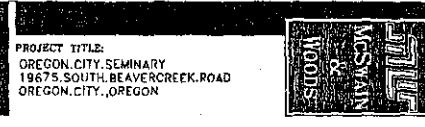
**ARCHITECTS and PLANNERS**

**PROJECT TITLE:**  
OREGON CITY SEMINARY  
19675 SOUTH BEAVER CREEK ROAD  
OREGON CITY, OREGON

**DATE:** 1/15/93

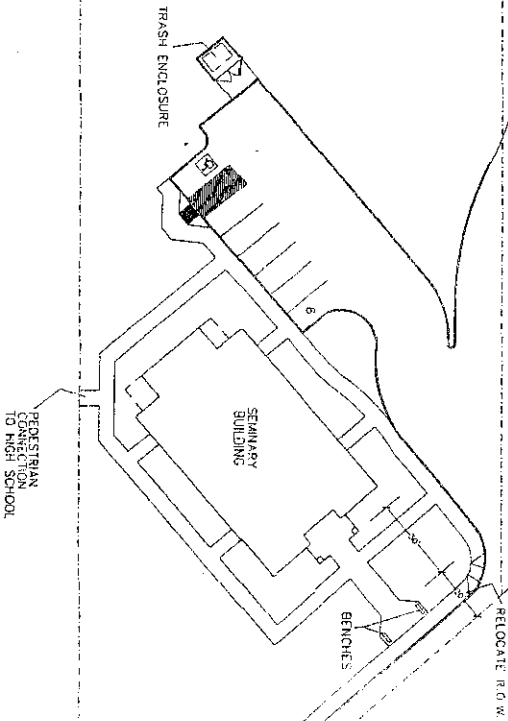
**SHEET TITLE:**  
SITE LAYOUT PLAN

**PROJECT #**  
044-8875-80



Site Layout Plan

Scale: 1" = 20'-0"



| NO. | DATE    | DESCRIPTION |
|-----|---------|-------------|
| 1   | 7/15/03 | PRELIMINARY |
| 2   | 7/15/03 | REVISION    |
| 3   | 7/15/03 | REVISION    |
| 4   | 7/15/03 | REVISION    |
| 5   | 7/15/03 | REVISION    |
| 6   | 7/15/03 | REVISION    |
| 7   | 7/15/03 | REVISION    |
| 8   | 7/15/03 | REVISION    |
| 9   | 7/15/03 | REVISION    |
| 10  | 7/15/03 | REVISION    |

SHEET TITLE:  
SITE LAYOUT PLAN

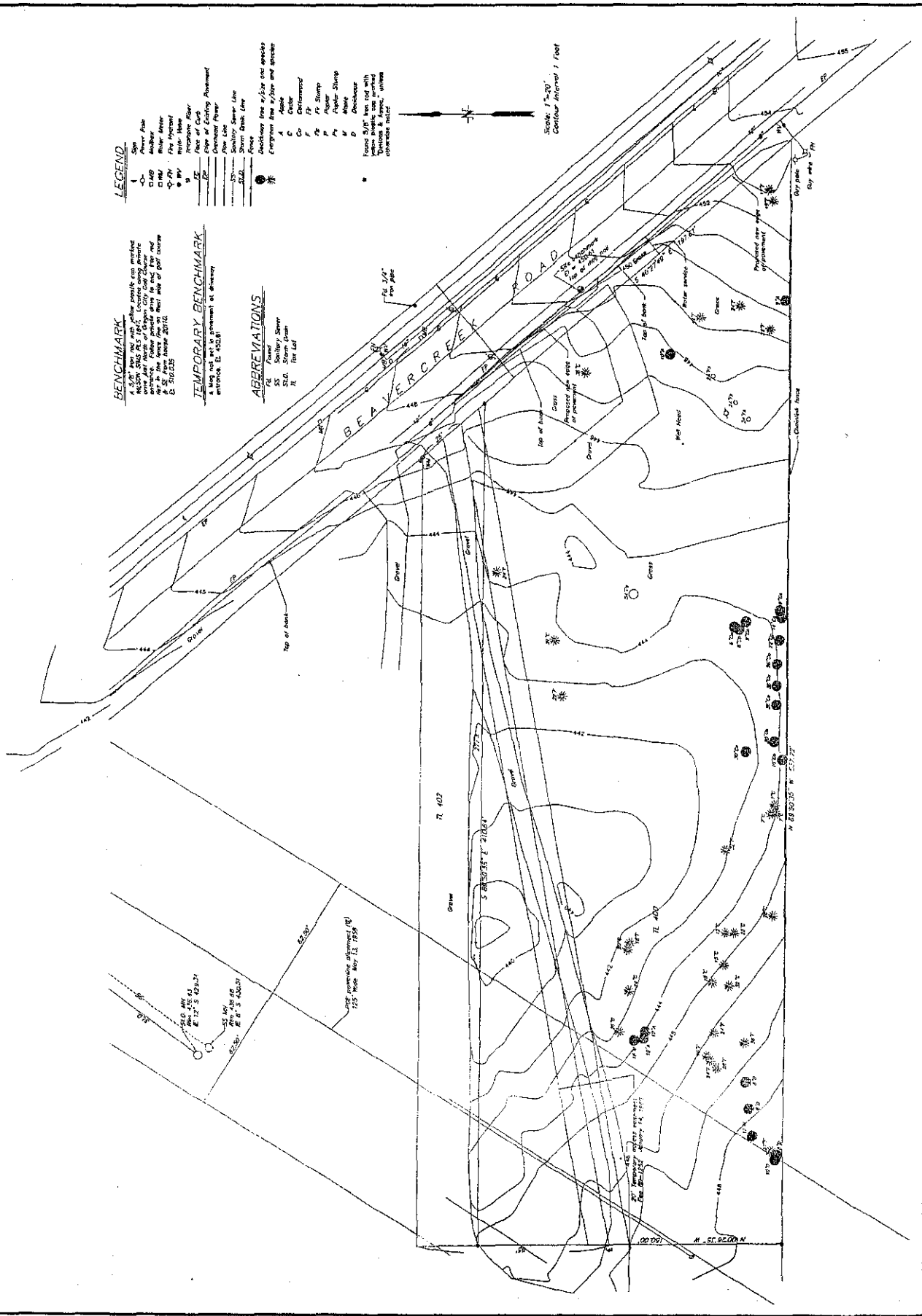
**ARCHITECTS and PLANNERS**

**LAUS**

4040 SE International Way E-204  
Milwaukie, OR 97132 503.854.9772

PROJECT TITLE:  
OREGON CITY SEMINARY  
19675 SOUTH BEAVERCREEK ROAD  
OREGON CITY, OREGON





The Church of Jesus Christ of Latter Day Saints  
Proposed Seminary Building  
19675 S. Beaver Creek Road



This is the Tualatin seminary building, the roof line, the brick siding and general appearance are very similar to the proposed building.

Exhibit 3

# CITY OF OREGON CITY

Community Development Department, 320 Warner Milne Road,  
P.O. Box 3040, Oregon City, OR 97045, (503) 657-0891 Fax: (503) 657-7892  
www.ci.oregon-city.or.us

## LAND USE APPLICATION FORM

### REQUEST:

- | Type II  | Type III  | Type III / IV                           |
|--|---|---|
| <input type="checkbox"/> Partition               | <input checked="" type="checkbox"/> Conditional Use | <input type="checkbox"/> Annexation     |
| <input type="checkbox"/> Site Plan/Design Review | <input checked="" type="checkbox"/> Variance        | <input type="checkbox"/> Plan Amendment |
| <input type="checkbox"/> Subdivision             | <input type="checkbox"/> Planned Development        | <input type="checkbox"/> Zone Change    |
| <input type="checkbox"/> Extension               | <input type="checkbox"/> Modification               |   |
| <input type="checkbox"/> Modification            |   |   |

OVERLAY ZONES: ☐ Water Resources ☐ Unstable Slopes/Hillside Constraint

Please *print or type* the following information to summarize your application request:

APPLICATION # \_\_\_\_\_ (Please use this file # when contacting the Planning Division)

APPLICANT'S NAME: LDS Church

PROPERTY OWNER (if different): LDS Church

PHYSICAL ADDRESS OF PROPERTY: 19675 S. Beavercreek Rd O.C.

DESCRIPTION: TOWNSHIP: 3S RANGE: 2E SECTION: 090 TAX LOT(S): 400

PRESENT USE OF PROPERTY: NONE

PROPOSED LAND USE OR ACTIVITY:

L.D.S. Seminary building

DISTANCE AND DIRECTION TO INTERSECTION:

CLOSEST INTERSECTION: \_\_\_\_\_

PRESENT ZONING: M-1

TOTAL AREA OF PROPERTY: 1.8

### Land Divisions

PROJECT NAME: \_\_\_\_\_

NUMBER OF LOTS PROPOSED: \_\_\_\_\_

MINIMUM LOT SIZE PROPOSED: \_\_\_\_\_

MINIMUM LOT DEPTH PROPOSED: \_\_\_\_\_

MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS  
CHAPTER 227 REQUIRES THAT IF YOU RECEIVE THIS  
NOTICE, IT MUST BE PROMPTLY FORWARDED TO  
PURCHASER

### VICINITY MAP

*To be provided by the APPLICANT  
at the time application is submitted*

**INSTRUCTIONS FOR COMPLETING LAND USE APPLICATIONS:**

1. All applications must be either typed or printed (black ink). Please make the words readable.
2. The application must be submitted with the correct fee(s).
3. If you mail in the application, please check with the Planning Division to ensure that it was received and that all necessary fees and information are with the application form.
4. If you wish to modify or withdraw the application, you must notify the Planning Division in writing. Additional fees may be charged if the changes require new public notice and/or if additional staff work is necessary.
5. With the application form, please attach all the information you have available that pertains to the activity you propose.
6. Prior to submitting the application, you must make complete a Pre-Application meeting to discuss your proposal with members of the Planning Division and any other interested agencies. Applicant is then to provide all necessary information to justify approval of the application.
7. The front page of the application contains a brief description of the proposal and will serve as the public notice to surrounding properties and other interested parties of the application. This is why neatness is important.
8. Detailed description, maps, and other relevant information should be attached to the application form and will be available for public review. All applicable standards and criteria must be addressed prior to acceptance of the application. The content of the attached information may be discussed with the planner who conducted the Pre-Application Conference prior to submission of the application.
9. Incomplete applications will be returned.

APPLICANT'S SIGNATURE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: Sherwood STATE: OR ZIP: 97140 PHONE: (503) 625 5529

PROPERTY OWNER SIGNATURE(S): \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: Sherwood STATE: OR ZIP: 97140 PHONE: (503) 625 5529

If this application is not signed by the property owner,  
then a letter authorizing signature by an agent must be attached

\*\*\*\*\*

DATE SUBMITTED: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

FEE PAID: \_\_\_\_\_

RECEIPT #: \_\_\_\_\_

## CONDITIONAL USE APPLICATION

SITE ADDRESS: 19675 S. Beavercreek Rd., Oregon City, Oregon  
OWNERS: The Church of Jesus Christ of Latter Day Saints ("LDS")  
CONTACT: Mark Cottle PO Box 1124 Sherwood, OR 97140  
TAX LOT NUMBER: 32E09D 00400  
SITE SIZE: 1.8 ACRES  
LOCATION: Next to the High School  
ZONE DESIGNATION: M1

### NARRATIVE:

The LDS Church is apply to the City for permission to build a seminary building. Seminary is an instructional program offered by the LDS Church to its members who attend high school.(9<sup>th</sup> through 12<sup>th</sup> grade.) The Youth will attend either prior to school commencing or while school is in session during a release time offered by the School District. However, the vast majority will attend while school is in session. The length of a particular class will be the same as the length of a class period offered by the school.

The youth will walk from school to the seminary building and back. There is no parking offered to the youth because LDS youth that attend the high school are the same youth using the seminary at the same time high school will be in session, or just prior to high school being in session.

The early morning attendees will be either dropped off or park at the high school. There will be approximately 100 to 150 youth utilize this facility. The instructional material will be based upon the doctrine of the LDS Church. There will be two full-time employees with a part-time staff.

Attached are two area maps, one being a zoning map, the other a general area map. In addition are pictures of the site as it currently sits. There is also a picture of a typical LDS seminary building, the one presented is the Tualatin seminary building which is of the same general type and design of the proposed Oregon City seminary building.



## UNDERLYING ZONE M-1

### Chapter 17.36.04

| Issue                   | Code                            | Proposed                               |
|-------------------------|---------------------------------|--|
| Minimum Lot Area        | None                            | 1.08 acres                             |
| Maximum Building Height | 3 stories no greater than 40 ft | less than 40 feet                      |
| Front Yard setback      | 10 feet                         | N.E. Corner is 43'<br>S.E. Corner 85'  |
| Interior Side yard      | None                            | 45' 2"                                 |
| Corner side yard        | 10 feet                         | 56' not including driveway             |
| Rear yard               | 10 feet                         | 245' not including parking lot         |
| Buffer zone             | 25 feet                         | greater than 25 feet in all directions |
|                         |                                 |  |

#### 17.52.010 Number of spaces required.

"At any time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district in the city, off-street parking spaces shall be provided in accordance with this section. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this section. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property, but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Where calculation in accordance with the following list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space:

Church or other religious assembly building

One space per four seats or eight feet of bench length in the auditorium.

Preschool nursery; kindergarten

Two spaces per teacher.

Elementary, junior high school or high school

One space per classroom plus one space per administrative employee plus one space per four seats or eight feet of bench length in the auditorium, assembly room or stadium, whichever is greater.”

*The applicant requests an variance from this standard as it doesn't make sense to require this facility to build, at a minimum, 15 parking space for the young adults who will be parking at the high school.*

**17.52.040 Carpool and vanpool parking.**

*Not applicable.*

**17.52.060 Bicycle parking standards.**

*There will be four parking stalls provided for the bicycles.*

**17.52.070 Pedestrian access in off-street automobile parking areas.**

A. The off-street parking and loading plan shall identify the location of safe, direct, well lighted and convenient pedestrian walkways connecting the parking area and the use being served.

*See site plan.*

B. All pedestrian walkways constructed within parking lots shall be raised to standard sidewalk height. All surface treatment of pedestrian walkways shall be firm, stable and slip resistant, and shall comply with Chapter 31 of the Uniform Building Code.

*See site plan.*

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*See site plan.*

**17.52.080 Conversion of existing required parking.**

*See Bicycle parking standards.*

**17.52.090 Parking lot landscaping.**

*See Site plans, specifically landscaping plans, all code requirements shall be met.*

**Chapter 17.54 Supplemental zoning regulations and exceptions**

Not applicable or the site plan shows compliance.

## CONDITIONAL USE STANDARDS

### **Chapter 17.56.010 A.**

1. Use Listed as a conditional underlying zone:

17.36.030 includes all conditioned uses specified in 17.56 which includes churches, schools and social welfare institutes.

2. Characteristics of site or suitable for proposed use, considering size, shape, location, Topography, improvements natural features:

This site is ideal for the seminary building. It sits next to the school and has minimum traffic impact because the students will already be at the school. The topography (which is flat), shape (rectangle) and size (1.8 acres) all accommodate the proposed use; There is available all services to the site. There are no natural features at issue.

3. The development is timely made, in that there are sufficient public facilities existing or planned.

All public or quasi public facilities are in place, including transportation, water, power and sewer.

4. The proposed use will not alter the character of the surrounding area in a manner that impairs or precludes the use of surrounding properties as zoned.

This facility fits in with the school and is ancillary to the school use. Therefore, it will have limited impact. Because the size of the site is relatively small, it will not materially diminish the available M-1 land in the area. Nor is there a "critical mass" of M-1 property that is impacted as this site is essentially an Island of currently zoned M-1 property. (See zoning map.) Because it will produce very little traffic, its impact on the transportation system will be minimal.

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

The comprehensive plan designates a need for Industrial land. Recognizing that the numbers designated for the plan 107 acres, is not "infallibly accurate," but is intended "to give a general picture of the future". It appears from the Comprehensive plan, that generally Beavercreek is regarded as "highway commercial." However, it appears of late, that some industrial land is desirable. The list of Targeted Industries on page D-20 clearly shows that the vast majority of the "targeted industries" are industries that need more land than 1.8 acres.

Since this type of zoning also allows for community type development through a

conditional use application, it stands to reason that a portion of the 107 acres was to be used for development other than industrial uses.

The real issue should be, does the use of this site harm the industrial plan. The answer is no. The reason is that the site is small for industrial use, it sits next to a school and adds a nice buffer between future development and the school area.

### 17.60.020 VARIANCES-GROUNDS.

It is requested that the applicant be granted a variance in regards to its off street parking requirements.

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;

*The extraordinary circumstances are that the applicant is positioning the building next to the high school so as to minimize the traffic which utilizes the building. Instead of requiring the participants to travel to and from the current site (next to the old high school) which would cause numerous traffic trips, by placing this facility next to the new high school, the participants will be able to walk to the facility.*

*As a result, the applicant requests a variance from the off-street parking requirement.*

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;

*There is no negative impact on the neighboring property owners.*

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;

*This is not a "hardship" but rather an extraordinary circumstances due to the ancillary nature of this site to the high school.*

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

*The only practical alternative is to require parking that isn't needed.*

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

*It is proposed that instead of the 15 parking stalls, (30 chairs per class room, two class rooms) that the applicant be allowed to build 7 stalls, to accommodate two and a half employees and the occasional visitor.*

F. That the variance conforms to the comprehensive plan and the intent of the ordinance being varied. (Prior code §§11-8-2).

*The Comprehensive plan as well as this code, in regards to traffic attempts to minimize vehicular traffic and increase alternative traffic. This site does just that what this code attempts to do. By allowing the variance you encourage ancillary uses in zoning which allows uses to feed off each other thereby diminishing some of the negative affects of development such as:*

*Traffic problems;  
Strom Water problems;  
Impact on existing uses.*

*In addition, you encourage alternative traffic flow between uses, such as pedestrian and bicycle uses.*

*Applicant has established the right to a variance from the off-street parking requirements of this code.*

## SITE PLAN

### Chapter 17.62.050 Standards

1. Fifteen percent of Lot area shall be landscaped.

|  |       |
|--|-------|
| Front area landscaped                    | 8,235 |
| Side next to School                      | 5,790 |
| Side                                     | 3,900 |
| Real (includes 25' rear of parking area) | 6,000 |

|                                      |        |
|--------------------------------------|--------|
| Total Landscaped area in square feet | 23,925 |
|--------------------------------------|--------|

#### Improvements (excluding driveway)

|                        |                      |
|------------------------|----------------------|
| Building               | 3,868                |
| Sidewalks              | 2,791                |
| Parking lot            | 3,312                |
| Trash pad              | 228                  |
| Total                  | 10,199 ± square feet |
| Landscaped area        | 23,925 ± square feet |
| Total area of lot used | 34,124 ± square feet |
| Remaining area         | 30,750 ± square feet |

Percentage of landscaping against the area lot utilized is sixty-one percent.

2. Size, shape, height, and spatial and visual arrangements.

The building will be situated in a East and West manner, with the front plaza facing the street. There will be two side entrances on the North side of the building. The roof line is comparable to a single family home with a brick exterior. Because this is for a small type school, it will blend into the lot rather than over power the lot.

With a pedestrian path leading to the school, where the majority of the youth will be coming from, the use of the building will give the appearance of an ancillary building to the High School.

The parking lot will be behind the building so as to maximize the landscaping in the front. There will be a garbage receptacle which will be fenced and appurtenant to the parking area.

The surrounding land is zoned either campus/industrial or Future Urban. The City's current comprehensive plan calls for all the Future Urban property to become Industrially zoned.

The proposed comprehensive plan call for the Future Urban property to be zoned



Industrial of some type. (M-1 or Campus Industrial). From the appearance of the current and future plans for this area of the City, the proposed use will fit in and blend with the present and future uses. Right now, it is an island of M-1 sandwiched into a campus industrial area.

3. Grading shall conform to the requirements of Chapter 15.48.
4. This standard is not applicable (Unstable slopes).
5. Drainage shall comply with the City's master plan.
6. Parking. This site has six parking stalls and one handicapped stall. Per Chapter 17.52 a school needs one space per class room plus one space per administrative employee plus one space per four seats or eight feet of bench length in the auditorium, which ever is greater. There isn't an auditorium in this building and this site is specifically situated so as not to need additional parking.

All the students will be parking at the High School if they drive. This building is designed to accommodate those students attending the High School. There isn't any reason for there to be more parking than one space per administrative employee and one space per class room. There will be two full-time employees and a part-time secretary. There will be an occasional visitor. Six parking stalls plus the handicapped stall is more than enough space to meet the parking needs of those that will utilize this building.

This site was purchased specifically to meet the needs of the students who attend class at the high school to accommodate those students who have released time from the high school so that the religious instruction can occur during the school hours. Those students who attend earlier morning classes, will still be allowed to park at the high school and walk over to the building.

There will not be an unloading or loading area because it is not needed. There will be bicycle stalls next to the back door.

There will be lighting, for security reasons, in the parking lot and at the entrance. The lighting will not spill off the site.

7. Sidewalks and curbs. Sidewalks are provided pursuant to the city's transportation plan. Namely along S. Beaver Creek Road, down the private driveway to the parking area and from the parking area to the building. Additionally, there is a sidewalk that will run from the school to the building and from the building to the sidewalk along the driveway. Of course, there is the need to place a sidewalk along the road, but for this project, with most of the pedestrian traffic coming from the highschool, a sidewalk from the high school to the building was also appropriate.

8. Circulation for pedestrian and bicycle access. Please see number 7.

9. Continued maintenance. While the LDS Church has a long history in Oregon City, and the history of the Church clearly demonstrate a willingness to comply with all upkeep needs. This standard is best taken care of by the material used in the building and building the driveway, landscaping etc., to the standards established by the Code.

For example, this building will be brick. The landscaping will be professionally done and professionally maintained. If the City desires that the driveway be built to City standards, (not in width) but in material and grade, that would be acceptable. The screening is only necessary between the Church and the High School and a fence is already in place.

10. Lighting plan map demonstrates that this has been accomplished.

11. The site plans have a tree inventory and a designation of which trees will be removed.

12. Protect Water. The site and building will be built to City standards. Sprinkling systems will be put into place to minimize water waste. The building will be built to standards and will implement all applicable water saving features in the building code.

13. The Site plan will designate any applicable natural resources. The Land has one small area or natural resource area (approximately one square foot is within 300 feet of water) and the staff is not requiring a study of the area. The land is flat, with no water or flood plain.

14. Nuisances: The site will comply to all Federal, State, County and City ordinances related thereto.

15. There is public water and quasi public Sewer. The site was authorized to utilize the sewer line which transverses the property and has hooked in.

16. Right-of-way. As explained above, the Church has proposed to build side walks and curb and cutter on Beaver creek. Any required improvements necessary to facilitate the use will be built per the transportation code adopted by the City.

The church and the neighboring property owner has a joint ingress and egress agreement that both will utilize the new driveway constructed as part of this development.

17. There is additional bicycle and pedestrian travel across the site, in addition to the Beaver creek road improvements as designated above and on the site plan.

18. Tri-met: All recommendations for a bus stop and/or turnout lanes, bus shelter and bus landing pad will be allowed per the City's and Tri-met's code, so long as there is a rough proportionality between the improvement and the use. Per City staff, Tri-met doesn't service this area yet.

19. All utility lines shall be placed underground.
20. Handicapped requirements will be met per Federal, State, County and City codes.
21. Pedestrian/bicycle access ways are incorporated per Chapter 12.24 of the building code.
22. Not applicable.

### **17.62.055 Institutional and commercial building standards**

C. 1. This building will be built with brick, it will have an entrance facing the street which gives it a feel of institutional use, it is designed to tie into the school by way of a pedestrian through way.

C. 2. Although there is a prototype design, the design shall be modified to accommodate the site.

C. 3. There is only one building.

C. 4. Duly noted.

D. 1. This standard conflicts with the underlying zoning. There is a pedestrian walk way, a plaza which is at the entrance.

D.2. The main entrance is defined and oriented toward the street.

D.3. The parking area is located behind the building.

E.1. There is only one building.

E.2. The horizontal height shall not exceed the zoning allowance.

E.3. The building will be oriented towards the entrances.

F.1.a. The building is functional and facades limited except as required by or allowed by the code. See site plan.

F.1.b. Not applicable.

F.1.c. Not applicable.

F.1.d. Not applicable.

F.1.e. Not applicable.

F.1.f. Not applicable.

F.2. Facade Transparency. The building will be designed so that 60% of the street entrance will be transparent and the side elevations shall be 30%.

F.3. Not applicable

F.4. There is no difference between the side material used for siding and the front.

F.5. Not at issue or not applicable.

G. Is not applicable to the matter at issue. He designed roof meets this criteria.

G. 2. Not at issue.

H. Not at issue, as there is no customers.

#### **17.62.060 Building structures**

The building will compliment the surroundings. While not just a religious school, it will also serve as offices for the limited staff. It will be built to blend with the school and act as a buffer between the school use and the neighboring light industrial.

This building will meet all requirements of the code.

#### **17.62.070 On-site pedestrian access**

A. There is only one building. It will connect to by way of a pedestrian access to the high school. There will be a sidewalk built on Beavercreek which will have an access from the street to the front of the building by way of a sidewalk down the driveway. The sidewalk which runs down the driveway has two connecting points to the building.

A.1. There is only one building.

A.2. Not at issue.

A.3. There is connectivity between the parking lot and the building by way of a sidewalk.

A.4. In regards to the future development. The property to the North will be across the driveway, will allow the connectivity. To property to the West can be developed so that there will be connectivity if required when it is developed.

B. The On-site walkways will meet the standards required by the City.

C. The lighting plan meets this requirement.

D. There is a green buffer between the sidewalk along the driveway and the sidewalk. There is no cross of any vehicle traffic to access the building from either the parking lot or the School. There will be appropriate makings on driveway and parking area as required by the City code.

17.62.080 Special development standards along transit streets.

This standard isn't applicable.

### **Traffic**

According to Brent T. Ahrend, PE a traffic engineer for the LDS Church, this site will generate the following trips:

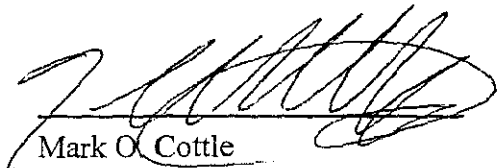
|          |       |
|----------|-------|
| AM Enter | 1 VPH |
| AM Exit  | 1 VPH |
| PM Enter | 1 VPH |
| PM Exit  | 1 VPH |

This information was taken from the Institute of Transportation Engineer's (ITE) Trip Generation, Sixth Edition. The ITE states that the above rate to trips is applicable for a 3,500 SF seminary.

With three employees (2 full-time and a part-time employee) there will be expected 32 daily, 2 AM peak hour, and 2 PM peak hour trips. Clackamas County Year 2000 average daily traffic (ADT) along Beavercreek Road, north of Henrici Road, is 11,150 vehicles. The daily trip generation of this site is less than 0.3% of this roadway volume.

For this reason, our Traffic Engineer has requested that David Evans and Associates waive the obligation for a full-traffic report.

If there is any additional information needed, please contact me.



Mark O. Cottle

Land Use Consultant for Applicant

1-10-03

Date

## **CONDITIONAL USE APPLICATION**

SITE ADDRESS: 19675 S. Beaver Creek Rd., Oregon City, Oregon

OWNERS: The Church of Jesus Christ of Latter Day Saints ("LDS")

CONTACT: Mark Cottle PO Box 1124 Sherwood, OR 97140

TAX LOT NUMBER: 32E09D 00400

SITE SIZE: 1.8 ACRES

LOCATION: Next to the High School

ZONE DESIGNATION: M1

### **NARRATIVE:**

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## **Chapter 17.54 Supplemental zoning regulations and exceptions**

Not applicable or the site plan shows compliance.



**WALKER/DILORETO/YOUNIE, INC.**  
CONSULTING STRUCTURAL • CIVIL ENGINEERS

November 26, 2002

*Principals*

*Robert A. Walker*

*Dale J. DiLoreto*

*Wade W. Younie*

*Cole G. Presthus*

*Michael Coronel*

*Greg G. Munsell*

*Associate*

*Douglas E. Paola*

McSwain & Woods Architects  
4040 SE International Way E-204  
Milwaukie, OR 97222

Attn: Mac McSwain

**RE: LDS OREGON CITY SEMINARY  
19675 BEAVERCREEK RD, OREGON CITY, OREGON  
"SITE VISIT" - NOVEMBER 12, 2002/LOCATE SANITARY SEWER**

Dear Mr. McSwain,

On November 12, 2002, WDY, Inc. visited the site with "Locate Down Under, Inc." personnel to locate the existing sanitary sewer crossing the northwest corner of the property. From conversations with the City of Oregon City Engineering Department, this sanitary sewer line is a private line for the adjacent City of Oregon City High School facility south of the proposed seminary site. A private storm drain line also for the school runs parallel to the sanitary sewer line across the seminary site. The sanitary line is an 8" diameter concrete pipe and the storm drain is a 15" diameter concrete pipe. See the attached topographic survey plot for alignment location across the property. Note that the manhole placement of sanitary and storm lines are not shown graphically correct as to their actual field locations, and WDY recommends the surveyor provide additional dimensional information locating the manholes.

In conversation with the next door neighbor to the north (Tax Lot #100), it was reported that the proposed seminary site did have a sanitary sewer lateral installed for it into the school's private 8" sanitary line as a result of septic system violations of the previous residence.

A television camera was run down the existing 8" sanitary sewer line 200 feet to determine if any sewer lateral connections existed. One (1) 4" diameter "inserta-tee" service connection was noted coming into the top of the existing 8" sanitary sewer line located 112 feet northeast of the existing sanitary manhole at the site's west property line. This connection appears to be the sewer lateral that the neighbor referred to as it is located on the proposed seminary site, no other connections were observed and all other neighbors reported to be on private onsite septic systems. The ground surface was spray painted green at the sanitary sewer location for future reference.

*Raleigh West  
Executive Building*

*443 SW Beaverton-  
Jillsdale Hwy, #210  
Portland, OR 97221  
Fax 503/203-8122  
Voice 503/203-8111  
email: wdy@wdyi.com*

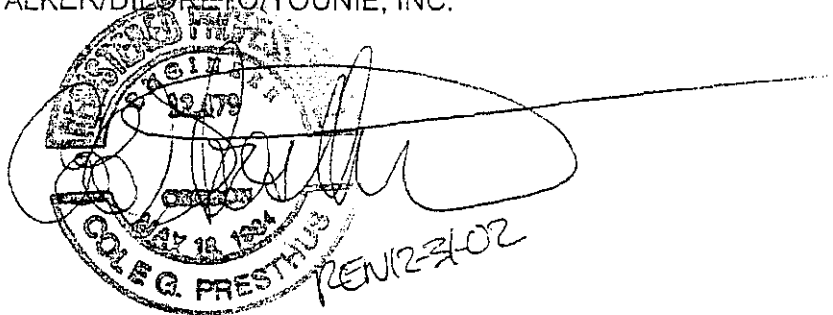
LDS Oregon City Seminary  
Review of Proposed Grading at Adjacent Lot  
Page 2

Enclosed please find a copy of the 1995 Clackamas County Septic System Violation Notice for the previous residence on the site. The notice states that the violation was resolved by connection into sanitary sewer in the City of Oregon City. Also, enclosed are copies of the contents of the Clackamas County Community Environment Section's folder for this tax lot detailing all communications regarding violations previously occurring on this site.

If you have any questions regarding the above please contact our office.

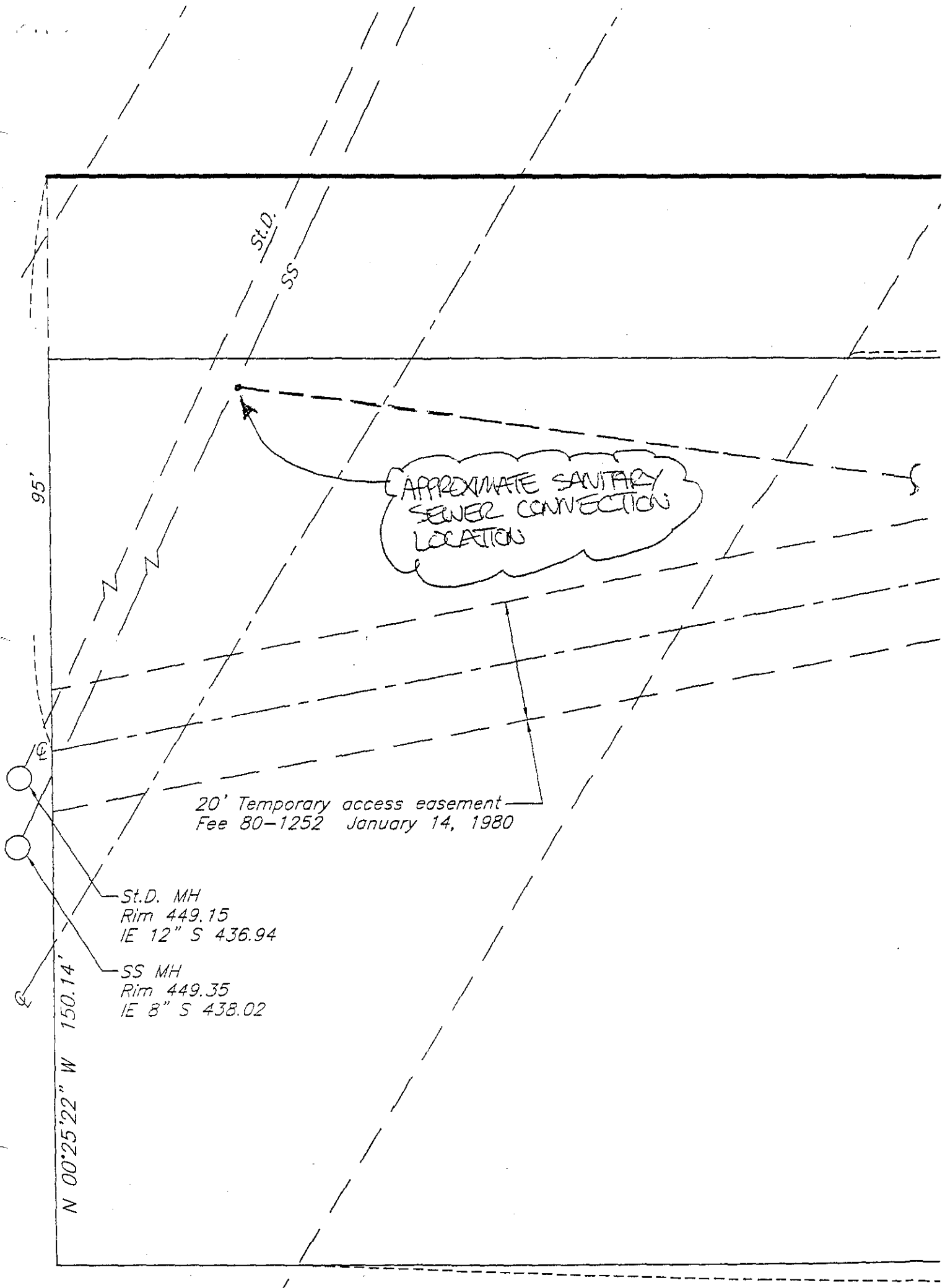
Sincerely,

WALKER/DI LORETO/YOUNIE, INC.

A circular professional seal for Cole G. Presthus, P.E. is visible. The seal contains the text "CLACKAMAS COUNTY", "REGISTERED PROFESSIONAL ENGINEER", "No. 12,079", "EXPIRATION DATE 12/31/2004", and "COLE G. PRESTHUS". A handwritten signature is written over the seal. To the right of the seal, the text "REN 12-21-02" is handwritten.

Cole G. Presthus, P.E.

Enclosures



St.D.

SS

95'

APPROXIMATE SANITARY  
SEWER CONNECTION  
LOCATION

20' Temporary access easement  
Fee 80-1252 January 14, 1980

St.D. MH  
Rim 449.15  
IE 12" S 436.94

SS MH  
Rim 449.35  
IE 8" S 438.02

N 00°25'22" W 150.14'

COPY

BEFORE THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS

COUNTY OF CLACKAMAS, Petitioner

v.

Mary Ann DeFrancisco  
Robert Nicol  
Vicki R. Vernon, Esq.

Respondents.

Hearing No. 95-1999

File Nos: V0694-95-V-SS / V1036-95-  
V-SW / V1039-95-V-Z

POST HEARING  
STATUS REPORT

- 1 Respondents have properly connected the residence on the subject property to the City of Oregon City Public Sewerage System and have properly pumped and abandoned the existing septic tank. Respondents provided the County on March 3, 1996 copies of all necessary documentation from the City of Oregon City and signed tank abandonment certificate.
- 2 Respondents are in compliance with the Order dated January 18, 1996.
- 3 The County requests that the above matter:

Be dismissed without penalty or costs to Respondents.

Dated: March 5, 1996

  
Steve Marshall  
Code Compliance Specialist  
Community Environment Section

Copy sent to Respondents  
on March 5, 1996

c: Jackie Moffitt.

**CITY OF OREGON CITY**  
**Pre-Application Form**

File No. \_\_\_\_\_

Meeting Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: 9 A.M. Location City Hall-320 Warner Milne Rd.  
City Hall Phone No: (503) 657-0891 Fax No: (503) 657-7892

*Note: Pre-App summaries and meeting notes expire six (6) months from date of review. The subsequent application may be submitted to any member of the Planning Staff.*

**Please Complete the Following Information**

**Applicant:**

Name Church of Jesus Christ of LDS  
Contact Person Mark Coffe  
Address PO Box 424  
Shawwood, OR  
Phone 625-5529 Fax 625-4169

**Applicant's Representative**  
**(Primary Contact for the City):**

Contact Person \_\_\_\_\_  
Company Name SAME AS ABOVE  
Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

**Owner(s):**

Name Church of Jesus Christ of LDS  
Address \_\_\_\_\_  
Phone SAME AS ABOVE Fax \_\_\_\_\_

*With the above completed material*

☒ Narrative ☐ Site Plan ☒ Vicinity Map

**Property Description:**

Assessor Map No. 32E090 Tax Lot No(s). 00400  
Site Size: 1.8 ACRES  
Address: 19675 S. Beaver Creek Rd.  
Location: NEXT TO HIGH SCHOOL  
Zone: M1

**Proposed Development Action:**

LDS SEMINARY  
(Church/School use)

**Proposed Structure:**

Valuation (Estimate): \$ 450,000 ±  
Size in Sq. Feet: 3800 ±  
No. Stories: 1  
Basement: ☐ Yes ☒ No  
No. Buildings: 1  
Construction Type: STICK & MASON  
Occupancy Type: Church/School  
Materials: Brick & Stick  
Sprinklered? ☐ Yes ☐ No  
No. Employees: 1.5

Submit 15 copies of a short narrative, site plan drawings and vicinity maps. These plans are to be to scale (see attached example) and show all existing and proposed structures, traffic circulation, public rights-of-way and indicate if existing roads will continue in proposed subdivision. Fold plans to 8 1/2 x 11".

Name Printed [Signature] Date 10-7-02

Staff: \_\_\_\_\_ Date Received: \_\_\_\_\_ Fee: \_\_\_\_\_ Receipt No: \_\_\_\_\_

Routing: PubWks ☐ ; Bldg ☐ ; Eng ☐ ; Fire ☐ ; Finance ☐ ; Clack Co (E) ☐ ; Clack Co (T) ☐ ;  
ODOT (Sonya) ☐ ; ODOT (Gary) ☐ ; Schools ☐ ; Tri-Met ☐ ; Metro ☐ ; Other \_\_\_\_\_

*Please review this material and return comments by the above review date (and/or attend the meeting). Send to the Oregon City Planning Department, Attn.: Planning Tech, PO Box 3040, Oregon City, Oregon 97045. Contact us at (503) 657-0891 if you have questions.*

## CONDITIONAL USE PRE-APPLICATION NARRATIVE

### CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS PROPOSED SEMINARY FACILITY

#### FACTUAL INFORMATION:

1. *Background:* The Church of Jesus Christ of Latter-Day Saints ("LDS Church") has developed a program over the last half century in which its youth, between the grades of 9<sup>th</sup> and 12<sup>th</sup>, participate in religious instruction while school is in session. To accomplish this, the LDS Church has seminary buildings within a three minute walking area of high schools in Oregon which has an enrollment of LDS students which justify the cost.

2. *Area:* The LDS Church has a seminary building next to following schools which are in the approximate area of Oregon City:

Aloha High School  
Beaverton High School  
Westview High School  
Sunset High School  
Tualatin High School  
Oregon City High School

#### 3. *Proposed Site:*

- A. Address: 19675 S. Beaver Creek Rd. Oregon City, Oregon.
- B. Current Use: This is a vacant field.
- C. Proposed Use: The site would be utilized as a Seminary Building for the Church of Jesus Christ of Latter-Day Saints.
- D. There will be approximately 75-110 students who utilize the building on the weekdays to receive religious instruction prior to school and during school hours. There will be very little, if any, outside use.
- E. There will be one instructor on site, a part-time instructor and a part-time secretary. The students will not be allowed to drive to the site.
- F. The Seminary Building will not generally be open on the weekends.
- G. Instructional materials, related equipment and standard office equipment will be on site.
- H. This structure is a one story home.

There will be two classrooms on site, an administrative area (office and secretary station) and a storage area.







[illegible]

**NOTE:** The above list represents a sample of plants by category that may be used by landscaping this project. Final landscape plans may include a variety of other species from each category.



**LTLE**  
4040 SE International Way R-204  
Milwaukee, OR 97882 803.864.9772

PROJECT TITLE:  
OREGON CITY SEMINARY  
19675 SOUTH BEAVERCREEK ROAD  
OREGON CITY, OREGON

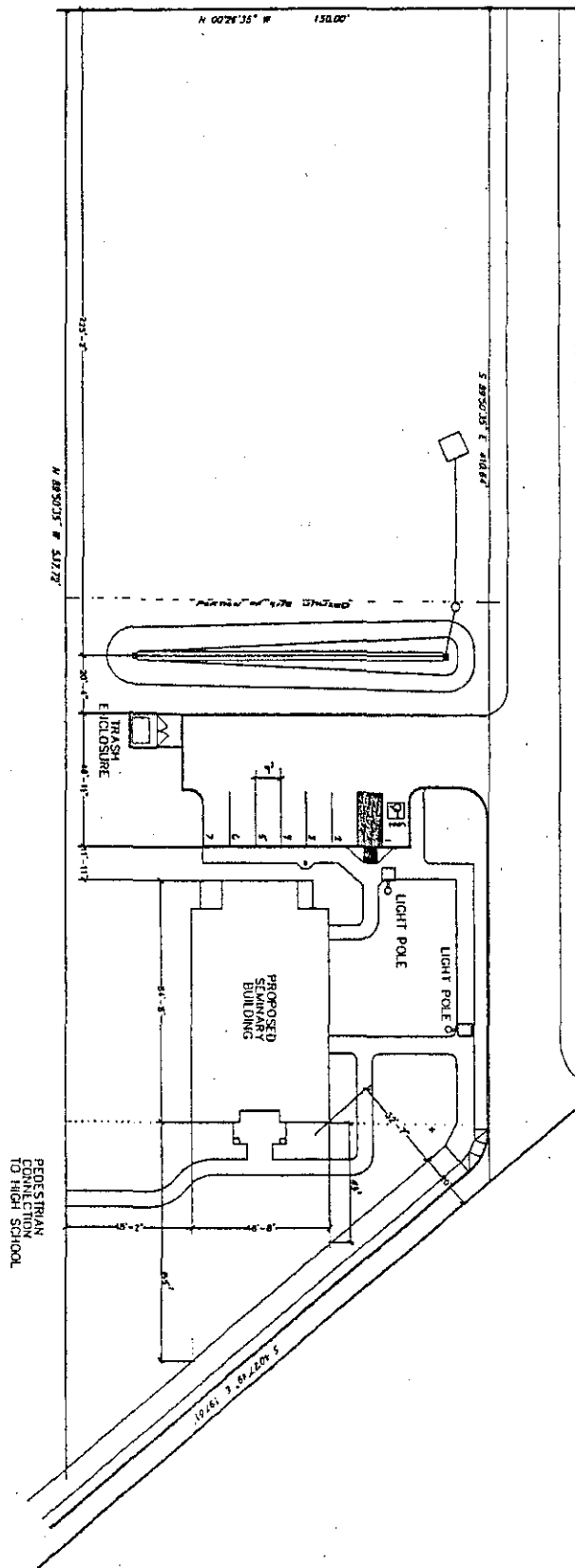
SHEET TITLE:  
SITE PLANTING PLAN

**DATES:**  
1/27/18/03

PROJECT #  
544-8875-80

11.1

scale: 1"=20'-0"



CO.2

544-0075-80

|            |         |
|------------|---------|
| DATE:      | 1/15/93 |
| FILE NO.   | -       |
| ISSUE NO.  | -       |
| ISSUE DATE | -       |
| ISSUE TIME | -       |
| ISSUE TYPE | -       |
| ISSUE BY   | -       |

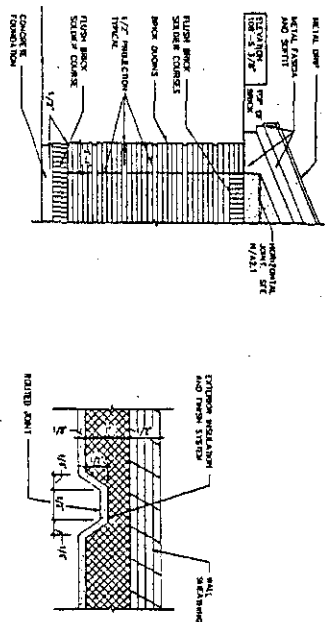
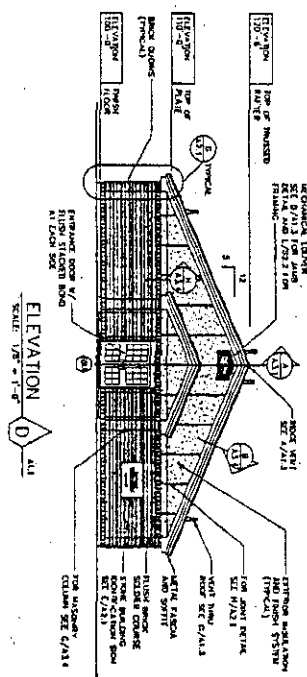
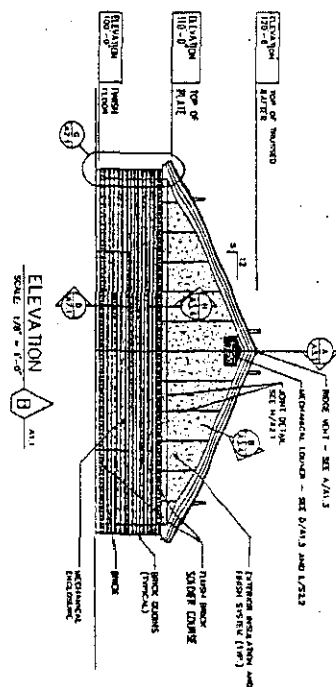
SHEET TITLE:  
SITE.LAYOUT.PLAN

## ARCHITECTS and PLANNERS



PROJECT TITLE:  
OREGON CITY SEMINARY  
19675 SOUTH BEAVERCREEK ROAD  
OREGON CITY, OREGON

**THE  
McSWAIN  
&  
WOODS**



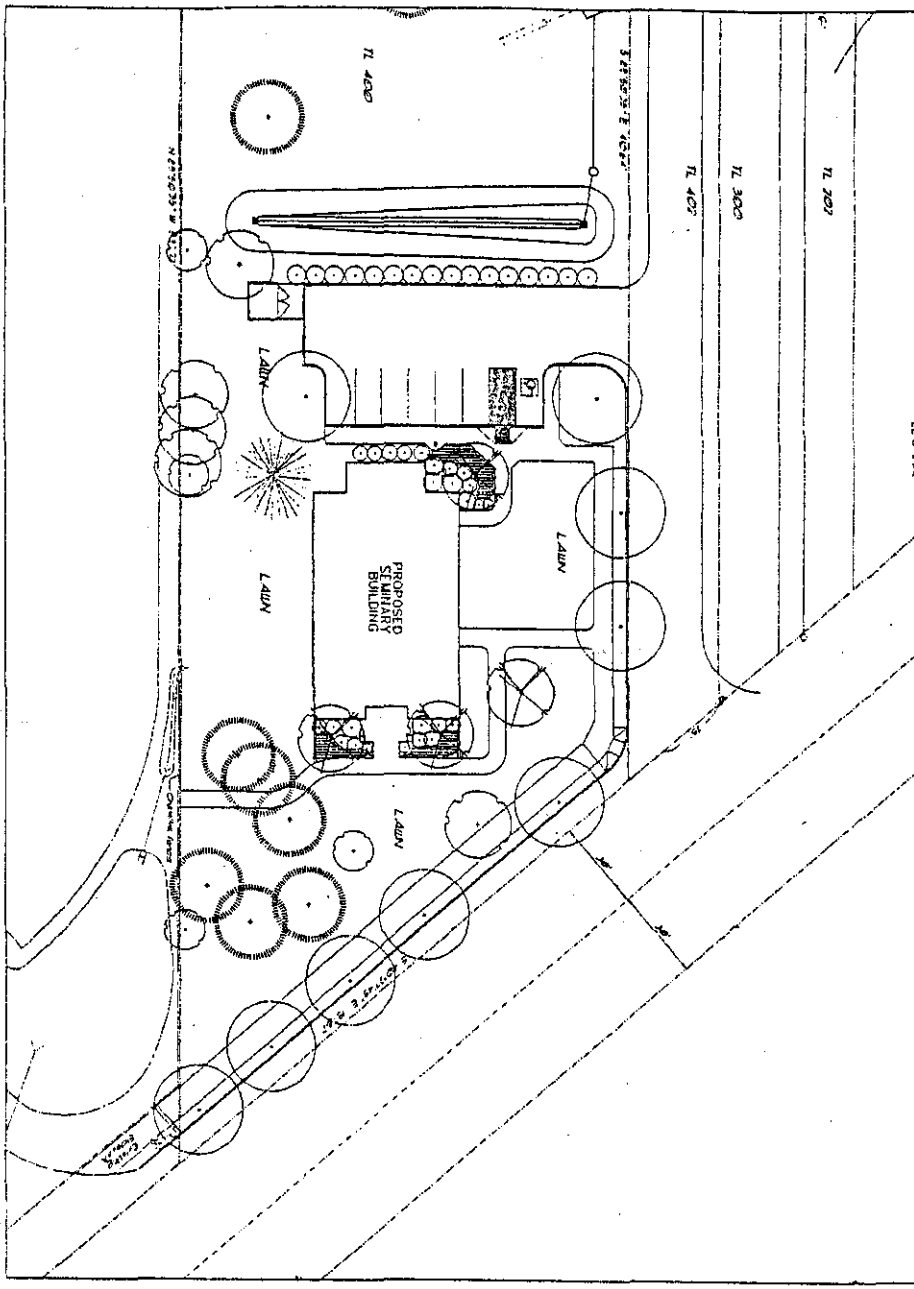
STONE BUILDING SIGN

ELEVATION  
SCALE 3/8" = 1'-0"  
G

JOINT DETAIL

SCALE: NAT

AS3  
AS3



# Plant Legend

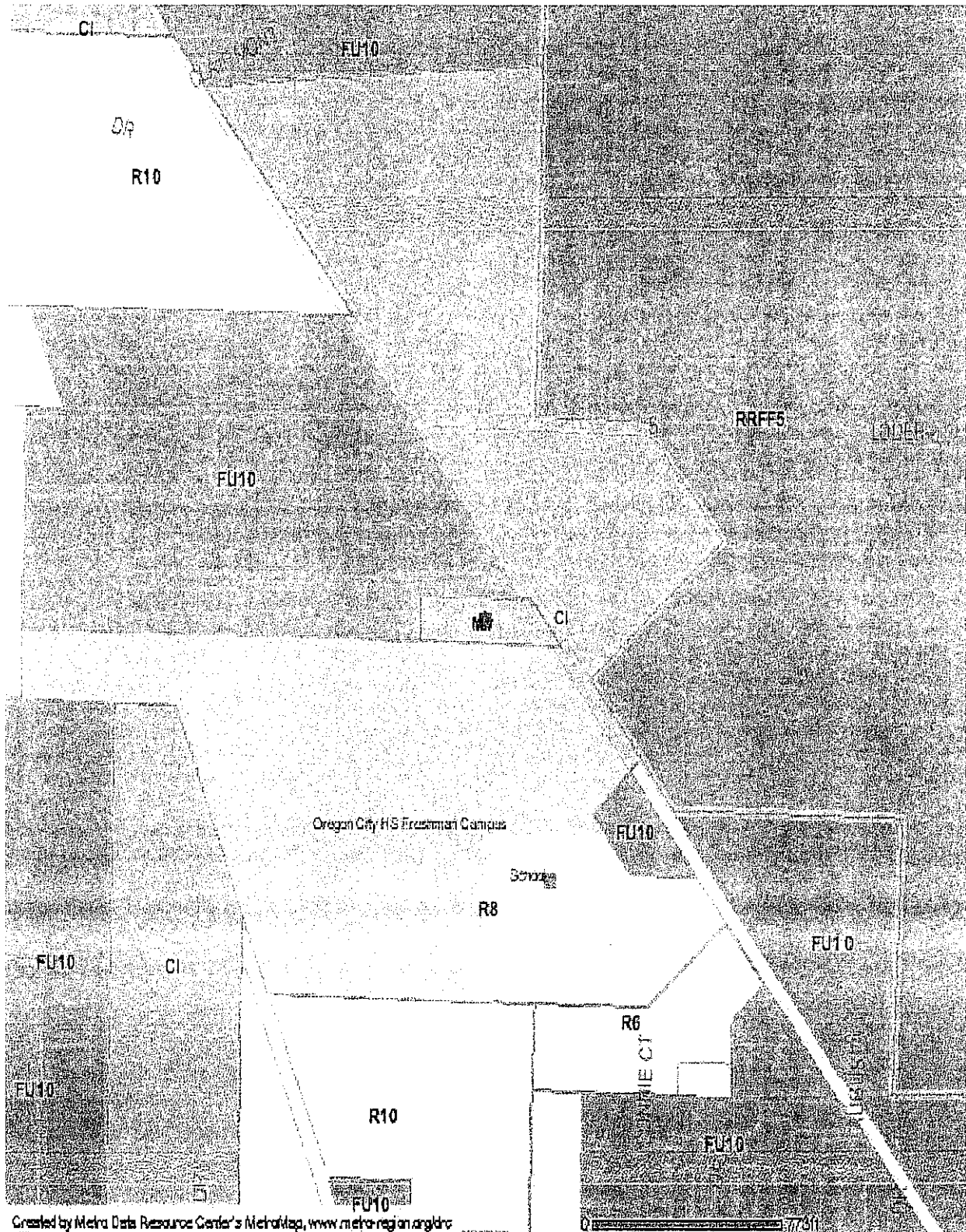
- EXISTING DECIDUOUS TREES (TO REMAIN)
- EXISTING EVERGREEN TREES (TO REMAIN)
- LARGE EVERGREEN TREE  
Douglas Fir  
Western Red Cedar
- MEDIUM EVERGREEN TREE  
Hemlock  
Douglas Fir
- LARGE DECIDUOUS TREE  
White Oak  
Cottonwood
- MEDIUM ORNAMENTAL TREE  
Star Magnolia  
Star Magnolia
- LARGE SHRUB  
Rosa  
Rosa  
Rosa
- MEDIUM SHRUB  
Rosa  
Rosa  
Rosa
- SMALL SHRUB  
Rosa  
Rosa  
Rosa
- GROUND COVER  
Rosa  
Rosa  
Rosa

NOTE: The above list represents a sample of plants by category and may be used to indicate the project. Final landscape plan may include a variety of other species than each category.

## Planting Plan



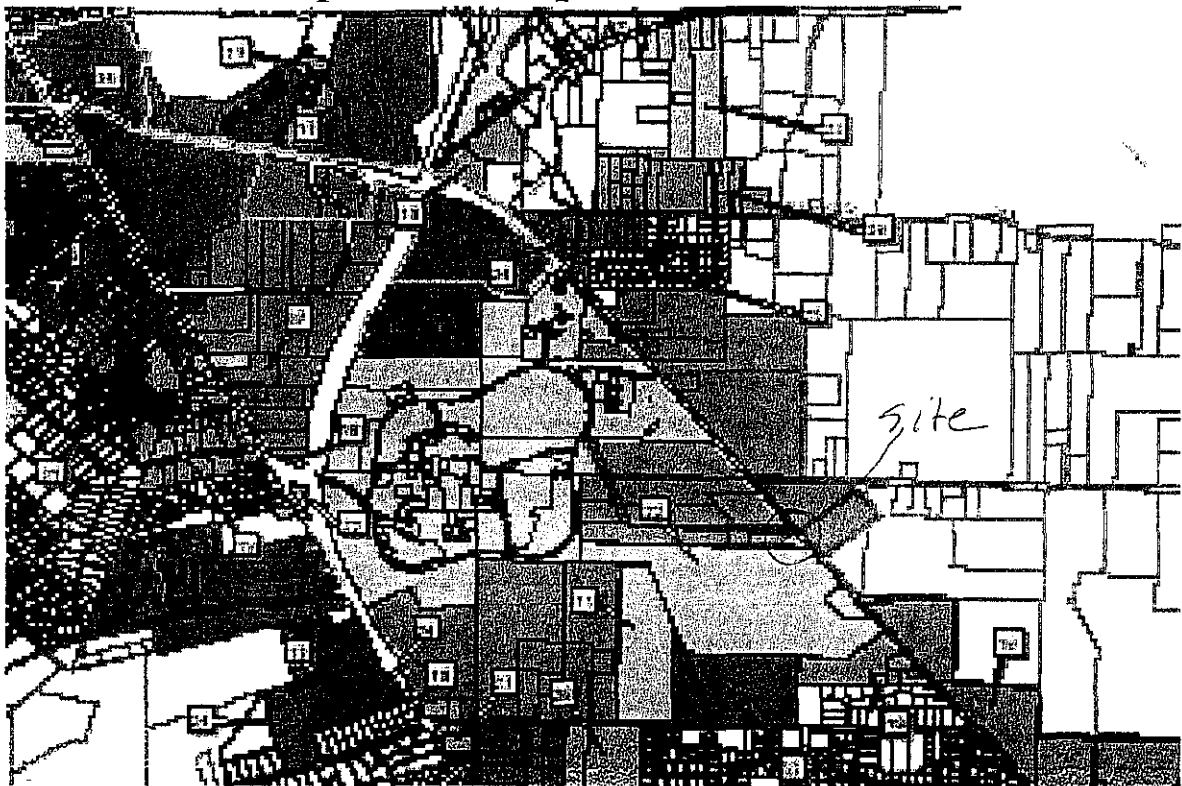
# ZONING MAP



Current Comprehensive Plan



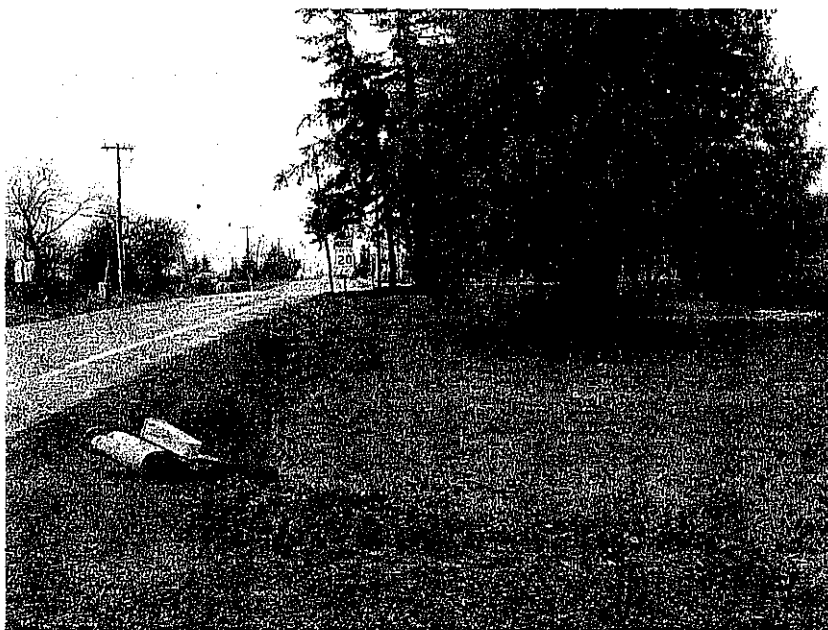
Proposed Comprehensive Plan





## The Property

The site as it is currently constituted. This is looking South across the property at where the building will sited to be built.



This is looking Southeast down Beaver Creek Road. Notice the traffic control sign.

This is a LDS seminary building in Tualatin. The High School is in the background.



This seminary building faces Boones Ferry in Tualatin. The grounds are maintained by a professional landscape company. Notice the roof line, windows and professional appearance.



**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 Beavercreek 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 Beavercreek 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. Per 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 Beavercreek road and a suggestion 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**, 2580 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 Beavercreek. That only seems like the most logical way for parents to safely drop off their students and get back out onto Beavercreek. Otherwise, it would require a left turn across traffic on Beavercreek 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 WDY Engineering, 6443 SW Beaverton-Hillsdale Highway, Portland, Oregon, who said a public 16-inch water main was recently put in Beaver Creek so water is no problem. An 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 Beaver Creek. Therefore, an internal sidewalk system to 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).

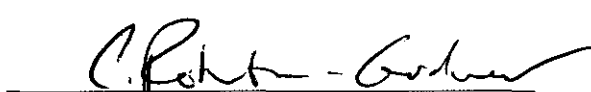
**Mengelberg** thanked Orzen for her leadership on the annual Oregon City clean-up project. **Orzen** said over 200 people volunteered their time and efforts, and they were able to do more enhancements than cleanup this year, which was very encouraging.

## 6. ADJOURN

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



Linda Carter, Planning Commission  
Chairperson



Christina Robertson-Gardiner, Associate Planner