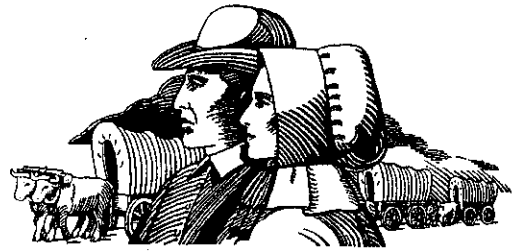


CITY OF OREGON CITY

PLANNING COMMISSION

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AGENDA

March 10, 2003 at 7:00 P.M.

***Pioneer Community Center**

615 5th Street, Oregon City

***Please note the location as announced at the 2/24/03 Planning Commission Hearing**

****The March 12, 2003 Planning Commission Work Session is cancelled****

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

PLANNING COMMISSION MEETING

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:01 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 7:05 p.m. 3. **APPROVAL OF MINUTES: 1/13/2003***(Draft on web site or at City Hall)*
- 7:10 p.m. 4. **HEARINGS:**
Continuance of 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.
- 7:35 p.m. **Continuance of 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.

**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. APROVAL 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-1 E-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 out-of-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 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 Bean.

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 14th 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 Beaver Creek Road. Beaver Creek is already called "the world's largest cul-de-sac", which he says is true. Every time he leaves his house, he must travel Beaver Creek.

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 Beaver Creek 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 Beaver Creek, 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 Beaver Creek 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 Beaver Creek 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 Beaver Creek 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. 24th 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 Beaver Creek Road and 213.

Noble said he received a Wal-Mart mailer at his home in Beaver Creek 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 Beaver Creek 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. Beavercreek 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 Beavercreek 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 Beaver Creek 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 10th, 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 Coltice-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 Beavercreek 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 82nd 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, Ferrarini 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 8th 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 8th, 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.

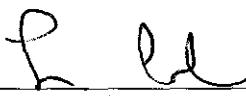
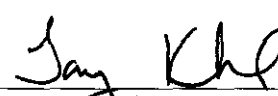
Regarding the question of location, **Chair Carter** said she thought they could move back to City Hall because she didn't think as many people would choose to physically attend at that point.

5. NEW BUSINESS

None.

6. ADJOURN

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

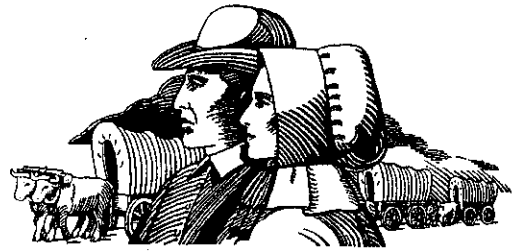
  8.11.03
Linda Carter, Planning Commission Chairperson Tony Konkol, Associate Planner

CITY OF OREGON CITY

PLANNING COMMISSION

320 WARNER MILNE ROAD
TEL (503) 657-0891

OREGON CITY, OREGON 97045
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AGENDA

March 10, 2003 at 7:00 P.M.

***Pioneer Community Center**

615 5th Street, Oregon City

***Please note the location as announced at the 2/24/03 Planning Commission Hearing**

****The March 12, 2003 Planning Commission Work Session is cancelled****

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

PLANNING COMMISSION MEETING

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:01 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 7:05 p.m. 3. **APPROVAL OF MINUTES: 1/13/2003***(Draft on web site or at City Hall)*
- 7:10 p.m. 4. **HEARINGS:**
Continuance of 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.
- 7:35 p.m. **Continuance of 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.

**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-1 E-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 out-of-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 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 Bean.

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 14th 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 Beaver Creek Road. Beaver Creek is already called "the world's largest cul-de-sac", which he says is true. Every time he leaves his house, he must travel Beaver Creek.

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 Beaver Creek 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 Beaver Creek, 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 Beaver Creek 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 Beaver Creek 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 Beaver Creek 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. 24th 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 Beaver Creek Road and 213.

Noble said he received a Wal-Mart mailer at his home in Beaver Creek 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 Beaver Creek 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 Beaver Creek 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. Beavercreek 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 Beavercreek 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 Beaver Creek 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 10th, 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 the 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 Coltice-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 Beavercreek 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 82nd 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, Ferrarini 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 8th 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 8th, 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.

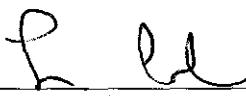
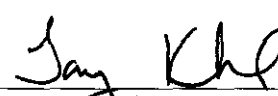
Regarding the question of location, **Chair Carter** said she thought they could move back to City Hall because she didn't think as many people would choose to physically attend at that point.

5. NEW BUSINESS

None.

6. ADJOURN

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

  8.11.03
Linda Carter, Planning Commission Chairperson Tony Konkol, Associate Planner