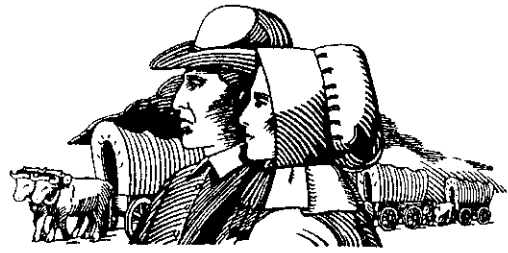


CITY OF OREGON CITY

PLANNING COMMISSION

320 WARNER MILNE ROAD
TEL (503) 657-0891

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



AGENDA

**City Commission Chambers - City Hall
October 10, 2005 at 7:00 P.M.**

The 2005 Planning Commission Agendas, including Staff Reports and Minutes, are available on the Oregon City Web Page (www.oregocity.org) under PLANNING.

PLANNING COMMISSION MEETING

1. **CALL TO ORDER**
2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
3. **ADOPTION OF PLANNING COMMISSION MINUTES:** *March 14, 2005, March 28, 2005 & June 27, 2005*
3. **HEARING:**
VR 05-03 (*Quasi-Judicial Hearing*), Applicant: Ted and Doris Anderson. The applicant is requesting a Planning Commission Variance to decrease the minimum rear yard setback from 20 feet to 7 feet to construct a covered patio at 307 Amanda Court (Clackamas County Map 3-1E-1DB, Tax Lot 505).
4. **ADJOURN PLANNING COMMISSION MEETING**

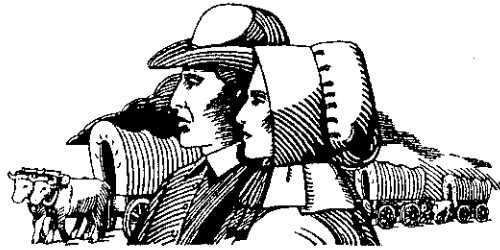
NOTE: HEARING TIMES AS NOTED ABOVE ARE TENTATIVE. FOR SPECIAL ASSISTANCE DUE TO DISABILITY, PLEASE CALL CITY HALL, 657-0891, 48 HOURS PRIOR TO MEETING DATE.

CITY OF OREGON CITY

Planning Commission

320 WARNER MILNE ROAD
TEL (503) 657-0891

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



STAFF REPORT

Date: October 3, 2005

FILE NO.: VR 05-03: Variance

APPLICANT: Fritzie Architects
1118 Lafayette Avenue
Oregon City, Oregon 97045
Attn: Larry Fritzie

OWNER: Ted and Doris Anderson
307 Amanda Court
Oregon City, Oregon 97045

LOCATION: 307 Amanda Court and identified as Clackamas
County Map # 3-1E-01DB, Tax Lot 505 (Exhibit 1)

REQUEST: The applicant is requesting a Planning Commission Variance to decrease the minimum rear yard setback from 20 feet to 7 feet to construct a covered patio.

ZONING: R-10 Residential Dwelling District

RECOMMENDATION: Approval with condition

REVIEWER: Tony Konkol, Senior Planner

PROCESS:

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

Background:

The applicant is requesting a minor variance to the R-10 Single-Family rear yard setback requirements to allow the addition of a 13' by 18' covered patio structure to the rear of the existing home. The proposed addition will reduce the rear setback from 20 feet to 7 feet. The applicant has indicated that the patio will incorporate the same material as the exiting structure and will not impact the side yard setbacks.

Location:

The subject property is located at 307 Amanda Court and identified as Clackamas County Map 3-1E-01DB, Tax Lot 505

Dimensional Standards:

Dimensional standards in the R-10 district are:

- A. Minimum lot areas, ten thousand square feet;
- B. Minimum lot width, sixty-five feet;
- C. Minimum lot depth, eighty feet;
- D. Maximum building height, two and one-half stories, not to exceed thirty-five feet;
- E. Minimum required setbacks:
 - 1. Front yard, twenty feet minimum depth,
 - 2. Attached and detached garage, twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet in residential areas.
 - 3. Interior side yard, ten feet minimum width for at least one side yard; eight feet minimum width for the other side yard,
 - 4. Corner side yard, fifteen feet minimum width,
 - 5. Rear yard, twenty feet minimum depth,**
- F. Garage Standards: See Section 17.20 – Residential Design Standards
- G. Maximum Building Coverage: See Section 17.20 – Residential Design Standards.

Surrounding Uses/Zoning:

The properties to the north, south and east of the subject site are in the city limits of Oregon City and zoned R-10 Single-Family. The properties to the west of the subject site are under Clackamas County jurisdiction and are not located within the Oregon City Urban Growth Boundary.

Comments: Notice of the proposal was sent to property owners within three hundred feet of the subject site, the South End Neighborhood Association, Citizen Involvement Committee, the property was posted with a Notice of Land Use sign with details about the proposal and the Planning Commission hearing was advertised in the Clackamas Review. Transmittals were sent to various City departments and other agencies regarding the proposed development plan. Relevant comments from City departments are addressed in this report as appropriate.

No public comments were received for this application during the 14-day comment period. The applicant provided two letters of support from the adjacent property owners as part of the application.

DECISION-MAKING CRITERIA:**Municipal Code Standards and Requirements**

Title 17, Zoning:	Section 17.08	R-10 Residential Dwelling District
	Section 17.50	Administration and Procedures
	Section 17.60	Variance

2004 Oregon City Comprehensive Plan

ANALYSIS:

Section 17.60.030 *Variances—Grounds* states that a variance may be granted if the applicant meets the approval criteria:

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

This standard addresses substantial impact to neighboring properties. The applicant has provided two letter of support from the property owners directly to the north and south of the subject site. The applicant has indicated that the rear yard of the subject site is adjacent to the Urban Growth Boundary. The adjacent parcel, located in Clackamas County, is zoned Timber Resource Zone and has a small flat area directly adjacent to the rear property line of the subject site and then a substantial cliff that drops approximately 110 feet. Due to the limited flat area above the cliff, the required minimum setbacks and the difficulty of accessing this section of the county parcel, it is unlikely that a home would be placed on top of the bluff that would be impacted by the reduced rear yard setback of the subject site. The requested variance to reduce the rear yard setback from 20 feet to 7 feet will not likely reduce light, air, safe access or other desirable qualities as protected under this ordinance for adjacent properties.

There is an existing 10-foot wide Public Utility Easement (PUE) along the rear property line of the subject site. The Oregon City Engineering Department has reviewed the application and indicated that the dedication of a PUE is a standard requirement when a plat is recorded in Oregon City and that all 10 feet of this PUE, upon further review, is not necessary. A smaller PUE would allow for future development and/or the placement of utilities if necessary. The Engineering Department has indicated that they would support the vacation of part of the PUE to allow the patio cover to be built 7 feet from the rear property line. Prior to the issuance of a building permit for the site, the applicant shall vacate part of the Public Utility Easement to ensure that the patio cover does not encroach into the easement.

Therefore, the applicant satisfies this criterion by complying with condition of approval 1.

B. That the request is the minimum variance that would alleviate the hardship.

The applicant has requested a 13-foot by 18-foot (234 square-foot) patio cover attached to the existing home. The dimensions were dictated by the size of the existing patio that will be covered and reducing the depth of the roof would not fully utilize all the available space of the existing cement patio.

Therefore, the applicant satisfies this criterion.

C. Granting the variance will equal or exceed the purpose of the regulation to be modified.

The purpose of the rear yard setback regulation is to ensure adequate space between neighbors, provide private open space and maintain privacy. Due to the topography of the adjacent county property to the west of the subject site, it is unlikely that a home will ever be built on top of the bluff due to a lack of space and access difficulty. It would appear that the separation between the addition on the subject site and the developable area on the adjacent site far exceeds the separation created by the 20-foot setback and that the purpose of the rear yard setback will still be met if the reduction to 7 feet is granted. The applicant has provided proof that adequate space is being provided for in this request.

Therefore, the applicant satisfies this criterion.

D. Any impacts resulting from the adjustment are mitigated;

As the adjacent neighbors to the north and south have given written support to the rear yard setback reduction and there appears to be no impacts on the county property, it appears no mitigation is necessary.

Therefore, the applicant satisfies this criterion.

E. No practical alternatives have been identified which would accomplish the same purpose and not require a variance;

The applicant investigated the construction of up to a 200 square foot detached accessory structure on the property. The structure would need to be a minimum of 6 feet from the existing home, but could be within 3 feet of the side and/or rear property line. This option would allow a similarly sized structure to be built, however, it would not be connected to the home and a significant part of the existing patio between the potential structure and the home could not be covered and utilized.

The applicant has proposed 234 square foot building attached to the home, which will provide direct, protected access from the patio to the rear door of the home and will fully utilize the existing patio.

Therefore, the applicant satisfies this criterion.

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

One of the primary goals of the 2004 Comprehensive Plan is to provide for increased livability for property owners in Oregon City. The intent of the variance is to allow exceptions when the variance criteria are met and the impacts are negligible or mitigated. Based on the support from the surrounding property owners and the minimal impact on the county property, it would appear that the Comprehensive Plan and intent of the R-10 Single Family rear yard setback can be met if the variance to reduce the rear yard setback to 7 feet is approved.

Therefore, the applicant satisfies this criterion.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission **approve with condition** file VR 05-03 for the property located at 307 Amanda Court in Oregon City.

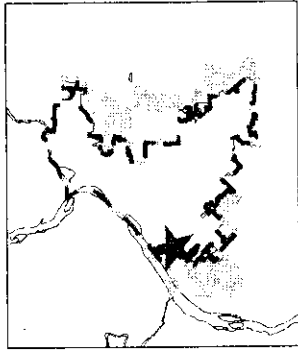
EXHIBITS:

1. Vicinity Maps
2. Applicant's submittal

Recommended Condition of Approval
Planning File VR 05-03
October 3, 2005

1. Prior to the issuance of a building permit for the construction on the site, the applicant shall vacate part of the Public Utility Easement to ensure that the patio cover does not encroach into the easement.

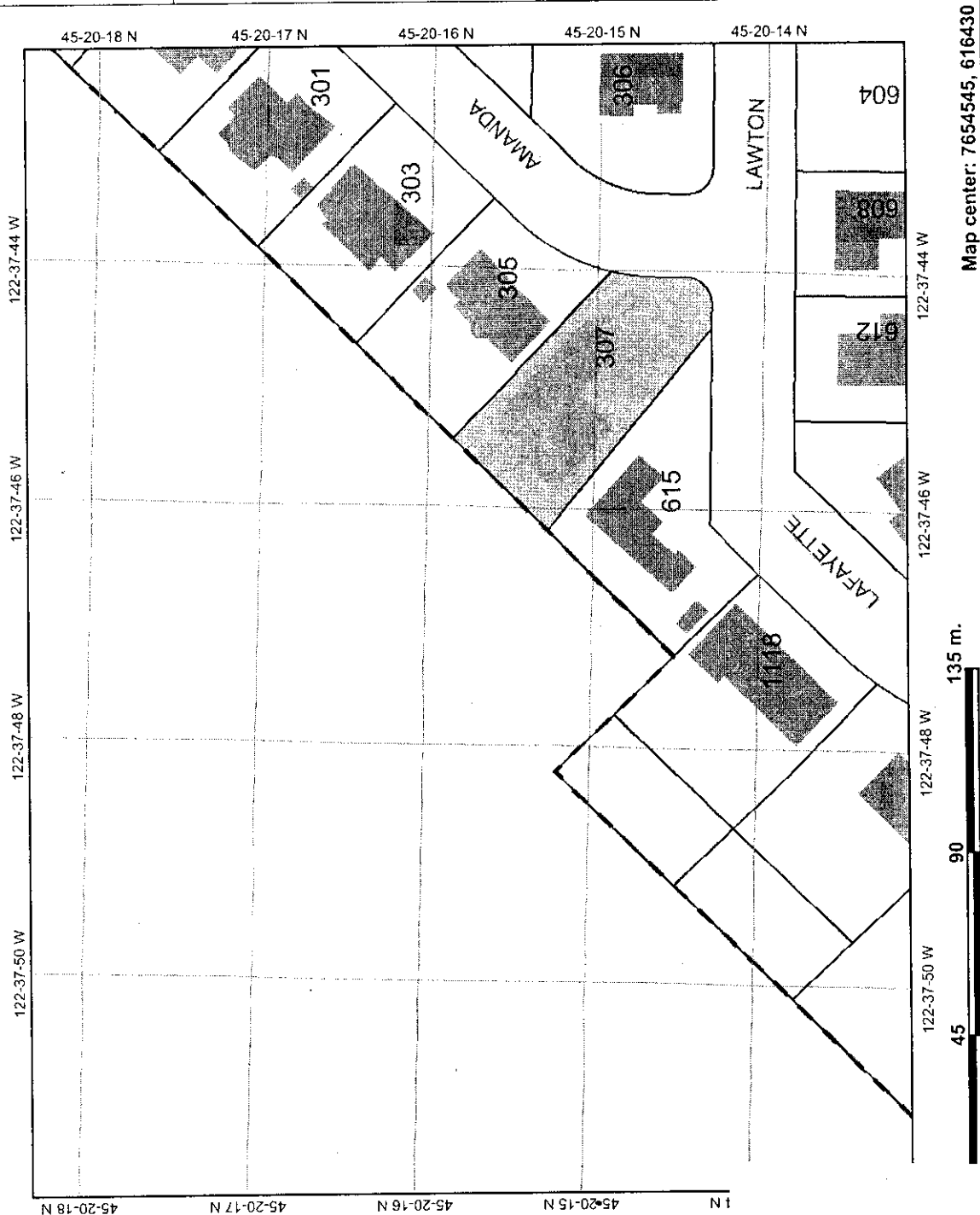
Vicinity Map



Legend

- City Limits Line
- UGB Line
- Parcels
- Addresses
- Taxlots Fill
- Buildings
- Streets Fill
- Streets
- Rivers
- City Limits
- UGB

Scale: 1:1,512

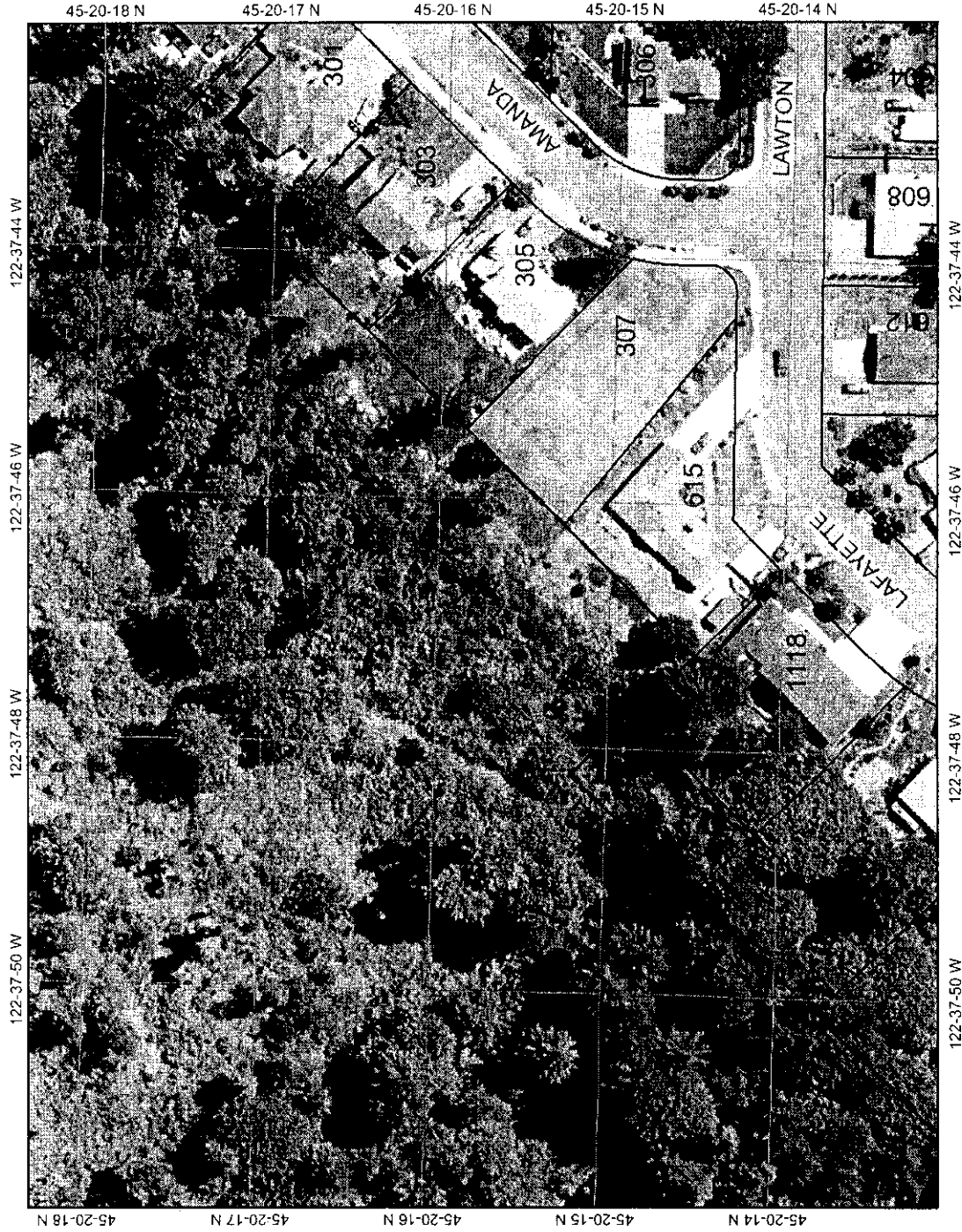


Map center: 7654545, 616430

is a user generated static output from an Internet mapping site and is for general only. Data layers that appear on this map may or may not be accurate, current, or reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Exhibit

Subject Site



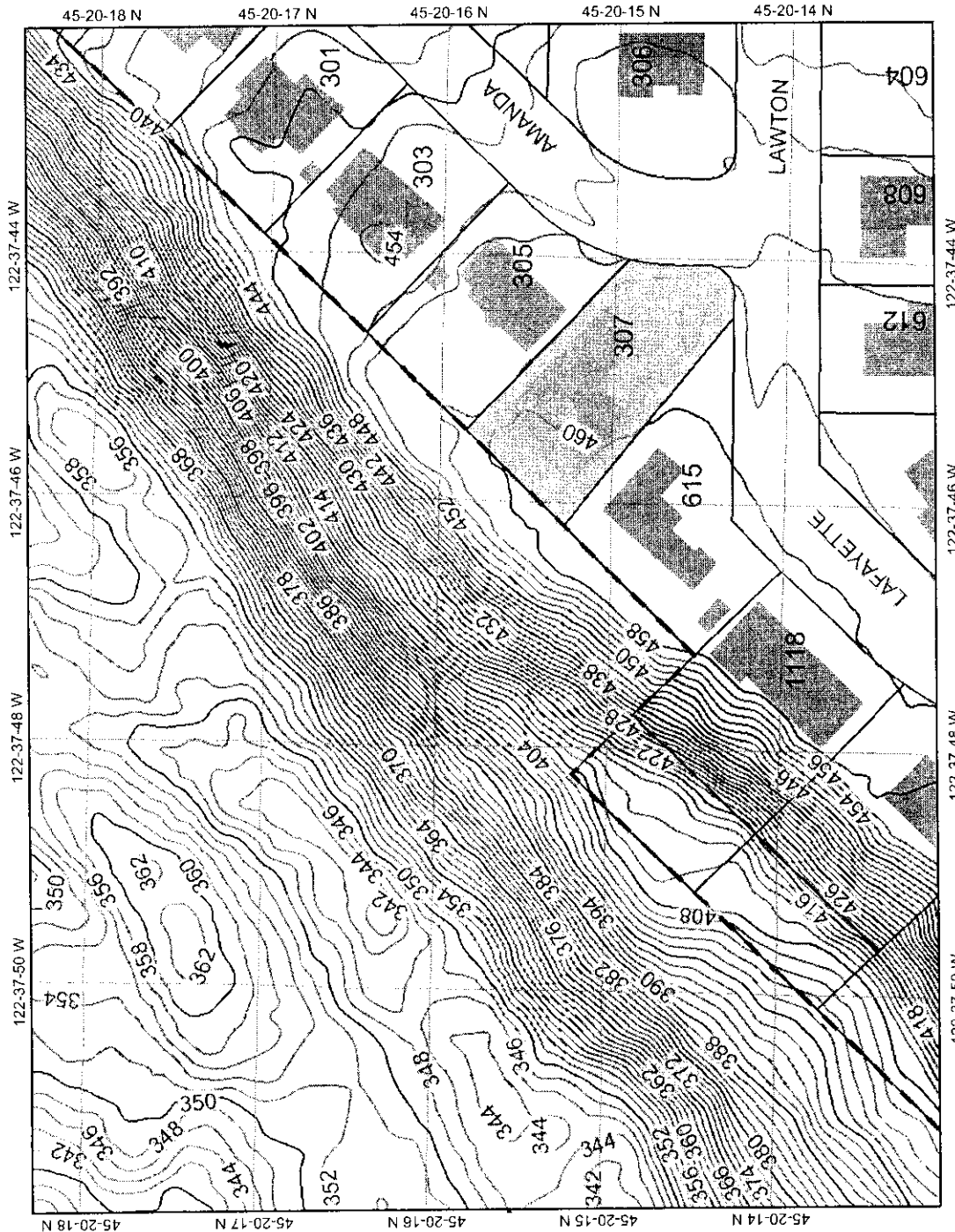
Legend

- Citylimits Line
- UGB Line
- Parcels
- Addresses
- Taxlots Fill
- Aerial Photos
- Aerial Photos - Spring 2005
- Buildings
- Streets Fill
- Streets
- Rivers
- City Limits
- UGB

Scale: 1:1,512

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Slope



0 45 90 135 m.

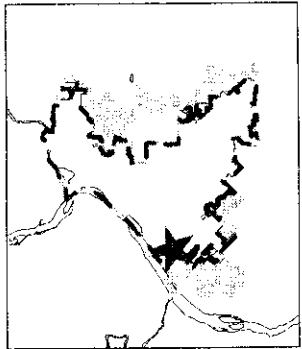
Map center: 7654545, 616430

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Legend

- Citylimits Line
- UGB Line
- Parcels
- Addresses
- Contours
- 2 foot contours
- Index contours
- 2 foot contours
- 4
- 2 foot contours
- Taxlots Fill
- Aerial Photos - Spring 2005
- Buildings
- Streets Fill
- Streets
- Rivers
- City Limits
- UGB

Scale: 1:1,512



CITY OF OREGON CITY

Community Development Department, 320 Warner Milne Road.
P.O. Box 3040, Oregon City, OR 97045. (503) 657-0891 Fax: (503) 657-7892
www.ci.oregon-city.or.us

LAND USE APPLICATION FORM

REQUEST:

- | | | |
|--|--|---|
| Type II | Type III | Type III / IV |
| <input type="checkbox"/> Partition | <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Plan Amendment |
| <input type="checkbox"/> Site Plan/Design Review | <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Subdivision | <input type="checkbox"/> Planned Development | |
| <input type="checkbox"/> Extension | <input type="checkbox"/> Modification | Other |
| <input type="checkbox"/> Modification | | <input type="checkbox"/> Annexation* |

OVERLAY ZONES: ☐ Water Resources ☐ Unstable Slopes/Hillside Constraint

Please *print or type* the following information to summarize your application request:

APPLICATION # YR0503 (Please use this file # when contacting the Planning Division)

APPLICANT'S NAME: LARRY FRITZIE, FRITZIE ARCHITECTS

PROPERTY OWNER (if different): TED ANDERSON

PHYSICAL ADDRESS OF PROPERTY: 307 AMANDA CT.

DESCRIPTION: TOWNSHIP: 03 RANGE: S SECTION: 01E TAX LOT(S): 31E01DB

PRESENT USE OF PROPERTY: SINGLE FAMILY RESIDENCE

PROPOSED LAND USE OR ACTIVITY:

VARIANCE FOR REAR YARD SETBACK TO CONSTRUCT A COVERED PATIO STRUCTURE 13'D X 18'W

DISTANCE AND DIRECTION TO INTERSECTION:

S. END RD. TO LAWTON, 1/4 mi TO AMANDA CT. ON CORNER

CLOSEST INTERSECTION: SOUTH END RD + LAWTON

PRESENT ZONING: R-10

TOTAL AREA OF PROPERTY: 11,325 SF

Land Divisions

PROJECT NAME: NA

NUMBER OF LOTS PROPOSED: NA

MINIMUM LOT SIZE PROPOSED: NA

MINIMUM LOT DEPTH PROPOSED: NA

MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS
CHAPTER 227 REQUIRES THAT IF YOU RECEIVE THIS
NOTICE, IT MUST BE PROMPTLY FORWARDED TO
PURCHASER

VICINITY MAP

SEE ATTACHED

To be provided by the APPLICANT
at the time application is submitted

*Please See Separate Annexation Submittal Checklist

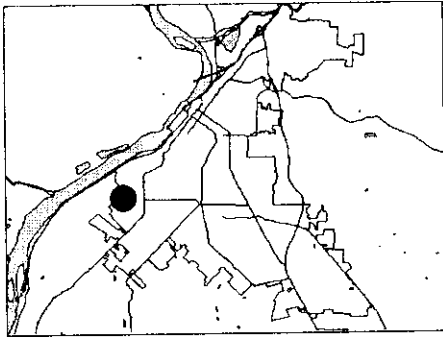
Exhibit 2

Oregon City Permit Submittal - Property Zoning Report

Printed July 11, 2005

Taxlot: 3-1E-01DB-00505

Site Address: 307 AMANDA CT



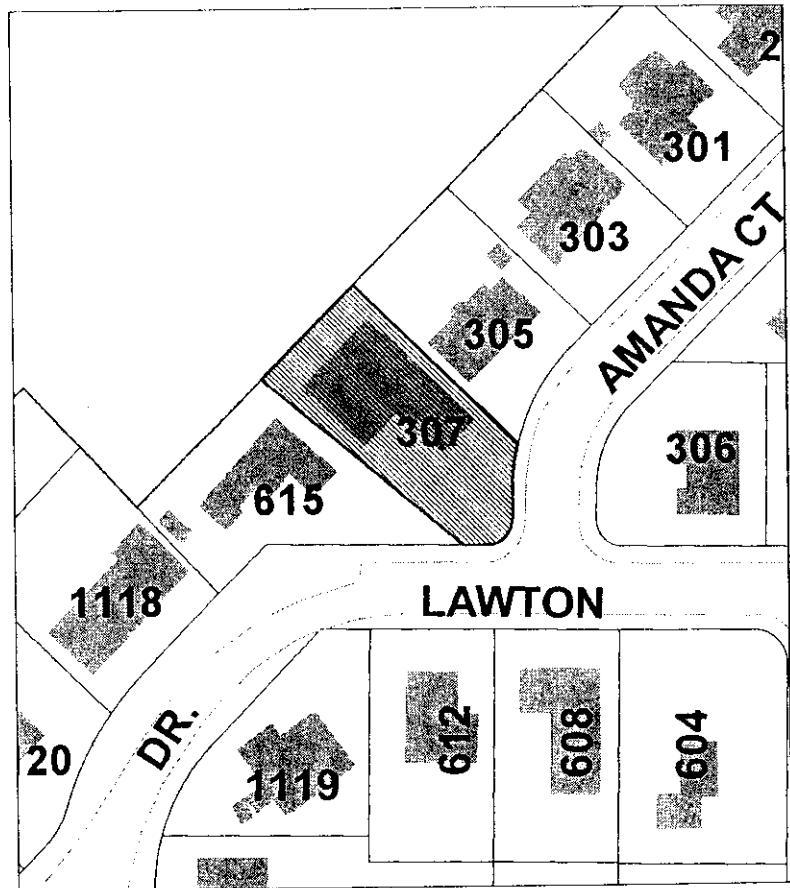
Taxlot Information

Taxlot Number: 3-1E-01DB-00505

Site Address: 307 AMANDA CT
OREGON CITY
OR 97045

Parcel Area (acres - approx): 0.26
Parcel Area (sq. ft. - approx): 11325

Twn/Rng/Sec: 03S 01E
Tax Map Reference: 31E01DB



Overlay Information

In Historic District? N
In Willamette Greenway? N
Geologic Hazards? N
In Water Resource Overlay District? N
In Floodplain? N

Owner Information

Last Name: ANDERSON
First Name: THEODORE A & DORIS A
Address: 307 AMANDA CT
OREGON CITY
OR 97045

Planning Designations

Zoning: R10
- 10,000 SF SFR Dwelling Unit
Comprehensive Plan: Ir
- Residential - Low Density

Subdivision: RIVERVIEW
Neighborhood Assn: South End NA
Urban Renewal District:
Historic District:



City of Oregon City

PLANNING DIVISION

320 WARNER MILNE ROAD
TEL (503) 657-0891

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



File Number _____

Approved ☐

Approved with Conditions ☐

Site Plan Review - Residential Design Standards

Effective December 17, 2004

Applicant: TED ANDERSON Phone: _____

Applicant Address: 307 AMANDA COURT

Site Address: 307 AMANDA COURT

Clackamas County Map and Tax Lot Number: TAX LOT # 31E01DB00S05

Subdivision Name (If Applicable): RIVERVIEW Lot Number: 2

Lot Coverage-

The maximum lot coverage for the R-10, R-8 and R-6 Single-Family Dwelling Districts shall be 40% of the lot area. Accessory buildings 200 square feet or less are exempt from the maximum building coverage calculation.

1. Total lot area (square feet)..... 11,704
2. Total area of all building footprints over 200 square feet..... 2,660
3. Line 2 divided by line 1..... 0.23

If line 3 is less than 0.40, the standard is met.

Standard Met YES

Overlay Zones-

(Please refer to your Property Zoning Report obtained at City Hall)

Historic Overlay District.....

Willamette River Greenway

Geologic Hazards.....

WR Water Resources Overlay District

Flood Management Overlay District

Circle One	Staff Only Applicable
Yes / <u>No</u>	
Yes / <u>No</u>	
Yes / <u>No</u>	
Yes / <u>No</u>	
Yes / <u>No</u>	

If any of the above overlay zones are on your property, you must contact the Planning Division regarding possible additional review prior to submitting a Building Permit. The Building Division will not accept your application for a building permit if any of the above overlay zones are present on your property until you have obtained Planning Division approval.

July 11, 2005

F R I T Z I E
A R C H I T E C T S

**Land Use Variance Application
To The City of Oregon City**

Applicant: Larry Fritzie, Fritzie Architects
Owner: Ted & Ardelle Anderson
Project Address: 307 Amanda Court, Oregon City, Oregon
Present Use: Single Family Residence – Owner Occupied
Variance Request: Chapter 17.08 R-10 Single Family Dwelling District,
17.08.030 Dimensional Standards
Paragraph E-5, Rear Yard Setback 20'
Rear Yard Setback Relief for a Proposed Patio Cover to an
Existing Residence
Project Data: Riverview Subdivision - Lot #2
Zoning: R-10
Unusual Character: Abuts Clackamas County TBR Zone & Oregon City Bluff.

Variance Narrative & Code Criteria:

The Andersons are requesting a Rear Yard Variance to construct an attached 13' x 18' covered patio structure, which will extend into the rear yard setback thirteen (13) feet. The patio structure will incorporate the same materials as are present on the residence, cement stucco column finish, 2 x 8 painted fascia boards and red Spanish tile roof.

The applicants rear property line is located above the Oregon City Bluffs, abuts the City Limits of Oregon City and Clackamas County Timber Resource Zone (TBR). The residence was built to the rear set back line, 20 feet from the property line, with an additional 40 feet of TBR zoned land to the edge of the bluff. This referenced 40 feet of land, is owned by a different owner and is maintained by the applicant, and is well planted with lawn and shrubbery.

The spirit of the set back code is to offer a buffer from adjacent neighbors along the rear property line, in a more traditional subdivision, however, this is a unique situation. It is impossible to construct or gain access to the 40 feet of unincorporated Clackamas County zoned TBR, additionally the TBR zone mandates a Primary Fire Zone around a planned residence of 30 feet, offering a mere 10 feet of land. Additional restrictions exist for building near the edge of a cliff, which would also prevent any new construction. Ultimately, the 40 feet of land, which the applicant maintains beautifully is not buildable, and as such, the spirit of set back code is maintained.

17.60.030 Variance – Grounds for Approval

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

Response: The location of the attached patio cover is 40 feet from side property on the north and 20 feet from side property on the south, and projects 13 feet from the applicants' residence. There is no impact on neighboring properties. The neighbors flanking the applicants' property have provided letters stating they have no objection to the variance or the planned structure.

- B. *'That the request is the minimum variance that would alleviate the hardship;'*

Response: The proposed 13' x 18' attached patio cover, represents an area equivalent to the existing main concrete patio, allows for a BBQ area, and table seating. Certainly, something slightly less than 13 feet deep is workable if so directed.

- C. *'Granting the variance will equal or exceed the purpose of the regulation to be modified;'*

Response: As discussed within the narrative above, the spirit of the rear yard setback is to provide a buffer between adjoining backyards. In this unique case the adjoining back yard is the Oregon City Bluff, effectively creating a natural barrier which exceeds 100's of feet to any potential new structure built down below the bluff. Yes, the variance will equal or exceed the purpose.

- D. *'Any impacts resulting from the adjustment are mitigated;'*

Response: The only Impact is to the 10' Utility Easement running along the rear lot line. Conversations with the City have indicated that the easement is likely never to be used; it is impractical to install utilities on the edge of a bluff.

- E. *'No practical alternative have been identified which would accomplish the same purpose and not require a variance;'*

Response: Other alternatives have been investigated, such as freestanding structures (not attached to the residence) which are allowed without a variance or building permit, they are called Accessory Structures. An Accessory Structure can be up to 200 sq. ft., and within three (3) feet of a property line.

An anecdote to the applicants proposed covered patio cover; should it be reduced to 200 sq. ft. and be attached to the existing residence – **no** building permit is required, per the 2005 International Residential Code, under Section R105.2 'Work exempt from permits', but the zoning code still requires a variance. This avenue of thinking was pursued; however, upon learning a variance would still be required we opted to enlarge the covered area to 234 sq. ft.

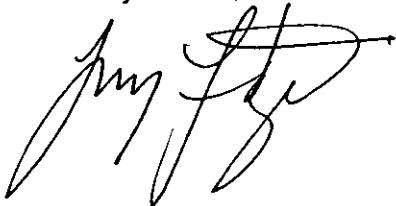
The applicants desire for the new structure to be integrated into the existing residence with matching materials and finishes, to appear seamless, as if it has always been there and provide protection from the elements from inside to outside.

- F. *'The variance conforms to the comprehensive plan and the intent of the ordinance being varied;'*

Response: The magnitude of this requested variance does not affect the comprehensive plan, and due to the location of the applicant's property, the spirit of the set back ordinance is maintained.

Thank you for your time and consideration.

Sincerely yours,
Larry Fritzie, Fritzie Architects

A handwritten signature in black ink, appearing to read 'Larry Fritzie', with a stylized, flowing script.

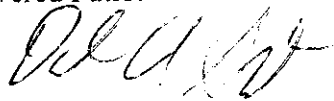
May 21, 2005

Mr. Dan Drentlaw, AICP
Community Development Director
City of Oregon City
Oregon City, OR 97045

Re: Anderson Residence - Proposed New Covered Patio
307 Amanda Ct, Oregon City, OR

Dear Mr. Drentlaw,

Our home is next door (north) of the Andersons' Proposed Covered Patio. They have furnished us with a site plan and Architects Rendering of the project. We have no objections to the constuction of the Proposed Covered Patio.

A handwritten signature in black ink, appearing to read "Dale & Brandie", written in a cursive style.

Dale & Brandie Smelser
305 Amanda Ct
Oregon City, OR 97045

May 21, 2005

Mr. Dan Drentlaw, AICP
Community Development Director
City of Oregon City
Oregon City, OR 97045

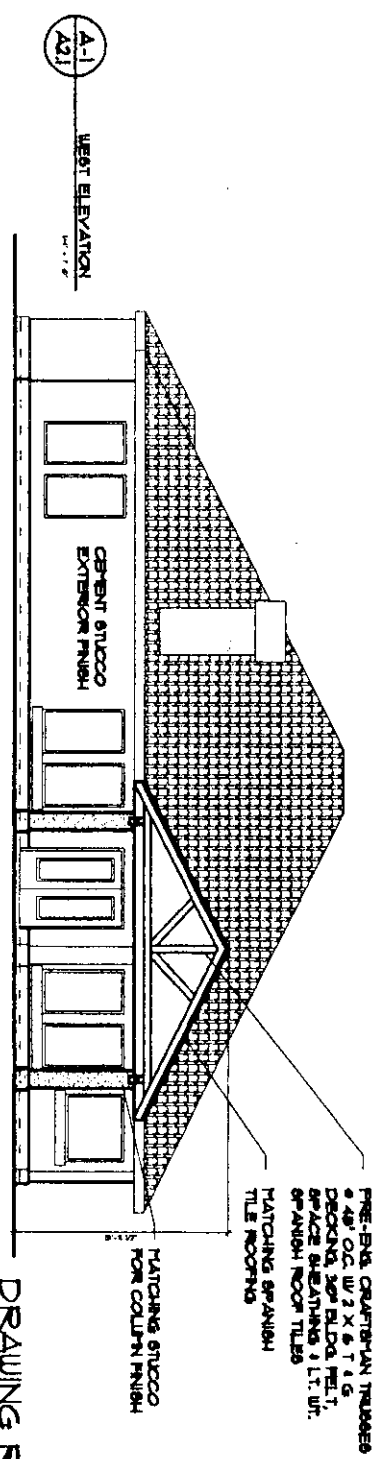
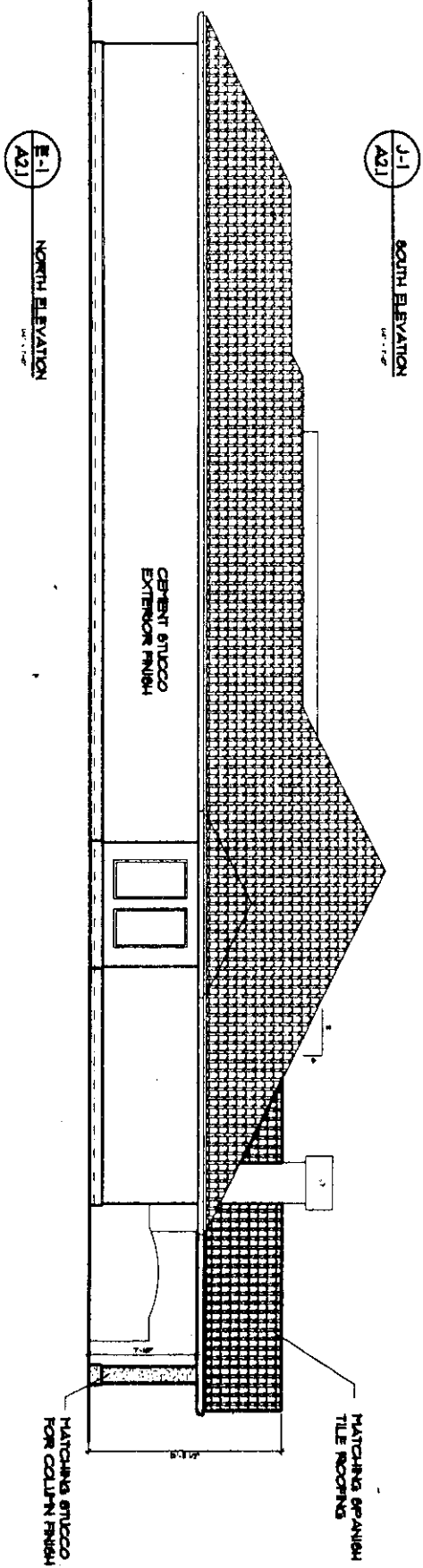
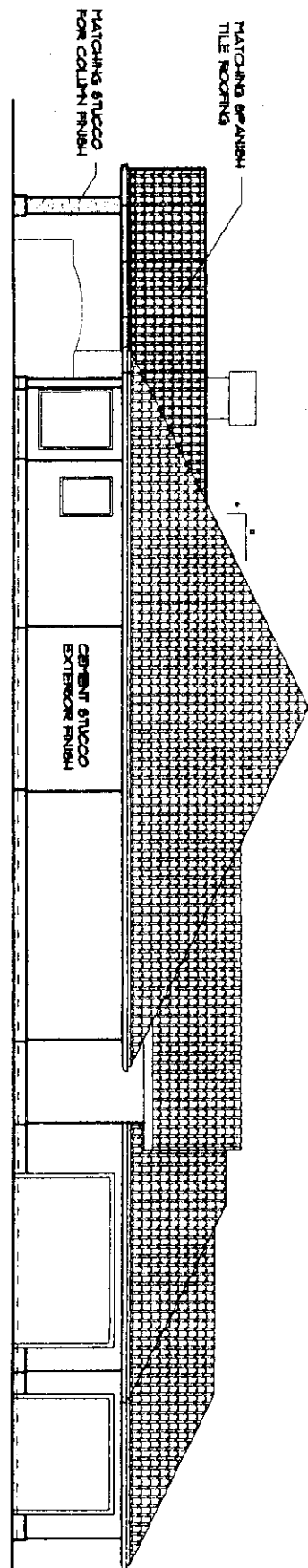
Re: Anderson Residence - Proposed New Covered Patio
307 Amanda Ct, Oregon City, OR

Dear Mr. Drentlaw,

Our home is next door (south) of the Andersons' Proposed Covered Patio. They have furnished us with a site plan and Architects Rendering of the project. We have no objections to the construction of the Proposed Covered Patio.



Rocky and Angie Smith
5 Lawton Rd.
Oregon City, OR 97045

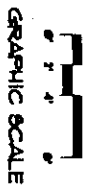
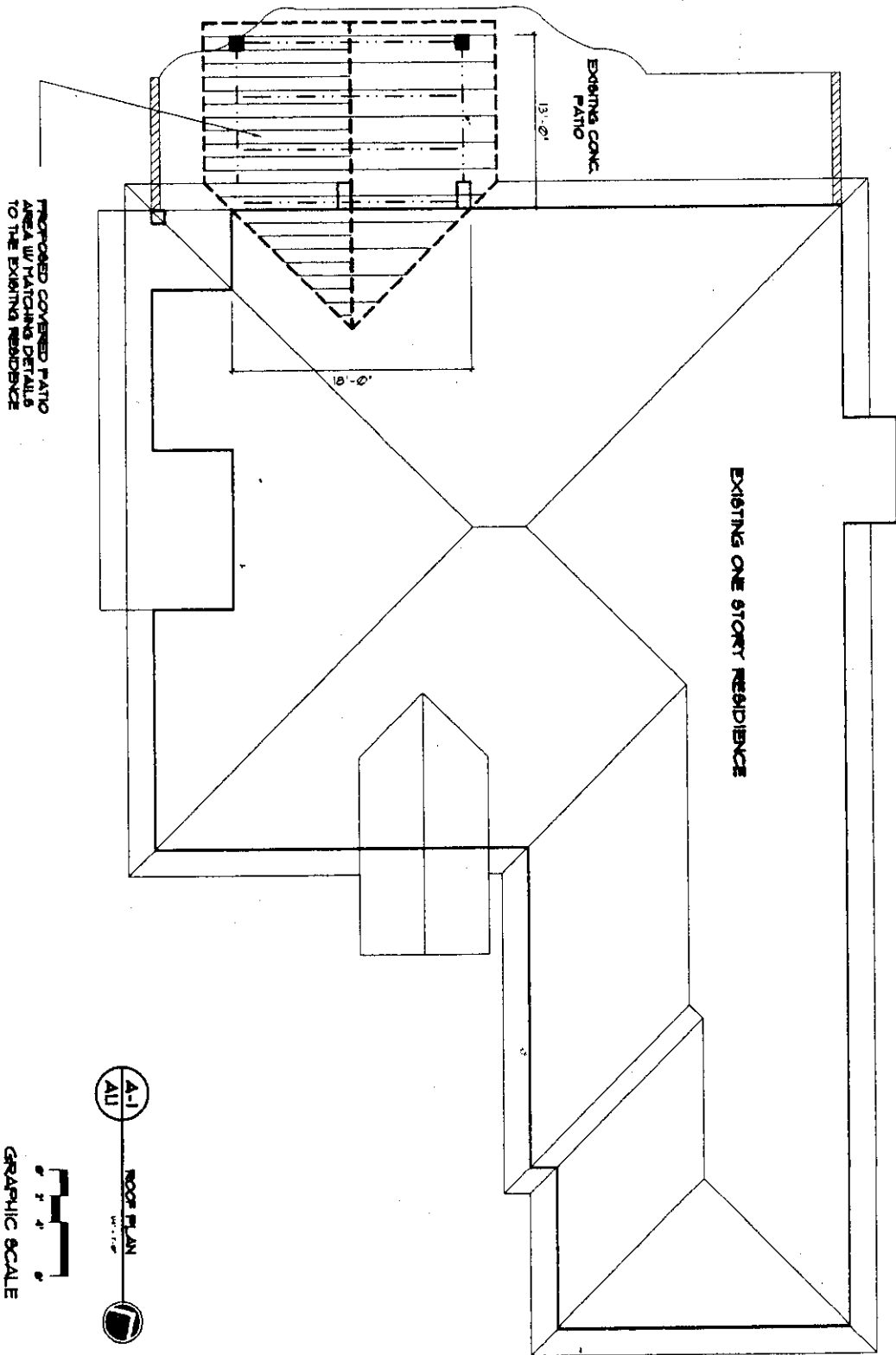


PRE-BID CRAFTSMAN TRILITE
 48" O.C. W/ 2 X 6 T & G
 DECKING, 30" BLDG. INT.,
 8" AC. SHEATHING & L.T. W/.
 6" ANISH ROOF TILES
 MATCHING 8" ANISH
 TILE ROOFING

DRAWING REDUCED TO 50%

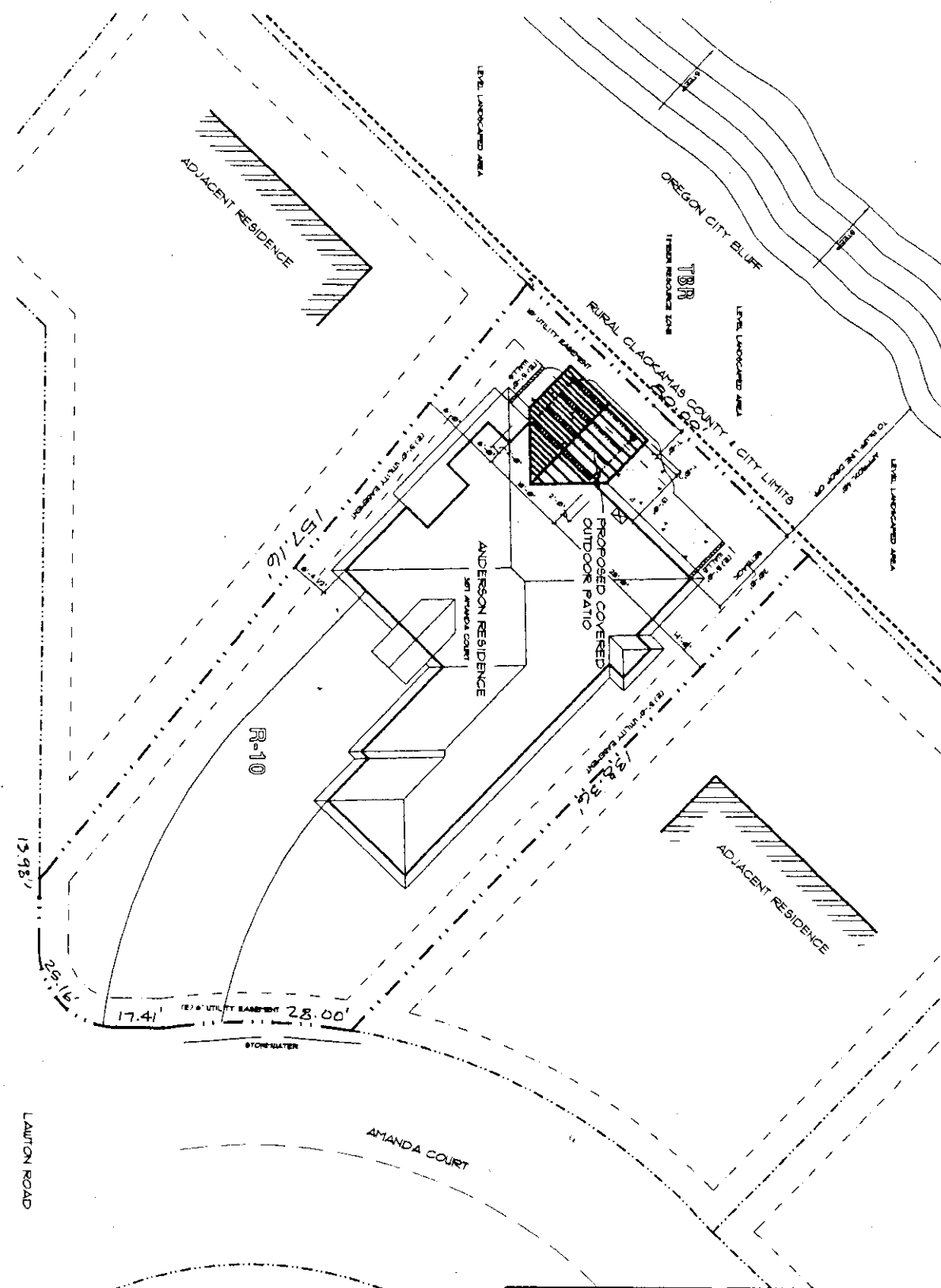
GRAPHIC SCALE

A2.1	1/4" = 1'-0" 1/8" = 1'-0" 1/16" = 1'-0" 1/32" = 1'-0" 1/64" = 1'-0" 1/128" = 1'-0" 1/256" = 1'-0" 1/512" = 1'-0" 1/1024" = 1'-0" 1/2048" = 1'-0" 1/4096" = 1'-0" 1/8192" = 1'-0" 1/16384" = 1'-0" 1/32768" = 1'-0" 1/65536" = 1'-0" 1/131072" = 1'-0" 1/262144" = 1'-0" 1/524288" = 1'-0" 1/1048576" = 1'-0" 1/2097152" = 1'-0" 1/4194304" = 1'-0" 1/8388608" = 1'-0" 1/16777216" = 1'-0" 1/33554432" = 1'-0" 1/67108864" = 1'-0" 1/134217728" = 1'-0" 1/268435456" = 1'-0" 1/536870912" = 1'-0" 1/1073741824" = 1'-0" 1/2147483648" = 1'-0" 1/4294967296" = 1'-0" 1/8589934592" = 1'-0" 1/17179869184" = 1'-0" 1/34359738368" = 1'-0" 1/68719476736" = 1'-0" 1/137438953472" = 1'-0" 1/274877906944" = 1'-0" 1/549755813888" = 1'-0" 1/1099511627776" = 1'-0" 1/2199023255552" = 1'-0" 1/4398046511104" = 1'-0" 1/8796093022208" = 1'-0" 1/17592186044416" = 1'-0" 1/35184372088832" = 1'-0" 1/70368744177664" = 1'-0" 1/140737488355328" = 1'-0" 1/281474976710656" = 1'-0" 1/562949953421312" = 1'-0" 1/1125899906842624" = 1'-0" 1/2251799813685248" = 1'-0" 1/4503599627370496" = 1'-0" 1/9007199254740992" = 1'-0" 1/18014398509481984" = 1'-0" 1/36028797018963968" = 1'-0" 1/72057594037927936" = 1'-0" 1/144115188075855872" = 1'-0" 1/288230376151711744" = 1'-0" 1/576460752303423488" = 1'-0" 1/1152921504606846976" = 1'-0" 1/2305843009213693952" = 1'-0" 1/4611686018427387904" = 1'-0" 1/9223372036854775808" = 1'-0" 1/18446744073709551616" = 1'-0" 1/36893488147419103232" = 1'-0" 1/73786976294838206464" = 1'-0" 1/147573952589676412928" = 1'-0" 1/295147905179352825856" = 1'-0" 1/590295810358705651712" = 1'-0" 1/1180591620717411303424" = 1'-0" 1/2361183241434822606848" = 1'-0" 1/4722366482869645213696" = 1'-0" 1/9444732965739290427392" = 1'-0" 1/18889465931478580854784" = 1'-0" 1/37778931862957161709568" = 1'-0" 1/75557863725914323419136" = 1'-0" 1/151115727451828646838272" = 1'-0" 1/302231454903657293676544" = 1'-0" 1/604462909807314587353088" = 1'-0" 1/1208925819614629174706176" = 1'-0" 1/2417851639229258349412352" = 1'-0" 1/4835703278458516698824704" = 1'-0" 1/9671406556917033397649408" = 1'-0" 1/19342813113834066795298816" = 1'-0" 1/38685626227668133590597632" = 1'-0" 1/77371252455336267181195264" = 1'-0" 1/154742504910672534362390528" = 1'-0" 1/309485009821345068724781056" = 1'-0" 1/618970019642690137449562112" = 1'-0" 1/1237940039285380274899124224" = 1'-0" 1/2475880078570760549798248448" = 1'-0" 1/4951760157141521099596496896" = 1'-0" 1/9903520314283042199192993792" = 1'-0" 1/19807040628566084398385987584" = 1'-0" 1/39614081257132168796771975168" = 1'-0" 1/79228162514264337593543950336" = 1'-0" 1/158456325028528675187087900672" = 1'-0" 1/316912650057057350374175801344" = 1'-0" 1/633825300114114700748351602688" = 1'-0" 1/1267650600228229401496703205376" = 1'-0" 1/2535301200456458802993406410752" = 1'-0" 1/5070602400912917605986812821504" = 1'-0" 1/10141204801825835211973625643008" = 1'-0" 1/20282409603651670423947251286016" = 1'-0" 1/40564819207303340847894502572032" = 1'-0" 1/81129638414606681695789005144064" = 1'-0" 1/162259276829213363391578010288128" = 1'-0" 1/324518553658426726783156020576256" = 1'-0" 1/649037107316853453566312041152512" = 1'-0" 1/1298074214633706907132624082305024" = 1'-0" 1/2596148429267413814265248164610048" = 1'-0" 1/5192296858534827628530496329220096" = 1'-0" 1/10384593717069655257060992658440192" = 1'-0" 1/20769187434139310514121985316880384" = 1'-0" 1/41538374868278621028243970633760768" = 1'-0" 1/83076749736557242056487941267521536" = 1'-0" 1/166153499473114484112975882535043072" = 1'-0" 1/332306998946228968225951765070086144" = 1'-0" 1/664613997892457936451903530140172288" = 1'-0" 1/1329227995784915872903807060280344576" = 1'-0" 1/2658455991569831745807614120560689152" = 1'-0" 1/531691198313966349161522824112137
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DRAWING REDUCED TO 50%

A-1 SHEET NO. TOTAL SHEETS: 1 OF 1 DATE: 10/1/04	ANDERSON RESIDENCE PROPOSED COVERED PATIO 1871 AVANDA COURT OREGON CITY, OREGON	REVISIONS NO. DESCRIPTION 1. 10/1/04	PROJECT: ANDERSON RESIDENCE DATE:	F R I T Z I E ARCHITECTS ARCHITECTS 1714 LAYTON AVE. OREGON CITY, OREGON 97041 TEL: 503-265-2545 FAX: 503-265-2545
	ROOF PLAN BY COVERED PATIO			



PROJECT DATA

ADDRESS: 3871 AMANDA CT, OREGON CITY, OR 97146

OWNER: TED & JACQUE ANDERSON

PROJECT: 3871 AMANDA CT, OREGON CITY, OR 97146

DATE: 08/01/2018

DESIGNER: FRITZIE ARCHITECTS

PROJECT NO.: 1801

DATE: 08/01/2018

PROJECT NO.: 1801

DATE: 08/01/2018

VICINITY MAP

ANDERSON RESIDENCE

PROPOSED COVERED PATIO

3871 AMANDA COURT

OREGON CITY, OREGON

SITE PLAN

FRITZIE ARCHITECTS

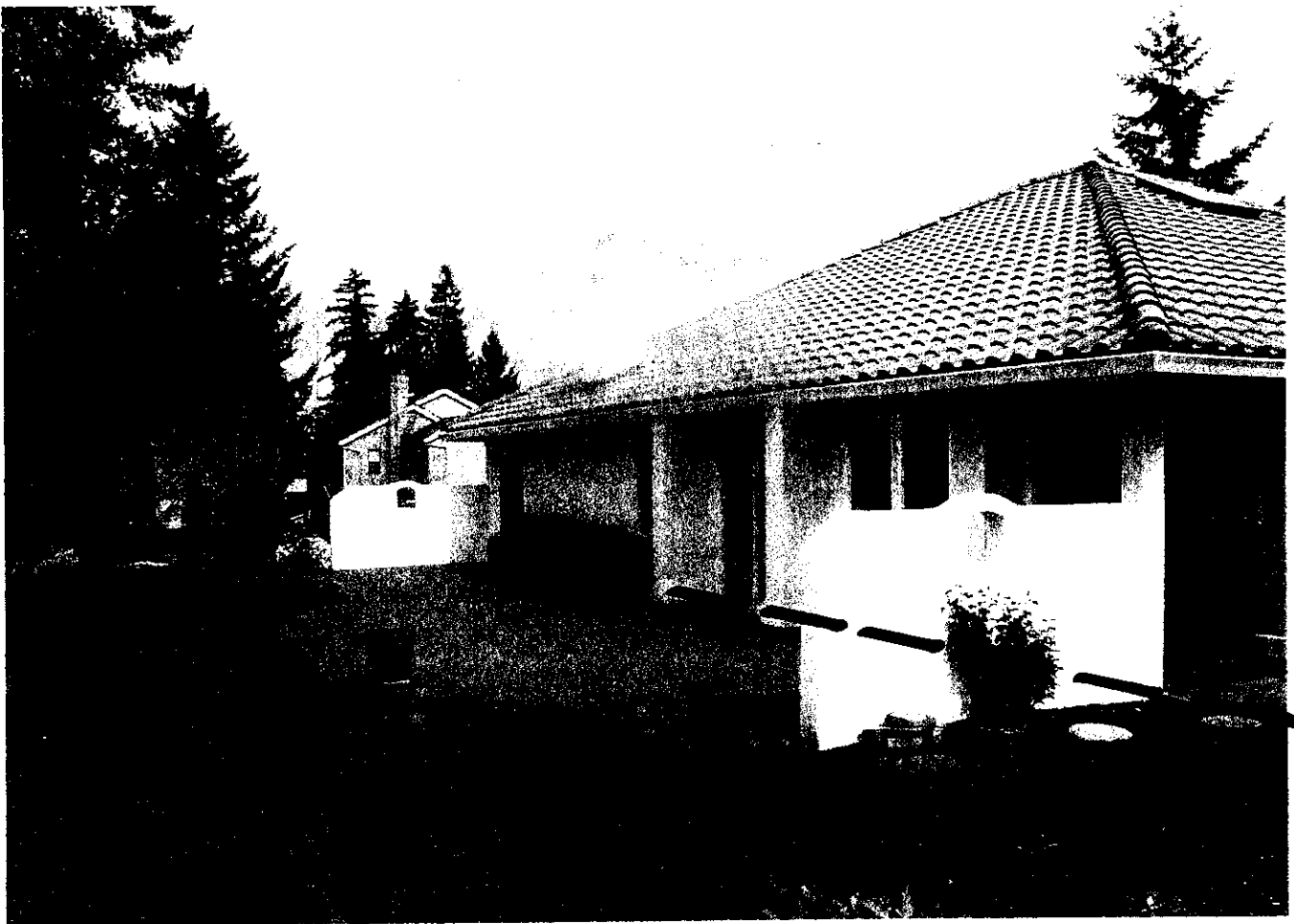
ARCHITECTS

1111 UNIVERSITY AVE

OREGON CITY, OREGON 97146

TEL: 503-655-5555

FAX: 503-655-5557

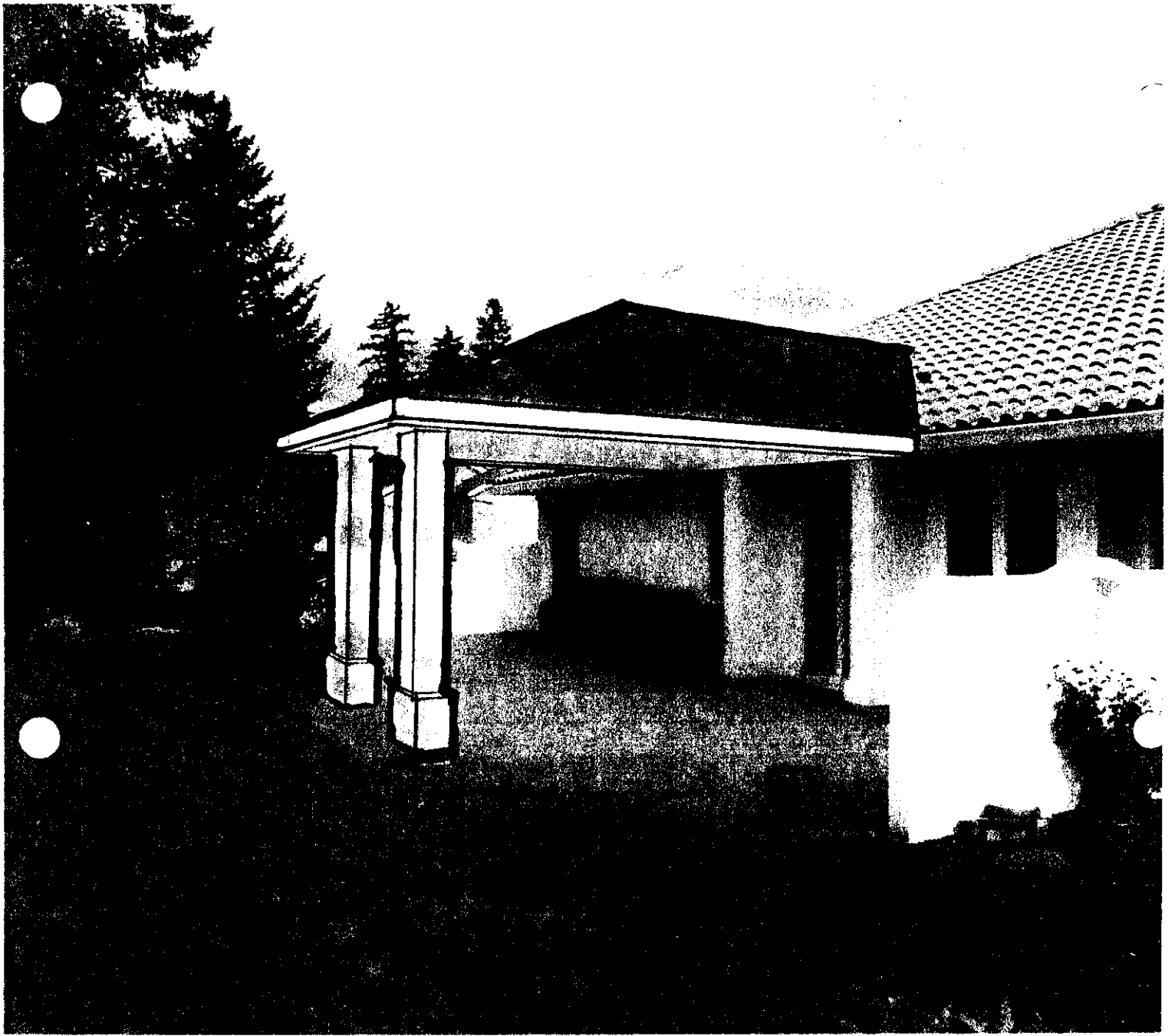


40' TO
EDGE
OF BLUFF

PROPERTY LINE

20' SETBACK

EXISTING CONDITION



EXTERIOR RENDERING



Chicago Title Insurance Company of Oregon

® 10135 SE Sunnyside Road, Suite 200

Clackamas, OR 97015

Phone No: (503)653-7300

STATUS OF RECORD TITLE

June 29, 2005

Order No.: 411313

TO: Fritzie Architech
1118 Lafayette Ave
Oregon City, OR 97045

ATTN.: Larry Fritzie

Customer Ref.: Anderson

Charge: \$200.00

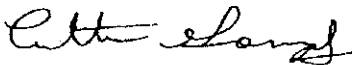
We have searched our Tract Indices as to the following described real property:

Lot 2, RIVERVIEW, in the City of Oregon City, County of Clackamas and State of Oregon.

Vestee: *Theodore A. Anderson and Doris A. Anderson, as tenants by the entirety*

Dated as of: June 10, 2005 at 08:00 AM

**CHICAGO TITLE INSURANCE COMPANY OF
OREGON**

By: 
Authorized Officer

THIS REPORT IS TO BE UTILIZED FOR INFORMATION ONLY. ANY USE OF THIS REPORT AS A BASIS FOR TRANSFERRING, ENCUMBERING OR FORECLOSING THE REAL PROPERTY DESCRIBED WILL REQUIRE PAYMENT IN THE AMOUNT EQUIVALENT TO APPLICABLE TITLE INSURANCE PREMIUM AS REQUIRED BY THE RATING SCHEDULE ON FILE WITH THE OREGON INSURANCE DIVISION.

The liability of Chicago Title Insurance Company of Oregon is limited to the addressee and shall not exceed the fee paid therefor.

Said property is subject to the following on record matters:

6. City liens, if any, of the City of Oregon City. No search has been made or will be made as to the existence of such liens.
7. Easements as dedicated or delineated on the recorded plat.
For: Utilities
Affects: 5 feet along side lot lines and 6 feet along all lot lines adjacent to Amanda Court
8. Easements as dedicated or delineated on the recorded plat.
For: Utilities
Affects: The Northwesterly 10 feet
9. Covenants, conditions and restrictions as shown on the recorded plat.
10. Covenants, conditions, restrictions and easements, but omitting covenants or restrictions, if any, based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, imposed by instrument, including the terms and provisions thereof.
Recorded: July 7, 1990
Recorder's Fee No.: 90-026802
11. Line of Credit Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein;
Dated: September 5, 2002
Recorded: September 9, 2002
Recorder's Fee No.: 2002-084671
Amount: \$220,000.00
Grantor: Theodore A. Anderson and Doris A. Anderson
Trustee: KeyBank USA National Association
Beneficiary: KeyBank National Association
Loan No.: 372001744579

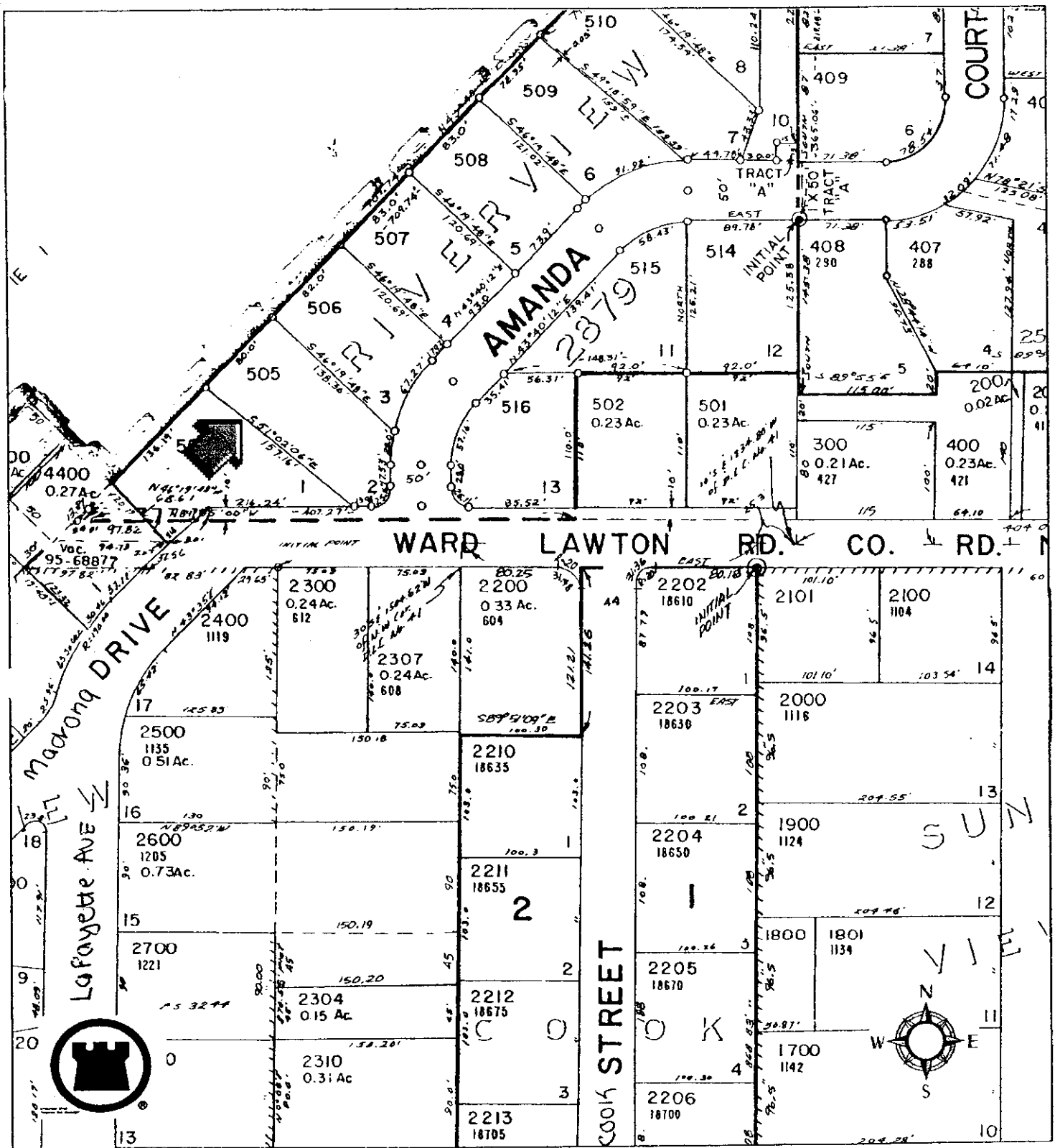
NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$5,145.91
Levy Code: 062-002
Account No.: 01455534
Map No.: 31E01DB
Tax Lot No.: 00505

NOTE: Property address is identified as:
307 Amanda Court, Oregon City, Oregon 97045

END OF REPORT

epg/jje
June 29, 2005



This plat is for your aid in locating your land with reference to streets and other parcels. While this plat is believed to be correct, the company assumes no liability for any loss occurring by reason of reliance thereon.

**CITY OF OREGON CITY
PLANNING COMMISSION**

MARCH 14, 2005

COMMISSIONERS PRESENT:

Chairperson, Lynda Orzen
Tim Powell
Tamara Seasholtz

Daniel Lajoie
Jerry Carr
James Roddey

STAFF PRESENT:

Tony Konkol, Associate Planner
Christina Robertson-Gardiner
Dan Drentlaw, Community Development
Director
Bill Kabeiseman, Assistant City Attorney

1. CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chair Orzen.

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA

None

3. APPROVAL OF MINUTES: None.

4. HEARINGS

Chair Orzen announced the evening's hearings.

VR 04-05 (*Quasi-Judicial Hearing*), Applicant: John Kyle Architect – John Kyle. A Planning Commission Variance reducing the number of required parking spaces from 7 to 4 for the proposed four-plex. This application was in association with approved Planning files HR 04-06 and HR 04-09

Chair Orzen reviewed the procedures which began with a staff report and correspondence followed by the applicant's presentation and any public testimony either for or against the applicable criteria for the application. There was one quasi-judicial public hearing which was VR 04-05 on a land use application.

The staff report was available seven days prior to this hearing. The report identified the approval criteria that applied to each applicant's proposal. Chair Orzen would read those criteria if anyone wished. Staff analyzed the criteria contained in the staff report along with written comments and input received through the public notification process for each application.

The quasi-judicial hearing procedure that the Commission would follow was set out in State Law and the Oregon City Municipal Code (OCMC). The hearing procedures were indicated on the chart. Anyone wishing to speak was asked to complete the form and give those to staff prior to the hearing. Letters, reports, or pictures had to be marked as an "exhibit" by the planning staff before they were submitted into the record. For the public record, people were asked to begin testimony by stating their names and addresses. Testimony and evidence was to be directed toward the applicable approval criteria. If one believed other criteria applied in addition to those addressed in the staff report, then one should identify and discuss those criteria and explain why those applied to the application under consideration. One who did not testify could submit written materials of any length while the public record was open on each application. Any party wishing a continuance or to keep the record open had to make that request before the public hearing was closed.

If the Planning Commission made a decision with which one disagreed, any issue that one wished to appeal had to be raised for the Commission's consideration. Without raising the issue on the record with sufficient specificity and accompanied by statements or evidence so that the City and all parties could respond, the issue would not be adjudged appealable to the State Land Use Board of Appeals (LUBA). In addition, ORS 197.796 required the Planning Commission to announce that the failure of an applicant to raise constitutional or other

issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precluded an action for damages in circuit court.

Chair Orzen asked if any Commissioners had ex parte contacts, conflicts of interest, bias, or other statements to declare.

Commissioner Powell announced he was the co-chair of the McLoughlin Neighborhood Association where the subject site was located. He attended neighborhood meetings where this proposal was discussed, and he excused himself from the meeting at that time. At a subsequent meeting, he was present when the land use chair notified the membership of the first Historic Review Board (HRB) decision. Since that time, he was not associated with the issue at all. He was very familiar with the application since he was in the neighborhood and was open to questions.

Three Planning Commissioners indicated they had visited the site.

There were no challenges to Commissioner Powell's taking part in the decision.

Staff Report

Ms. Robertson-Gardiner provided the report related to the Historic Review Board (HRB) approval that required additional review by the Planning Commission. The applicant sought a variance from the Oregon City Planning Commission to reduce the number of required parking spaces from 7 to 4 for a proposed four-plex. The subject parcel was located at 719, 721, 723, and 725 Monroe Street. She would indicate the address from this point at 725 Monroe Street. The site was also identified as Clackamas County Map 22E31AD Tax Lot 4700.

Ms. Robertson-Gardiner provided a map of the area where the subject property was located. She indicated the 7th Street mixed use commercial corridor. The property was located just north and behind the Carriage House Music Store and Mike's Drive-In. The area had many different zones. In the mixed use corridor on 7th Street, there were 6 single-family residences on 6,000 square foot lots, and the new R-3.5, 2-family zones were also located to the north of the 7th Street Corridor. There were 2 properties to the west. One was the Zion Church and parking lot just north of the subject site at 720 Jefferson Street. The Church submitted the only public comment and indicated it had no conflict with the application.

The property was zoned R-3.5 and was located in the McLoughlin Conservation District. The property was about 6,300 square feet. Per the zone, if this were a vacant lot, only one house would be allowed. There was a four-plex on the site that was destroyed by fire in October 2003. Per Chapter 17.58.030(D), destruction of a residential use, "When a structure containing a lawful non-conforming residential use was damaged by fire or other causes the re-establishment of the non-conforming use shall be permitted." The four-plex had 4 units on that one tax lot. If it burned down, this law allowed the property owner to build back those 4 units. As part of the HRB's historic compatibility review in the McLoughlin Conservation District, it reviewed the bulk, mass, and size of what the building was. The applicant could have proposed 4 studio units or 4, 3-bedroom units as both of those configurations were considered 4 dwelling units. The number of bedrooms did not change the number of dwelling units. They were allowed 4, and the applicant requested to rebuild 4.

Ms. Robertson-Gardiner referred to staff report page 5 which was an aerial photograph that also indicated the 7th Street Corridor. There was still an historic house on the site, and those who visited the site would see that it was a boarded-up shell. The interior was almost completely gutted. The HRB and building official agreed that it could not be rehabilitated and needed to be demolished. The applicant was waiting on demolition until the review procedure was approved.

Page 7 was the proposed site plan. The applicant proposed to demolish what remained of the existing building and construct a 4-unit multi-family building. That was approved by the HRB under HR 04-06 and HR 04-09. The applicant also received approval of preservation incentives in January 2005. Preservation incentives allowed the HRB the ability to adjust the underlying zone's dimensional standards to create a more compatible development than if the underlying zone's dimensional standards were strictly enforced. That meant there was an R-3.5 with 2 family setbacks. This was a proposed four-plex. The applicant worked with the HRB to make

some slight adjustments to the side, rear, and front setbacks to make a more compatible development looking at the site specifically around the property rather than just the zone. That was approved in January 2005. The HRB approvals of the building and reduction in dimensions were completed.

At this time, the applicant was requesting approval of the variance to parking standards. If that was approved, then the applicant would go through an administrative site plan and design review to actually build the multi-family building. The applicant was about midway in the process. Ms. Robertson-Gardiner provided elevations on page 8 of 8th and Monroe Streets which were the 2 public elevations. Page 9 showed the 2 rear elevations.

The request was for a reduction to the parking spaces to the requirement of 17.52 – off street parking and loading. Ms. Robertson-Gardiner provided a graph. Whenever there was a multi-family development, the number of required parking spaces was based on the bedrooms of each unit. In this case, the applicant requested a 3-bedroom four-plex and as such 7 spaces were required. The HRB did not have the authority to reduce the number of parking spaces. The applicant proposed 4 spaces, 1 for each unit located within an attached garage.

Ms. Robertson-Gardiner reviewed the variance criteria on page 11. Criterion A was that the literal application of the provision of this title would deprive the applicant of rights commonly enjoyed by other properties, or an extraordinary circumstance applied to the property that did not apply to other properties. Staff found this criterion was met in both cases. One was the extraordinary nature of the fire that destroyed the building. Many homes in the area either did not have parking or had undersized parking for the needs.

Criteria B was that the variance did not cause substantial damage to the adjacent properties by reducing light, air, safe access, or other desirable or necessary qualities otherwise protected by this title. This project was extensively reviewed by the HRB through a public hearing process for compatibility with the neighboring historic and non-historic properties. The Board agreed with that applicant that the project would be overall less desirable to both the tenants and the neighbors if the remaining 3 parking spaces were located on the property. Additionally, while the required open space would technically be met under administrative site plan and design review, the resulting open space would be far less desirable than what was being proposed.

In regards to Criteria C, the applicant's circumstances were not self-imposed or did not constitute a monetary hardship or inconvenience. This was not a self-imposed hardship. The applicant was dealing with a fire that destroyed a 100-year old building with very small one-bedroom units and was trying to rebuild a four-plex with market rate conditions. As such, the applicant came to a problem where existing code for a multi-family zone which was generally considered to be a hilltop, large apartment complex zone and parking requirements with a small infill four-plex project.

In regards to D, no practical alternatives were identified that would accomplish the same purpose not requiring a variance. There was an alternative, but the applicant, staff, and HRB did not really find it one that would create livability in the neighborhood.

Criteria F had to do with the variance conforming with the Comprehensive Plan and in the intent of the ordinance being varied. The applicant provided an excellent analysis of how this proposal met the larger goals and policies of the 2004 Oregon City Comprehensive Plan. The proposed four-plex would promote urban containment, redevelopment, efficient and cost effective services, multi-modal transportation, and overall contribute to the larger City goals of sustainable development.

Staff recommended approval of the variance and found the proposal would provide 4 new housing units in an area where there were originally 4 housing units. There would not be a net loss of housing in the McLoughlin area. Ms. Robertson-Gardiner added the PowerPoint presentation as Exhibit A to the file.

Chair Orzen asked how many bedrooms were in the existing units.

Ms. Robertson-Gardiner did not know specifically, but she believed they were small. It was a house that was converted to a four-plex in about 1920 or 1930. As such, they were 1-bedroom units. In staff's opinion, rebuilding 1-bedroom condominium units in today's market would present a problem. She understood why the applicant was trying to provide a market rate housing that could be sold.

Commissioner Powell referred to page 7, the proposed site plan. There were 2 dimensions on the garages. Was the 12-foot dimension to the face of the garage?

Ms. Robertson-Gardiner replied the garage had a small overhang. She believed 10-foot was the overhang, and 12-foot was the footprint.

Commissioner Powell understood a vehicle 12-feet in length could fit in the driveway.

Ms. Robertson-Gardiner said that was correct.

There were no further questions of staff.

Applicant's Presentation

- **John Kyle, Architect, POB 12438, Portland, Oregon 97212.**

Mr. Kyle summarized the application. The project was re-designed several times. The issue was how to replace a more than 100-year old structure in its use that would meet present codes which the old building did not and could not. That was one of the reasons the Oregon City building official announced it could not be rebuilt or replaced. One correction was that there was one 2-bedroom unit. That did not change the parking requirement, so that was not particularly important to the issue before the Planning Commission at this hearing.

The problem that had to be solved from the beginning was the massing and scale and neighborhood compatibility. Finally, a project was put together that satisfied the HRB. The issue as Ms. Robertson-Gardiner presented in the staff report was whether there would be landscaping or hardscape to meet the parking requirement. Bob Swan who owned and operated the property was present if there were any questions about historic use. The heart of the presentation in terms of parking was that the project would make street improvements that realistically creating more parking. 8th Street was an unimproved street with narrow widths, no sidewalks, no curbs, and no gutters. Parking was available but not very inviting. Mr. Kyle felt it was reasonable to assume that a 2- or 3-bedroom unit was intended to be family housing and would go from rental to being owner-occupied. That was positive to the neighborhood and to all of the Comprehensive Plan goals. It was reasonable to assume that more than 4 cars might attend these units as the code contemplated. The application included the suggestion that this represented no real change to the use of the property. He believed that was the heart of it. Not only would more public parking be made available, but also there had been no off street parking available for the 4 units. There was an old garage on the site, but it was never used for parking. This proposal provided 4 garages, screened parking and a better accessibility adjacent which met the code for the 3 spaces required in the public right-of-way. That was a condition that always existed. His view was that the project was compatible and met all the applicable goals of the Oregon City Comprehensive Plan. The project could be developed in the market place which was hoped to attract 4 families to the center of a very nice neighborhood in a very nice City. The parking variance did not detract from the intent of the code or the neighborhood or City requirements.

Commissioner Lajoie understood Mr. Kyle to say there were 3 off-street spaces.

Mr. Kyle replied that 7 were required, and the proposal provided for 4 enclosed garages.

Commissioner Lajoie asked how many parking places would be available off-street adjacent to the property.

Mr. Kyle had not completed the City's development review process that would have some determination of that. From his own calculations based on parallel parking on the street, there would be up to 8 immediately adjacent to the site. Certainly 7 immediately adjacent to the site – the curb and sidewalk adjacent to these units.

Chair Orzen referred to Goal 1 – sustainability. Mr. Kyle mentioned this enhanced the possibility of making approximately 900 square feet of roof area available to occupants for roof gardens. She did not see anything in the plans.

Mr. Kyle replied that landscape was not really part of the application. A plan prepared by a landscape architect was required for the development review process. He discussed combining the elevational view and the site plan. The easiest one to understand was Monroe Street. There were 3 modules that made up 2 units. The outer

2 modules were 2-stories. The middle module which was shared in an L-shape by the 2 units was 1-story. Internally when one came to the second story in either unit, there was access to the module in the middle at the roof level. He had done this before in a project in Portland. That roof area had a door and was accessible. Typically the residents used the available space, and it was planted. It became decks and terraces. The City code requirements were being exceeded and could be used as a factor for the private space that each multi-family residence had to have. If one looked at the elevation, there would be some sort of greenery when people purchased and lived in the units.

There were no further questions from the Commission

Public Testimony

None.

Final Staff Comments

Ms. Robertson-Gardiner believed this was a reasonable request for a redevelopment project that had gone through the rigors of the public hearing process.

Commissioner Lajoie referred to page 3 of the staff report. It said OCMC 17.52.011 was written for larger multi-family projects in mind on larger parcels. It went on to explain that there really was not the intent for small projects to have this sort of parking requirement. He asked if staff recommended amending the zoning ordinance for smaller projects.

Ms. Robertson-Gardiner said that was discussed and may be an approach. This was an odd duck because it was a rebuild of a non-conforming use. One discussion was in mixed use commercial was the ability for the Community Development Director to reduce some of the parking spaces. There was a discussion about revisiting that. This one because it was a rebuild, even if things were changed, might need to come back because it was on a property zoned R-3.5. In the off-street parking and loading chapter for multi-family there was an assumption that one was in an apartment complex. Of one continued that line of thinking, one did have projects that did not fit. The City may need to look at that.

Chair Orzen closed the public hearing.

Deliberations

Commissioner Lajoie asked how the parking was in that area.

Commissioner Powell said parking in the area was researched. Monroe Street was the worst parking and generally so in the evening after the bars opened. 8th Street was open on all 4 sides, so there was no problem with that street. He indicated he did research at all hours of the day. If this were one house down, then he would say there was a problem. Because it was on the corner of 8th Street, he thought there was plenty of parking available. There was parking for additional vehicles in the driveway, and most vehicles would fit in those 12 feet. To him it seemed like a logical step.

Mr. Konkol noted that some additional facts were being added and if anyone wished to comment on those facts, the hearing would have to be reopened.

There was no rebuttal.

Chair Orzen closed the hearing.

Chair Orzen observed this seemed like a good project. The applicant was providing 4 more places where there was no parking at this point.

Commissioners Powell/Lajoie m/s for approval of VR 04-05. **Ms. Robertson-Gardiner** polled the **Commissioner**. **Commissioners Carr, Seasholtz, Roddey, Powell, and Lajoie** and **Chair Orzen** voted 'aye.' [6:0]

Planning Commission Work Session

Mr. Drentlaw said he and Mr. Kabeiseman would continue with the training series. The neighborhood leadership and land use chairs were invited to attend this training.

Chair Orzen recessed the meeting while staff arranged the room for training.

Mr. Drentlaw said this was the second workshop with the Commission on the process, decision-making, permits, and related topics. This was a follow up to familiarize the group with planning department activities, and the department would provide an informational session at the April 12 CIC meeting. The intent was to bring clarity as to how state and local laws worked.

Mr. Drentlaw reviewed the history of Oregon land use. The first legislation was in 1919 when the state enacted enabling legislation so cities and counties could regulate land use. When that law passed, cities were allowed to appoint Planning Commissions. Senate Bill 10 that passed in 1969 required that cities to develop plans. Senate Bill 100 adopted in 1973 defined 14 land use goals and established a Land Conservation and Development Commission (LCDC). A couple of years later, 5 more goals were added. Those original 14 goals resulted from concerns about development in the Willamette Valley and urbanization of farmland. Tom McCall was instrumental in starting that Commission. The focus of that legislation looked at how natural resources were preserved in terms of urban development and how growth was contained. Urbanization with high densities was encouraged so development did not spread into the farmland. Other times, the natural resources within the cities were threatened. It was a push and pull between preserving natural resources and trying to keep development efficient and relatively dense. That had always been a political football, and it was difficult to weigh all the factors.

LCDC reviewed and acknowledged the Comprehensive Plans developed by local jurisdictions. That and periodic review were the state's primary responsibilities. The post-acknowledgement process occurred when parts of a Comprehensive Plan were changed, and the City was required to notify the state. LCDC reviewed the local plans to ensure that they met statewide goals. The state had the ability to prohibit cities from making land use decisions and could suspended revenue sharing if plans did not meet statewide goals. The state also had the state Land Use Board of Appeals (LUBA). He discussed the series of appeals that could take place. This was also the only part of the country that had an elected regional government. Metro provided a lot of input through its 2040 Plan that defined a number of different design concepts. Oregon City, for example, was 1 of 7 designed a regional centers. It provided guidance in development and transportation. The Metro Functional Plan set out a number of requirements such as protection of natural and water resource. Cities had to do a number of things to ensure Functional Plan requirements were met. Affordable housing was also included in the Functional Plan. It provided overall development guidance and guided development of city codes. There were certain legal responsibilities but most important was how the City wanted to grow. That was the importance for the Planning Commission's involving citizens. Counties in Oregon went through the same process, but it was his experience was that there was a lot of coordination. The group discussed the coordination of city and county plans.

Mr. Drentlaw said the Comprehensive Plan provided the basis for the decisions made in quasi-judicial land use hearings and provided direction in how the City used its revenues. For example, where would streets and utilities be built? He discussed the decision types that were simply numbered 1, 2, 3, and 4. The Type 1 decision was the most basic decision made by the planning department and did not require a lot of discretion. Type 4 decisions related to something like rezoning of property which was a fairly significant decision and provided room for interpretation. Staff made recommendations but did not make the decision. This type of process required more rigorous public notification. The Planning Commission considered types 3 and 4. Certain variances came before the Planning Commission depending on the degree. He discussed legislative changes that came before the Planning Commission, quasi-judicial hearings, and administrative decisions.

Mr. Drentlaw discussed the roles of staff, the Planning Commission, and City Commission. Staff spent most of its time on administrative processes such as making sure the developer met all the regulations and enforcing conditions. The department was responsible for making sure the applicant followed through on his conditions, and this was probably the area in which the department was falling short. There simply was not enough staff to do that. The staff also advised the Planning Commission and City Commission and helped educate the public on how to go through the application processes. He discussed negotiating on certain views that may differ

between the neighborhood, developer, Planning Commission, or City Commission. Staff worked to bring the differing viewpoints together to come to something that made sense. Another important function was long range planning and moving toward the vision of the City. This was a problem in Oregon City because it had a history of being a training ground for young planners. Continuity was very important to provide a history of past approvals and conditions.

The Planning Commission was appointed by the City Commission because it reflected a variety of values within the community. It was important that it provide a long-range vision of how the City would grow and what it would look like. The Commission also provided a forum for the public and applied policies and communicated its decisions with the public.

The City Commission was elected. While the Planning Commission focused on land use, the City Commission focused on the City as a whole.

Mr. Kabeiseman reviewed notice requirements, oral and written testimony, bias, ex parte contacts, and conflicts of interest.

The group discussed notification requirements and requirements related to public comment. Various members discussed giving time to others for testimony.

Mr. Drentlaw noted it was up to the chair to ensure there was equity in the amount of time people were allowed to speak.

Commissioner Powell pointed out that in some situations the Planning Commission asked questions of the applicant which took additional time. These questions were often critical for the Planning Commission to make a decision.

The group discussed timelines and extensions related to the 120-day rule. They talked about who had the authority to request and/or grant extensions. Mr. Kabeiseman discussed continuances, leaving the record open, and the meaning of date certain. They discussed whether or not people could speak a second time at a continuance and when written comments could be submitted. Planning Commissioners discussed hearing lengths and having time for adequate, quality deliberations toward a decision. At some quasi-judicial hearings there was pressure to make a decision because of the 120-day rule. They discussed giving the chairperson authority to sign an order in a time crunch. The group discussed decision-making when all the criteria were met and the importance of deliberation. The role of the neighborhoods and their comments in the decision-making process were addressed.

Attendees discussed conflicts of interest, bias, and challenges and the role of the Planning Commission in determining the validity of a challenge. Commissioner Powell noted he might have personal knowledge of a developer, for example, without knowing anything about the application. The group discussed previous partnerships and when ex parte contacts should be announced. A conflict of interest would have to do with financial gain by a decision-maker or a member of his or her immediate family. Mr. Kabeiseman discussed when it was appropriate to declare contacts or possible relationships if they might be construed as a conflict.

Chair Orzen adjourned the work session at 8:45pm

Respectfully Submitted

Tony Konkol, Senior Planner

**CITY OF OREGON CITY
PLANNING COMMISSION**

March 28, 2005

COMMISSIONERS PRESENT:

Chairperson, Lynda Orzen
Tamara Seasholtz
Daniel Lajoie
Jerry Carr

STAFF PRESENT:

Tony Konkol, Senior Planner
Bob Cullison, Engineering Manager
Bill Kabeiseman, Assistant City Attorney

COMMISSIONERS ABSENT:

James Roddey
Allan Dunn
Tim Powell

1. CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chair Orzen.

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA

None.

3. APPROVAL OF MINUTES: February 28, 2005.

Commissioners Seasholtz/Carr m/s to approve the minutes of February 28, 2005. Mr. Konkol polled the Planning Commission: Commissioners Carr, Seasholtz, and Lajoie, and Chair Orzen voting 'aye.' [4:0]

4. HEARINGS

Chair Orzen announced the evening's hearing which was the continuation of:

AN 04-01 (*Quasi-Judicial Hearing*), Applicant: Guy and Lisa Matychuck. The applicant was seeking approval of an annexation of 13 properties located on Beutel Road. The sites were located at the east end of Beutel road and identified on the Clackamas County Map as 3S-1E-12BD, tax lots 100, 200, 300, 400, 500, 600, 700, 800, 900, 1000 and 1100 and 3S-1E-12B, tax lots 1400 and 1401.

Chair Orzen reviewed the order of the hearing. She requested that any testimony apply to new evidence as the Planning Commission heard substantial testimony at the previous hearing. Testimony would be limited to 5 minutes for individuals, 15 minutes for representatives of recognized neighborhood associations, and 15 minutes for applicant comments.

The quasi-judicial hearing procedure that the Commission would follow was set out in State Law and the Oregon City Municipal Code (OCMC). The hearing procedures were indicated on the chart. Anyone wishing to speak was asked to complete the form and give those to staff prior to the hearing. Letters, reports, or pictures had to be marked as an "exhibit" by the planning staff before they were submitted into the record. For the public record, people were asked to begin testimony by stating their names and addresses. Testimony and evidence was to be directed toward the applicable approval criteria. If one believed other criteria applied in addition to those addressed in the staff report, then one should identify and discuss those criteria and explain why those applied to the application under consideration. One who did not testify could submit written materials of any length while the public record was open on each application. Any party wishing a continuance or to keep the record open had to make that request before the public hearing was closed.

If the Planning Commission made a decision with which one disagreed, any issue that one wished to appeal had to be raised for the Commission's consideration. Without raising the issue on the record with sufficient specificity and accompanied by statements or evidence so that the City and all parties could respond, the issue would not be adjudged appealable to the State Land Use Board of Appeals (LUBA). In addition, ORS 197.796

required the Planning Commission to announce that the failure of an applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precluded an action for damages in circuit court.

Chair Orzen asked if any Commissioners had ex parte contacts, conflicts of interest, bias, or other statements to declare.

The four Commissioners present indicated they had visited the site.

Mr. Cullison said the staff report was amended to recognize continuation of the hearing. Exhibit E was the first page of the staff report. The recommendation changed the election date to September 20, 2005 as the window for filing for the May 17, 2005 elected was closed.

The second change was the last page of the staff report, page 17 of 17. Contained in the recommendation, the wording was changed to make the language regarding Measure 37 waivers more clear. It read, "The Planning Commission should also make a recommendation that required all consenting property owners to sign a waiver of Measure 37 rights prior to the City Commission adopting a final ordinance accepting a positive annexation election result."

The final change was on the last page of Exhibit A, the findings to the staff report. Item #10 talked about that same issue and read, "Finally the Commission recommends that all consenting property owners be required to sign a waiver of Measure 37 rights prior to the City Commission accepting a final ordinance accepting a positive annexation election result."

Mr. Kabeiseman reviewed the Measure 37 waiver. In November, Oregon voters passed the Measure that allowed people who owned property to come forward with a claim against a city for damage suffered from new regulations. The City had 2 main options which were to either pay the damages or to waive those regulations adopted that the person was complaining about. There were a number of related issues such as if the City did waive the regulation, then who did the waiver go to? What did the waiver create? In terms of this annexation, the City Commission had some discussions about this when it was examining Measure 37 and made some clear direction that if someone wanted to annex to the City, then they would be required to waive their right to make a claim against the City based on Measure 37. Right now an applicant for annexation was in Clackamas County and had County regulations. Upon annexation, the City regulations would be in effect. To the extent that applicant wanted the benefit of being in the City, the City Commission thought that if one accepted the benefit of developing in the City, then one should waive the ability to make Measure 37 claims. There was some doubt about just how much a Measure 37 claim would be available to someone who annexed. Typically, when property went from County to City and became developable, the usual course was that the property increased rather than decreased in value. There may not be that much in the way of issues. The City Commission did give direction that it would like to see these waivers. One of the exhibits given the Planning Commission involved some comments that it did not appear most people in attendance understood what the waiver was about, and then addressed the City Attorney's responses. To the extent someone wanted to come into the City, they had to sign a waiver that said the person agreed to waive any claims he might have under Measure 37 for the property that was being annexed into Oregon City. The waiver would only apply to the property being annexed. For example, there was a discussion of the common area. At this point as the annexation was proposed, the common area was not part of the annexation and would not be subject to the waiver. There was a question if the applicant signed the Measure 37 waiver, then did that automatically include any South Park residents who signed the petition for annexation. Mr. Kabeiseman explained only the person who owned the property could waive his/her right to a Measure 37 claim. The City would require that consenting property owners be required to sign the waiver of Measure 37 rights.

Commissioner Lajoie understood it only took one property owner not to sign the waiver for the annexation not to occur.

Mr. Kabeiseman replied this was the first time through the process. In order to get to annexation, there had to be 50% consent of the property owners in the area. Those who consented and were asking to be in the City were the ones who would be required to sign the waiver.

Chair Orzen understood then that those who were not consenting were not being asked to sign a waiver, but they would be brought into the City anyway.

Mr. Kabeiseman replied that was correct and that they might have a Measure 37 claim. Although he did not know if those property owners had claims, they were not waiving the ability to file a claim.

Mr. Konkol explained the reason for that was because staff did not feel it could tie giving up Measure 37 claim rights to having a City facility given upon annexation. There were numerous individual who had requested and was over the 50% majority. Those would be the people responsible for signing onto the Measure 37 waiver.

Mr. Kabeiseman said for an annexation to occur, there needed to be a majority of within the area to be annexed and a majority of the people within the City all approve of the annexation. The 50% of which staff spoke were those property owners within the annexed area, more than half the electors, and the owners of more than half of the land. It was 50% of the electors – the people living there – and the owners of more than half of the land.

Mr. Kabeiseman discussed the 7 critical criteria the Planning Commission must use to decide on this application.

- The first was whether there was adequate access to the site. He did not hear much about that at the first meeting though it might come up.
- The second was conformity of the proposal with the City's Comprehensive Plan. Generally, it was within the Urban Growth Boundary (UGB) and zoned residential. The one issue that was brought up was the idea of cherry stem annexations. The applicant said it was not doing a cherry stem because there was property on either side, and some opponents disagreed. It was the Planning Commission's decision whether the application conformed to the Comprehensive Plan.
- The third was adequacy and availability of public facilities and services to the potential development. This did not seem to be an issue from what he recalled of the previous discussion.
- Fourth was compliance with applicable sections of ORS 222 and Metro Code Section 3.09. ORS 222 was state statute relating to annexation. The applicable part was the 50% of the electors and owners of half the land. This did not seem to be an issue from what he recalled of the previous discussion.
- Fifth was natural hazards identified by the City such as wetlands, floodplains, and steep slopes. There did not appear to be any in that area.
- Sixth was any significant adverse effects on specially designated open space, scenic, historic, or natural resource areas by urbanization of the subject property at time of annexation. It did not seem that there were any open space, scenic, historic, or natural resources in the area.
- Seventh had to do with lack of significant adverse affect on the economic, social, and physical environment of the community by the overall impact. That was somewhat of a catchall.

Mr. Kabeiseman said those were the criteria the Planning Commission needed to consider as it heard testimony and evidence and deliberated toward its recommendation to the City Commission.

Mr. Konkol added for clarification that the packet sent the Planning Commission in the mail included a memorandum dated March 22, 2005 that included Exhibit A, a report from Brannon Lamp dated March 21, 2005, and Exhibit B, a letter from Mr. and Mrs. Reitenbaugh dated March 2, 2005. He made copies of the exhibits received after the mailing. He referred to exhibits entered at this hearing on March 28, 2005 hearing for Annexation 04-01. Exhibit A was the March 17, 2005 minutes from the South End/Hazel Grove/Westling Farm Neighborhood Association Meeting. Exhibit B was a one-page e-mail from Mr. Kosel dated March 24, 2005. Exhibit C was a two-page fax from Mr. Kearns with the cover sheet dated March 2, 2005. Exhibit D was a statement from Ms. LeSueur asking that her letter be withdrawn from the file. Her letter indicated she signed a petition to have a sewer line installed in Beutel Road and after learning more information, she reconsidered and asked that her name be removed from the petition. Now she would like to withdraw that letter. Ms. LeSueur originally signed the petition, and then submitted a letter saying she did not want to be part of the petition. She submitted a third letter saying she did wish to be part of the petition, and that was Exhibit D. Exhibit E was the changes to the staff report which Mr. Cullison described at the beginning of the hearing. Exhibit F was the original letter from Ms. LeSueur to ensure it was part of the record for clarity.

Chair Orzen called the hearing to order.

Applicant's Testimony

- **Daniel Kearns**, attorney, 610 SW Alder Street, Suite 910, Portland, Oregon 97205, spoke representing Guy and Lisa Matychuck, the applicants and owners of tax lot 1400.

Mr. Kearns discussed the background of the report that was submitted by Environmental Management Systems. Mr. Lamp, the septic consultant, was present to answer any questions. Mr. Kearns indicated he wished to state his final rebuttal at this meeting to close the record and allow Planning Commission deliberation.

At the last meeting, the applicant planned to have a detailed evaluation of the septic system that was fact and site specific. As indicated in Mr. Lamp's report, this had been a dry year, and it could not be done. The testimony Mr. Kearns heard at the last hearing and confirmed by Mr. Lamp was that there were no technically failing septic systems there. These were very old systems and substandard under current standards. There were long histories of repairs and replacements and replacing tanks and pipes. He did not hear at the end of all the testimony from the people who lived in the area, and everyone seemed to have these problems, none of them said they had a failing septic system. Mr. Lamp could not find a failing system. That was not the standard and was not why he was here in any event. Because of the dryness of the year, Mr. Lamp could not replicate all the things they discovered so far with evidence in the record such as the surface water contamination. There was no surface water this year. Mr. Lamp could not find any because it was so dry. If one looked for that, it could be another year. Again, that was not the point of the application. There was no claim that the septic system was failing. The systems were old and antiquated with increasing instances of repairs and replacements and increasing costs. All those in and outside the annexation area from the testimony he heard were faced with decisions of spending hundreds or thousands of dollars, sometimes ten's of thousands of dollars to repair their systems. That was technically possible to do. As responsible homeowners, for most people, himself included, their homes were their biggest investment. Was that a wise way to spend one's money? His clients decided not to spend their money doing that but rather spend it on annexing and extending sewer. That was a sure-fire, reliable way of dealing with the issue.

- **Brannon Lamp, Environmental Management Systems, 4080 SE International Way, Suite B112, Milwaukie, Oregon 97222**

Mr. Lamp noted Mr. Kearns provided a good general overview. At the time of his visit, he was unable to verify whether any of the septic systems on any of the properties in question were actually failing. On a couple of properties he was able to verify that they were not failing. It was frankly unknown as to the condition of some of the systems and their drain fields. As Mr. Kearns indicated, due to the lack of significant rainfall until the past few days, an intermittent drainage that typically ran about 7 months a year was completely dry at the time of his visit including the stormwater system that fed into the creek. This was the same system where apparently some bacterial analysis samples were collected in December and January. At this time, there was simply no water to sample.

He pointed out of those stormwater catch basins that were located along South Beutel Road on the south side, there were some laterals feeding into those catch basins from the south. That would be in the general direction of the septic systems potentially, but he did not know specifically the source and nature of those laterals. It was possible they were picking up partially or untreated wastewater from some of the septic systems. That may be where some of the initial laboratory results were positive for E. Coli bacteria. It was unknown.

Speaking to system failures there were a lot of unknowns. If a system were to fail, a property owner could be faced with spending as little as a couple of thousand dollars up to \$20,000 or more to repair their system. That was also assuming the property owner had they physical usable land area to do that. Right now there was a common area that was not delineated. It was unknown – the County had no record as to where any of the septic systems or drain fields were located on that property. It was unknown specifically how much land area might be left over in that area for replacement systems. There were a lot of unknowns as to the potential for repairing any systems as they might fail.

Commissioner Seasholtz understood Mr. Lamp to say there was nothing known about the potential for future failures. At the same time, she recalled they said at the last meeting that they had at least one more step down the hill. They all said they had at least one more drain field available. Now, she heard Mr. Lamp saying it was an unknown.

Mr. Lamp replied he did not know. The County did not have any diagrams or as-built records of the existing systems. He personally had not set foot on that property where most of the drain fields were supposedly located. He had no knowledge of what land area was available on that property and the condition of the existing drain fields on that property.

Commissioner Seasholtz spoke to a comment from Mr. Kearns that this was not about system failure. It was about potential for failures. Her understanding was that this all came about as an emergency annexation because of the failure. Was that a change in the information?

Mr. Kearns replied that Commissioner Seasholtz was addressing a health hazard annexation. The City did that in the past, and Mr. Cullison could clarify that. That was not the situation here, and it was never said that it was. They determined that the systems were dilapidated and needed some significant repair -- the Matychucks in particular. They had surface water samples taken that found surface contamination by E. Coli and Coliform bacteria. Those were signs of sewage on the surface and one of the indicators of a failing system.

Commissioner Seasholtz was a microbiologist. In discussions outside, only he could bring that information up. They just took the County's word that the systems were failing or that they would fail. That was what she came away with from the last meeting. They did not have access to lab results. It was said that it was positive for Coliform. One of the women who testified the last time was very concerned about her animals-- her dogs out in the raw sewage where it was not adequately drained. With the positive E. Coli, how much of that was from pets being in that area? Can it be delineated what came from a failing septic system versus what came from people's dogs and cats running loose?

Mr. Kearns did not believe so. He submitted a January 3, 2005 letter from the County. It said the existing system can't be considered in failure as there were remedies to fix any existing problems and reconnect the existing septic tank and drain field trench. The letter went through the ranges of repair and replacement options that were available to anyone. There was no evidence there was a technical failure -- and that was a technical term in the septic business. A lot of the people who testified at the last meeting were concerned that they would be forced to connect to sewer because if sewer came up Beutel Road they would be in close enough proximity. There were still a lot of repairs that would be done to a septic system that did not trigger the requirement of hooking up to sewer. The evidence the applicant submitted was that these were not technically in failure. These people were all facing increasing numbers of repairs that needed to be done, and some of them were significant. One of the women -- Laurie Starr he believed -- testified last time she did not support the annexation although she was in the area. She testified that in the past few years she totally replaced her tank and her drain field. People can do that if they have enough room and the soil conditions are proper. These systems were installed in the 1970's. He assumed they were required to have backup drain field space at that time. One would not know if the backup field area was usable until one went in and checked. If one was faced with replacing the tank and/or the drain field, then that was a very expensive proposition. Since she did it recently, he was not surprised she was not interested in sewer because she did not need it. It was unlikely her system was going to have this ongoing cost of repairing and replacing in the next few years. If sewer were in the road in front of her house when she was facing the \$10,000 choice, he did not know if her decision would have been the same. It was understandable that she was not particularly interested now, but at the time when there was sewer in the road, that was a sure-fire option rather than patching up a 20- to 30-year old system. There was no technical failure. It would have been done a long time ago if there was technical failure, but that was not the situation.

Chair Orzen referred to Mr. Lamp's report, finding "a". It said the first exhibit was a letter dated January 3, 2005 written Clackamas County Water Environment Services. The letter was provided as a result of the application. It went on to say during Mr. Olander's review, he reported that the steel septic tank was disconnected from the drain field and appeared to have been in that condition for quite a long time. He also

stated the condition was not considered a failure since the condition could be rectified by a tank replacement and re-connection of the effluent line. Did that mean Mr. Matychuck was not connected to the septic system?

Mr. Lamp replied the tank was not currently connected to the drain field. That meant the tank was perforated and rusted out near the top of the tank. There was an outlet pipe on every septic tank that typically flowed to a drain field. In this case, the water simply entered the tank from the home and then either exfiltrated through the rust holes or out the outlet pipe that was currently disconnected from the pipe that connected into the drain field. Essentially, the water was pouring into the hole – the excavation where the tank was located -- and infiltrating into the soil that way. There was no physical connection to the drain field currently. That was how he and Mr. Olander found it. It appeared that the pipe may have rusted away or someone could have disconnected it. He did not know why anyone would have disconnected it because that would result in the current situation.

Commissioner Carr asked if that would not constitute a failed system.

Mr. Lamp replied that was a gray area based on the definition. But, no. That was Mr. Olander's finding, and he agreed. Reconnecting a pipe did not require a permit; therefore, it was not a failure. The system could at least temporarily be rectified by reconnecting the pipe.

Commissioner Carr said with the tank rusted there was no guarantee that the effluent would go out into the drain field.

Mr. Lamp said that was correct. Oregon Administrative Rule (OAR) 340-71 said a failing system was either sewage on the ground surface or partially treated wastewater on the ground surface. Surface going into public waters – waters of the state – or creating a health hazard.

Commissioner Carr asked Mr. Lamp if he considered E. Coli and Coliform bacteria to be health hazards.

Mr. Lamp could not answer in this case. It could be.

Commissioner Carr said Blue Lake Park in Gresham was a good example of how Coliform bacteria could be a health hazard. They closed it down, and that was a good-sized lake.

Mr. Lamp said it depended on the concentration. Commissioner Carr was correct.

Mr. Kearn said there was testimony from a number of people outside the annexation area the last time who said to make those people fix it. They could reinstall a new tank and a new drain field. Maybe that was true. Maybe all the people could do that as Ms. Starr did. Or maybe not. There were a lot of other correction or replacement options that could cost hundreds of thousands of dollars. It was technically feasible to go down that road and continue to do that.

Mr. Lamp commented on that. Currently, there was about 60 linear feet of drain field that they would be reconnected to if they reconnected the pipe in this situation. Per today's current codes and the soils he found on the property, to serve a home of that size it would require about 375 linear feet. Clearly, whatever they had was significantly undersized and probably at best would not function for the long-term.

Public Testimony in Support

- **Lisa Matychuck and Guy Matychuck, tax lot 1400, 11157 SE Beutel Road, Oregon City, Oregon 97045**

Ms. Matychuck appreciated the opportunity to speak to the Planning Commission. She was surprised and upset at the last meeting. She could not believe the number of people who spoke who did not live in the neighborhood. This annexation would have absolutely no effect on their homes or property. She was not sure what the personal agendas were for speaking. As Mr. Kearn said, there were technical definitions for failing systems. Her system was in bad shape. The tank was rotting. It was not properly connected which they found out while investigating the condition of the tank. The drain lines were inadequate. They have gone over their options. They could replace the system, but they wanted a long-term solution. They felt that sewer was the best long-term solution for them. They would never have to worry about where the water went when they flushed their toilets and dealing with this kind of thing. A lot of people brought up the fact that they should have cared

for their system. They had their tank pumped twice and had the lid replaced. The tank was not rotting due to what they had flushed down the toilet. It was due to the fact that the soil had eroded the steel of the tank. It was soil conditions. A lot of people said the Matychucks could just replace their tank, and if they had a cement tank, then it would last forever. In the next breath they were concerned about sewer lines coming and having to hook up. These were people not involved in the annexation. That went to show that a tank – even if replaced – one could still have failing drain fields, failing systems. One never knew when there might be a problem with the system, so they just wanted a solution that would fix the problem permanently.

It was also brought up that if they annexed into the City, they would be ruining the country atmosphere of the neighborhood. The only reason they were able to consider hooking up to sewer was because development had come out that way. The sewer line was right across the street from their road. It would be a straight shot down the road. It was not going to cost the City any money. They were going to do it themselves. They were not promoting development to the area. It was already there, and that was why they were able to do this. She felt people attacked her and her husband's character. When they first talked about annexing into the City, her husband personally spoke with all the neighbors with the exception of the woman who lived in Prineville. He spoke with her on the phone. He discussed everything. There was a lot of misinformation that went around at some neighborhood association meetings. People were told they would have liens placed on their property if they annexed into the City. That was why Ms. LeSueur submitted the first letter saying she did not want to be part of the annexation. If someone told her she would have a lien placed on her property if she annexed into the City, then she would be very concerned and would not want to be involved. They had to meet with Mr. Cullison and have a letter prepared of exactly what the costs would be.

She was not trying to harm her neighbors. They just wanted to better their situation. They were trying to help their neighbors with that because if they chose to hook up to sewer that would be fine. If they chose not to, that was also fine. A lot of things brought up at the previous meeting had to do with land use. This was not land use. It was about the Matychucks being able to hook up to sewer. People were throwing out crazy numbers about development. Seventy lots was one thing she heard. They may not eventually own their property. Down the road who knows what will happen. Right now they were the ones living there, and they wanted a better situation. They wanted to know where their sewage was going.

Commissioner Lajoie asked a theoretical question regarding the cost of making the improvement. It was about \$5,000 to \$20,000. That cost was far less. He understood the Matychucks were proposing to install the sewer down that length and would cost a lot more money. The assumption he would make was that they were doing this because of the possible development of the land. Otherwise, it would not be a practical economic move.

Ms. Matychuck said that was correct.

Commissioner Carr said if this went through the Planning Commission, the City Commission, and the voters and the property was annexed into the City, then the next step for the Matychucks would be – to pay for the improvement – the development project, whatever it was, would have to be approved. Was that correct? Or would the Matychucks still go through with the sewer extension anyway?

Mr. Matychuck replied the main objective was to hook up to the sewer line. It was an investment. He would rather spend his money hooking up to the sewer line rather than putting in a new septic system. The development was brought up to them. He just wanted to flush his toilet and be done with it. He did not want to deal with it any more. He maintained it, took care of it, and made all the phone calls. He wanted to flush the toilet.

Ms. Matychuck added annexing into the City did increase the property value. Eventually that was something they would look at.

Commissioner Carr thought wanting to increase property value was a very logical thing to do. He lived in a regular house on a regular lot but had done things to keep the value of the property up. There was a homeowners association, so they were required to do certain things. Adding to the value of property was very logical. The other point about testimony from those who did not live there. This was an annexation of a specific area of properties. As far as he was concerned, if one was not one of the property owners or a near

neighbor with adjacent property, then he considered the testimony irrelevant. They could talk all night if they wanted to, but to him it was meaningless if they did not live there.

- **Bernice LeSueur, 19491 S. Beutel Road, Oregon City, Oregon 97045**

Ms. LeSueur lived at the corner of South End Road and Beutel Roads. It would have to go through her property. She got a lot of misinformation, and her son set her straight. It did not matter to her whether it went through or not. She was not objecting at all.

- **Larry Carnahan, 20231 Woodgeln Way, Oregon City, Oregon 97045**

Mr. Carnahan spoke on behalf of a friend and client Terry Tomlin. A couple of months before the application for annexation went to the City, he and Mr. Tomlin talked to the engineering department. Mr. Tomlin's septic system was inspected by Clackamas County. The report indicated the Mr. Tomlin's septic was failing. The top if it was corroded. He read through the report as Exhibit A. Mr. Tomlin's property under #3 was tax lot 1401. Because of blackberries and whatnot, they were not able to inspect it at that point. Mr. Tomlin had had it done, and they got notice of the failing septic system. The County told Mr. Tomlin that he could get a permit to put in a new one if he so chose. Mr. Tomlin did not fit the 300-foot mark, so it was not automatic that he had to hook up. One of the concerns they brought up was that Mr. Tomlin and the Matychucks were on a shared well. Several of the people on Beutel Road were on wells. Mr. Tomlin was concerned that if he put in a new septic, then that would take care of his situation. The question was what if he had other neighbors whose systems were also 30-year-old, steel tanks with pinholes and corroding, drain fields not being hooked up because the original people did not do it well or whatever. What about the concern with the neighborhood and what happened if he got his water from the same well with the same aquifer that the neighbors were and their drain fields were slowly leaching into the water table? It was a concern. Mr. Tomlin had grandchildren who came to his house. Mr. Tomlin had a legitimate concern. One of the things that the Matychucks had done was to put in for the annexation. He knew they had means to put the sewer line in. There was talk among the neighbors about sharing some of that cost. It was a big cost and a big ordeal. There would be an improvement that increased the property value. It gave them options for the future. It would give them peace of mind for the time they were living on those properties that someone else's system was not leaching into the drinking water. He believed Mr. Tomlin would like to say this was more for the livability than an annexation to sell property and get lots of money. Mr. Tomlin moved from South End Road and loved the area. He did not really want to move out of the area. It was not that this was going to make him move. He had his choice, and right now it was to support the annexation to bring sewer in to increase property values and made sewer and City water available.

There was no further testimony in favor of the application.

Mr. Konkol called on **Mr. Long**. Mr. Long indicated he wished to speak regarding a carport next to his house that he believed was a fire/safety issue. Mr. Konkol said he would speak with Mr. Long on the side as this was not relevant to this hearing.

- **Kathy Hogan**

Ms. Hogan said the City had her address after 15 years of giving it. She begged to differ with Commissioner Carr. The neighborhood association was a part of that neighborhood. What happened there affected the rest of the neighborhood. It affected police service, fire, schools, roads, water, the lack of places for the water to go because of the higher density that would occur there. She believed that was what the neighborhood association was worried about – those were the concerns. It affected everyone within the neighborhood. She felt it was important to listen to everyone and not sit there and tell them if they did not live right next door to it, they were not important. She thought that was incorrect to say. That had happened before with other people. The ridicule to the neighborhood and the people who responded. It made them not want to come back and be participants. One minute you tell people to come back, and she really took issue with that. She came as a neighborhood association because the other lady from South End could not come. The concerns were what she said. It had to do with fire and police. Because bringing more in put a burden on the system within the community. They were worried about that.

Public Testimony in Opposition

- **Jim Kosel, 11466 Finnegan's Way, Oregon City, Oregon 97045**

Mr. Kosel pointed out the pre-application summary stated "emergency annexation septic failure." He wanted to clarify in his statement that the County did have records for some of the septic tanks and drain fields in South Park Estates. They were done by another department at the time. They were done by the plumbing department; it was not Water Environment Services as it was known today. The records were not nearly as thorough or complete as they were today, but they were available. It did take some time to research because they did not necessarily keep them by tax lots at the time. They kept them by the applicant's name and/or the builder. It was not necessarily kept by street address, but the County did have some records on file.

- **John Dinges, 18896 S. Rose Road, Oregon City, Oregon 97045**

Mr. Dinges lived in that area – about a half mile away. He was very familiar with that area and had been in that general area since 1947. He was as knowledgeable about the area as anyone coming to the meetings. It used to be considered that a septic failure was a failure of the drain field when there was no replacement drain field available. Most of the places where the septic systems were put in were required to have at least enough room for at least one replacement drain field. In many cases more than that. These were both good-sized pieces of property. He was sure there was more than adequate room to put in a replacement drain field and a replacement tank. He put in his last system in 1987 with a concrete tank. He had 475 feet of line to the drain field. It was designed for a 3-bedroom, 2-bath home. He was only using one of his lines. You could tell because the grass was nice and green over the one line. The other three did not have anything on them. His was more than adequate. This may have been a poorly designed system to start with if there was only 60 feet of line. That was inadequate. There could be several more lines and a concrete tank and probably would have a septic system that lasted as long as he lived there at much less expense. He did not think anyone would charge more than \$10,000 to do that. He knew too many contractors. His system cost about \$2,5000 – tank and all. He was surprised they let the situation deteriorate to its current condition. He did not feel they were being responsible homeowners if they had not observed this before. They let this situation occur and all the effects it would have on the neighbors, the surface water, and animals. He would have more consideration for his neighbors than letting something like this go. He would have done something about it long before now. In some ways he was surprised the County health department had not gone out there and red-flagged the property and told them they had to move off until the system was corrected. One cannot legally just dump sewage on the surface of an area.

As far as the replacement drain went, they talked about the replacement drain fields for the properties across the road. One could find the fields, and as Mr. Kosel said, there were maps available if they dug them out. It was amazing what was in the County records if one took the time to dig them out. If nothing else, you know approximately where it's at and you go out there with a probe. It won't take long for a person who knew what they were doing to find all the drain lines and make a little map of current lines. Then one could delineate where the space was to put in more lines if you need to put in a replacement. In many cases if one had a failure, all you had to do was rotor-root the lines to get the roots out, and that restored the lines. One did have to do maintenance with a septic system. Many people refused to do the maintenance. If you take care of it, it will give you good service.

Mr. Dinges recommended that Commissioner Carr read state goal #1 which was about citizen involvement. It stated in 1-4 that information would be provided in factual, simplified form so that one could easily understand it to make a decision. Some people in the community wanted to present information to the City Commission or Planning Commission and he probably understand the issue better than a lot of people do. That was one of the reasons they were concerned when things like this arose.

- **Norna Sharp, lot #400, 12450 NW Madras Hwy, Prineville, Oregon 97754**

Ms. Sharp had a question about Measure 37. It talked about signing a waiver, but what if they did not consent? Did they have to sign a waiver?

Mr. Konkol said that would be addressed later.

Ms. Sharp continued. The Matychucks stated that they were not interested in dividing. They stated last time that they bought that property with his parents as investment property. She wanted to clarify that that was what was said. When they called her, they told her that their system was failing. They needed to replace it or hook up to City. They could not afford to replace it, so they were hooking up to City. That was what they told her. Everything was changing since this all started. What they said then and what they were saying now. She did believe there was – there had to be some plans somewhere in the County that said what people had in the way of septic. 1975 was not that far back – it was not the Dark Ages. She was going to look in her papers but could not find them right now. What was told to her when this all started and what was said last month was different than what they were saying.

There was no further public comment.

Applicant's Rebuttal

Mr. Kearns spoke representing Guy and Lisa Matychuck. This annexation proposal was not an emergency health hazard annexation. The application and staff report clearly said that. It was a double-majority annexation request, and it met the approval criteria that were set out in the Oregon City Code and the Metro Code. In terms of did it meet the approval criteria – it did. There was a certain amount of discretion in interpreting those. The primary issue was the ability to serve the annexation area. One was talking about sewer, storm, water, transportation and those sorts of things in general. A lot of the develop-specific impacts that the Planning Commission heard about in testimony from the neighborhood association would be reviewed when specific development proposals came forward. In terms of when did the rubber meet the road extending the services and improving facilities by adding streets and sidewalks and those sorts of things, developers were required to do that when applications came in. That was when those impacts were evaluated. The City would look at trip generation, adequacy of intersections, capacity of services, and those sorts of things to serve what was proposed. There were 13 homes on 13 lots there now. There were adequate facilities to do what was being proposed. Technically, did it meet the approval criteria? –yes.

The Planning Commission and City Commission had a larger policy issue of did it make sense? That question went to was this a reasonable option for these people to select. A majority of the people in the annexation area – there were just 2 lots owned by Ms. Sharp and Ms. Starr – those were the only people who did not sign the petition. The rest of the people did. They looked at it and decided they were better off with it in the street in front of them than without it. All of them hoped they would not need it. Ms. Starr was probably good for a long time. The rest of the homes, as the Planning Commission heard at the last hearing, he did not believe there was a person, even those living far outside the annexation area told the Planning Commission chapter and verse all of the things they had to do with their septic systems. If one looked at the maps of this area in the record, it did not look like agricultural land where one had a lot of large lots with homes on them. This looked like a subdivision. This whole area had small, not rural-sized lots. That was a very unusual situation where one had a high concentration of single-family homes in a subdivision situation on individual septic systems. They already detected fecal Coliform and E. Coli in the surface water. He did not think it was technically failing at this point. When Mr. Lamp was there, it was not technically failing. When Mr. Kearns first talked to the Matychucks they told him that based on those they spoke with they thought they had a failing septic system. It was not a bright line test as to whether it was failing or not. It depended a lot on circumstances on that day – how long it had been raining and a number of other factors. They certainly believed it was failing, and based on testimony he heard last week and what Mr. Lamp had told him, technically it was not failing right now. He could not say that it was. He also could not say next year at this time when it rained that all of the lots might have failing septic systems. This was not a new subdivision with the brand new septic systems. These were old systems with documented problems, repeated repairs and replacements. On the policy issue of did it make sense for these people to invest their money in this avenue to get a sure-fire fix that was dependable for the long-term? They did not have to think about socking away money to pay for replacement of the drain field next year or 5 years from now. At some point one would have to investigate whether a drain field could be sited on the small lot. There was more to this annexation area than just the Matychucks and Mr. Tomlin. The other lots were much smaller. Those were issues that went into any homeowner's evaluation as to whether to take Plan A or Plan B.

Plan A was, as far as he could tell, feasible. All it took was money and a lot of luck over the long term. That was the policy issue before the Planning Commission and City Commission.

A lot of the other testimony he heard at the previous meeting was that rural/urban split. If one looked at the lotting pattern in the area, it looked very urban in terms of lot size and pattern – the kind of development that was there. It was also very clearly within the Urban Growth Boundary. All the land within that boundary was, within Oregon law, deemed appropriate and available for urban development during the 20-year time span – the planning period. He thought it was disingenuous for people to say I moved to the country and I'm really upset that urban development was creeping toward me and would destroy the rural character of the area. It was inside the Urban Growth Boundary. If they wanted a rural-type of lifestyle, then they needed to move to a rural area. This was not and had not been for a long time a rural area.

He discussed the notion that people appreciated the Matychuck's property in its undeveloped state because it provided an amenity to their yards. The woman who lived on Sunnyridge Court testified to that. He could understand that desire and interest, but the Matychucks had a bigger problem to deal with. They found a way to solve that problem. It did not involve preserving their land to provide an amenity to another neighborhood.

The primary opponents that he heard – and he was also confused as to why they had a strong interest in the matter – lived outside the area. Mr. Dinges lived a half mile away. Mr. Kearns did not believe Mr. Dinges was in the area. It did not affect him. The neighborhood association in which the property lay was relevant testimony. Ms. Hogan was tireless in her participation before the Planning Commission and City Commission over the years. She was very consistent in her views. Those views were valid. Those were issues that were dealt with during the development process. That was the meat and potatoes of the Planning Commission's job to deal with those kinds of impacts in the context of development approval criteria. They were not relevant to the annexation.

Commissioner Lajoie had asked if the Matychucks would extend sewer to solve their problem even if the property was not developed. The best he could figure was the cost of extending sewer would be \$50,000 to \$70,000. It was not \$300,000 as Mr. Heinz stated at the last meeting. It was only about 830 feet to the end of the street. It was feasible to do with a loan on one's property if there was no development in sight. In terms of Plan A and Plan B, long-term it was more possible to finance if the property were partitioned or subdivided. In order to preserve the septic system, the viability of their home, that was one way to pay for it. They could do it without developing. That was within the realm of possibility. All of the people, as Mr. Konkol mentioned when talking about Measure 37, having sewer in front of one's house increased property value. Coming under City zoning increased the value of all the parcels. He was surprised to hear that some thought there might be a Measure 37 claim here. There was not. Measure 37 applied when one was attempting to roll back the zoning regulations to the point where one acquired the property. In this case, the land was FU-10 right now. In terms of the value of the properties under that zoning – these were already developed lots and were not large lots – those could not be subdivided under County zoning. They could, he supposed, be subdivided under City zoning. He was hard-pressed to see that there was any Measure 37 claim for any of the properties. It was an academic issue among city attorneys as to when after a property annexed could someone come to the City and claim a rollback of the City zoning to a County zoning designation. Under the Measure, one would have to show diminution in value. It was more a theoretical exercise rather than something with real implications.

From all the testimony that he heard, there were only 2 people who had relevant issues that they raised. Ms. Sharp and Ms. Starr have not consented to the annexation for understandable reasons. Ms. Sharp wanted to retain the right to repair her system when it needed to be done. She could continue to do that even if there was sewer in the street in front of her property. A lot of the fears voiced by those outside the annexation area was that everyone would be forced to hook up to sewer. That was not true, and Mr. Cullison confirmed that in the letter he wrote to quell the rumors. There were a lot of repairs people could do even though sewer was in close proximity. People probably would not be able to replace their tanks or drain fields if they were in close proximity to sewer. When Ms. Starr was faced with that option, she did not have any other choice other than to fork over the money to replace the tank and drain field. He did not know that she would have made the same choice had there been a sewer line in the street that was paid for by someone else.

A number of development impact issues that were raised, and specifically by Ms. Hogan. People talked about drainage problems they experienced on the urban fringe where the land was being urbanized, sewer issues, surface septic problems, water service issues, and transportation issues. These issues arose because areas were urbanizing. There were more and more people. More and more homes. More and more cars. That was why the problems were arising. The way to fix those problems was not by the City coming in and paying for new streets and sidewalks and to run sewer up people's streets because the City liked to provide those services. It was people who developed their land who paid for all the new streets and intersections that had to be signalized and put in sidewalks where people were concerned about their children. These were legitimate concerns, but that was how problems were fixed. The government did not pay for it. The people who owned property paid for it. Eventually, if the land was developed, those kinds of improvements would be required. Storm drainage systems were put in that helped the drainage out of the common drain field across the street and the flooding problems. That was how these problems were corrected. People were worried about increased traffic. This was built as a rural sort of road. It was not serving rural traffic volumes much any more. They were suburban. That was how improvements were done. That was the reason for his client's request to annex. In his mind they made a legitimate policy and economic choice like any homeowner. Ms Sharp said she they bought their property for investment purposes. Who did not buy their house for investment purposes? It was the only investment for the middle class, and that was why the Matychucks lived there. They wanted to protect their house and investment. Mr. Kearns believed they made a reasonable choice by selecting Plan B and getting a very secure, long-term predictably permanent solution to their problem.

Mr. Kearns asked that the Planning Commission recommend that the City Commission move this annexation request on to the voters.

Commissioner Carr asked how many people had signed the application.

Mr. Kearns said there were 13 properties, and 2 of them have not signed.

Commissioner Carr understood then that 11 of the 13 wanted the annexation.

Mr. Kearns was not sure how the City would deal with the Measure 37 waiver. That could not be used to defeat the majority annexation requirement.

Commissioner Carr asked if the sewer line would run to the point on Beutel Road where it dropped over the hill where the ground became vertical.

Mr. Kearns did not believe there was any reason to do that unless the road was extended across the canyon.

Commissioner Carr discussed serving the property on tax lot 1401.

Mr. Konkol explained the service usually ran to the end of the last property.

Mr. Kearns said the City had a to-and-through policy. There were a few lots beyond the end of the annexation area that could be served, but it would be hard with the canyon.

Chair Orzen closed the public testimony portion of the hearing.

Commissioner Comments

Commissioner Lajoie asked for feedback from other Commissioners on his opinion. The primary role of any jurisdiction, particularly a city, was to provide a safe environment for its citizens. We were not in the Dark Ages any more, and this was one of the things a city did. This was the primary role -- to provide a safe environment whether the City paid for it or the County. That was elementary. The second issue had to do with the ages of the systems -- greater than 20 years. Some had been maintained; others had not, and that was typical of what would happen. There was also testimony that typically a septic system was good for 20 to 30 years, so they were at the ends of the lives. They needed either maintenance or replacement. The current condition with the E. Coli and Coliform was really an unacceptable condition. This was not an acceptable condition for a city to be in. One of the avenues as stated in the Comprehensive Plan was for the applicant to ask for annexation to help solve this problem. They have elected to do that. Another aspect that was important to his decision was the fact that there were creeks and ponds in the area. All of those creeks and ponds went toward the Willamette

River and other places. The kinds of things in these ponds and streams were not good things. Finally, he referred to Comprehensive Plan Policy 14.4.4 was everything to him. "The City may as provided by state law provide sewer service to adjacent, unincorporated properties when a public health hazard is created by a failing septic tank sewage system. The Commission may expedite the annexation of the subject property into the City subject to any voter approvals of annexations." There were a number of things in the Policy. The City "may" approve the annexation. There was a public health hazard. The only thing he saw that might be lacking was actual evidence – numerical data – to support the fact that it crossed the threshold of what was acceptable. Unfortunately, the Planning Commission did not have that. He was taking a small leap of faith by saying there was an open system that was deteriorating and failing. From that standpoint, he believed there was a public health hazard. That was an unacceptable situation for him. The fact that this was created by a failing system – it has not failed. There was not a lot of question in his mind how he felt about this situation.

Commissioner Carr agreed the first priority of any governing agency was the safety and security of the citizens. What happened last year in Gresham at Blue Lake Park was a good example. It was a small swimming area compared to the surface area of the Lake, and it was a fair-sized lake. There were a lot of people who got sick. He recollected it was attributed to mothers taking their young children's diapers off and letting them swim. When a kid had to go they went and did it in the water. Apparently that was the cause of the Coliform bacteria in Blue Lake and caused many people to get sick. It was closed down, and they had to do something to disinfect it before they opened it up later in the summer. That was a serious situation. E. Coli was a serious bacteria as was Coliform. When found in the surface water with kids and animals around, one was looking to have possibly serious illnesses. That in itself was enough to want to have a sewer line and allow people to hook up if they want to. He understood people were not required to hook up. It would be there if they wanted to. If they had good septic systems, more power to them. If one had a newer system for \$2,500, power to them. Having a sewer system along with the City water that was available, he thought was a good thing. He mentioned that it was also urban farmland and zoned that way. In his driving out there, he noticed some small tree farms right off the road. Some trees were no more than 2-1/2 feet high. That would be another 12 to 15 years before those made anything. He found it difficult to believe that on a few acres of ground that a person could make a living off 3, 4, or 5-acres of Christmas trees. Call it a hobby, but that did not constitute a real farm to him.

Commissioner Seasholtz addressed her fellow Commissioner's concerns about farming. A lot of people in the community did not farm to earn a living but farmed to pay property taxes. She understood that did not have anything to do with the decision but just wanted to put that out. One of the criteria was that this annexation had to conform with the Comprehensive Plan. The cherry stem definition was one of the things that they wanted to avoid. That was open to interpretation. Technically she guessed by some definitions this would not count as a cherry stem. However, she thought in the definition, cherry stem was just given as an example of something to avoid. This particular conformation was in the spirit of what they were trying to avoid. Maybe it did not define clearly as a cherry stem, but she thought it did fit what was generally trying to be avoided. The second thing she spoke to was facilities and services. There was water, and sewer was close. There were other major services that were lacking in that area. She was concerned about emergency services. She knew there was an empty fire house. She knew there were things coming up on the ballot that might fix that. Might fix and a decision today did not connect. She would make her decision on what was available today. She was concerned the City was not able to provide emergency services to the properties that were already within the City limits. She was not convinced the homeowner had done everything he could to take care of the problem. If one had an open system and a disconnected pipe that had been that way for who knew how long – get a shovel and get some pipe. If one could not do it, then get a plumber. One was creating a hazard for neighbors by waiting for the Planning Commission to make a decision. He was putting his neighbors at risk.

As far as the concern about the well water. Wells were deep enough that surface water should be filtered before it ever hit the aquifer. That should not be a concern if the well was deep enough. Unless a really good study was done on the surface waters in the area and the use, she was not convinced – yes, there was elevated Coliform – that that was only because of the septic especially if one looked at the flow. Especially based on testimony that people had their animals running around out there. That – especially meat-eating animals – was a form of Coliform contamination on surface waters. She did not buy that all of the contamination in the

neighborhood was from the one open septic system. She was concerned about the open septic system. She did not believe he had done everything to correct it. She knew he did not want to spend all the money. She also understood he had a right to a return on his investment. In the criteria, they wanted to Planning Commission to see how it fit with the long-range plans for that area. That was glossed over in the staff report by saying the plan was not really completed for that area, so it did not apply. Maybe it ought to apply. As a community eventually we needed to sit down and decide where schools would be. Where services would be. Where the malls were going to be. Perhaps they were sitting on a property that would be commercial eventually. They would get a lot more out of their dollar than building homes today. She was not saying they should hold on to it because of that. What she was saying was that the applicant made the investment and bought the property and had a right to return on that investment. She did not think this was the time. The City was not ready; it did not have the services. It was not the right time. She thought the applicant should hold on a little longer to come out a little further ahead in the long run.

Chair Orzen found this to be a very hard application. She saw both sides. She was sympathetic with the condition of the failing septic field; however, she felt it was the responsibility to have done some proactive measures and not to let it get this far. Living in the County, they were aware of the septic fields. That was why they moved to those areas because it was County at this point. This was rural, and services were available in that area. What really bothered her was the fact that there was a small piece of City property associated with that and was only connected by South End Road. Also this was surrounded by County. One of the problems being dealt with in Oregon City was concurrency – actually having properties that were concurrently developed instead of having one little piece of City property surrounded by County. That was an issue for her, although it did fit the criteria. She discussed City services. Oregon City was strapped at this point. The City was up for a fire levy. The police department was stretched as far as it could go. City staff was stretched as far as it could go. Adding this one little piece of property did not make a huge burden, but it did add an extra burden on the City. At this point she was really not in favor of the annexation because of the inadequacy of City services. She felt the situations could be handled by the applicant without having to annex to the City.

Commissioner Seasholtz added that she did not appreciate shifting information. This was originally sent to her as an emergency annexation because of a failed system. It was water under the bridge and did not really have anything to do with fitting the criteria. She did not appreciate it personally.

Mr. Kabeiseman said any action the Planning Commission took was a recommendation to the City Commission. If the Planning Commission recommendation was for denial, the City Commission would review that. If the Planning Commission's recommendation was for approval, the City Commission would review that. From what he heard, the recommendation was not going to be unanimous and would probably be a tie. There were a couple of different options. Several members of the Commission were absent, and the decision could be held over until those members reviewed the minutes, listened to the tapes, and looked at the evidence to perhaps resolve the deadlock. Another option would be to send the application to the City Commission with no recommendation to either approve or deny. It was not entirely clear if this annexation was subject to the 120-day rule. If it was, then it was close to the end. The application to the extent it was approved would go on the September ballot, so it may be the applicant would be willing to give additional time to allow consideration by the full Planning Commission. The 2 best options that came to mind were to either forward it to the City Commission with no recommendation or to table it and wait for the other Planning Commissioners to review the record. The City Commission would have the minutes and record.

Commissioner Lajoie asked the implications of a tie vote.

Mr. Kabeiseman replied a tie vote would forward the matter to the City Commission with no recommendation.

Commissioners Carr/Lajoie m/s to forward the applicant to the City Commission with no recommendation. Mr. Konkol polled the Planning Commissioners: Commissioners Lajoie and Carr and Chair Orzen voting 'aye' and Commissioner Seasholtz voting 'no.' [3:1]

Mr. Kabeiseman would prepare a staff report for the City Commission with the minutes. That would most likely go for an April 20 hearing. The City Commission will take public testimony, and new evidence would be accepted.

Mr. Konkol said the Planning Commission would meet in work session next Monday with the Historic Review Board and Natural Resource Commission at the Pioneer Community Center.

Chair Orzen adjourned the meeting at 9:30pm.

Respectfully Submitted

Tony Konkol, Senior Planner

**CITY OF OREGON CITY
PLANNING COMMISSION**

June 27, 2005

COMMISSIONERS PRESENT:

Chairperson, Lynda Orzen
Tamara Seasholtz
Daniel Lajoie
Tim Powell
James Roddey

STAFF PRESENT:

Tony Konkol, Senior Planner
Bill Kabeiseman, Assistant City Attorney
Nancy Kraushaar, City Engineer & Public
Works Director

1. CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chair Orzen.

Chair Orzen announced that Commissioner Jerry Carr had resigned and urged interested parties to apply for the vacancy.

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA

Chair Orzen invited the public to attend the First City Arts Faire on July 9 and 10 at the End of the Oregon Trail Interpretive Center.

There were no other public comments and no minutes for approval.

3. HEARING

L 05 03 (*Legislative Hearing*), Applicant: City of Oregon City, Nancy Kraushaar. Adoption by ordinance of the Beavercreek Road Access Management Plan as an amendment to the Oregon City Transportation System Plan, which is an ancillary document to the Oregon City Comprehensive Plan. The Access Management Plan is applicable on Beavercreek Road from Fir Street to Molalla Avenue.

Chair Orzen reviewed the hearing procedure.

No conflicts of interest were declared by any members of the Planning Commission.

Kabeiseman further commented on the legislative process.

Staff Report

Mr. Konkol proposed adoption by ordinance of the Beavercreek Road Access Management Plan (L 05-03) as an amendment to the Oregon City Transportation System Plan, which is an ancillary document to the Oregon City Comprehensive Plan. Notice of this hearing was published on June 1, 2005, in the *Clackamas Review* and mailed to all property owners within 500 feet of Beavercreek Road as well as the affected agencies and the Citizen Involvement Committee (CIC). The Oregon City public works department posted two signs along Beavercreek Road in the project area indicating the time and place of this hearing.

The decision-making criteria is in Section 2 – Land Use, of the 2004 Oregon City Comprehensive Plan. It included the Plan implementation process, the adequacy of the Plan to guide land use actions, whether the Plan still reflected the community's desires, attitudes, and conditions including changing demographic patterns and economics as well as the addition of updated factual information including that was made available to the City by regional, state, or federal agencies. Staff believes those criteria had been met, as would be shown during the presentation. If the Planning Commissioners had further questions, they would be addressed at the end of the presentation.

Staff recommends that the Planning Commission forward this application to the City Commission for a hearing on August 3, 2005, with a recommendation for approval.

Ms. Kraushaar presented what staff believed what was both a good short-term plan and long-range plan for access management on Beavercreek Road. The project team for the Plan was DKS Associates as the transportation engineers, and Wallace & Associates as the civil engineers.

This originally began as a roadway design project. During the presentation of the roadway design in the public involvement process, the team determined that there were many businesses that were concerned about the preliminary proposal for the roadway project. They started out with a street that was primarily fashioned after Metro's Green Street Guidelines that included landscaped medians and a fair amount of access control. The City's main intent was to preserve the capacity of Beavercreek Road as a major arterial and to ensure safety. Today one experiences a fair amount of conflicts because there were many driveways that were not necessarily aligned. Because of the number of driveways and lack of access management, the team was concerned about safety. The more conflicts on a roadway, the less traffic carrying capacity it has.

In listening to the businesses during the first round of public meetings, the team felt it should come up with something that was acceptable to the business community. Millions of dollars would be spent to improve the facility to five lanes with bike lanes and sidewalks. There was no point in its being a contentious project. The team worked with all the businesses to determine needs and tried to come up with a plan that not only met business needs in terms of access but also was a good start on access management relative to the carrying capacity of Beavercreek Road and its safety.

Peter Coffey and Scott Mansur, DKS Associates, and Kai Bealey, Wallace & Associates, provided project information.

Mr. Peter Coffey of DKS and Associates of Portland said the presentation would describe the project and address access management. He would provide project background, define access management, discuss funding, and review the short- and long-term plans. The presentation would describe the benefits of access management, present the two plans, summarize key changes to the Plan based on public input, respond to Planning Commission questions, and consider adoption of the Plan.

Mr. Coffey reviewed the existing traffic conditions on Beavercreek Road. Today the road was commonly congested in both the AM, mid-day, and PM peak periods. They spent a lot of time in the field, and it was common to see long lines of vehicles queuing from the traffic signal at Fred Meyers and winding back to Molalla Avenue. The congestion in the corridor hindered motor vehicles and delivery vehicles to the commercial area from the Hwy 213 corridor. There were also often long delays when one was waiting for a gap in traffic to exit a driveway. Depending on where the driveway was, there might be a queue of vehicles stopped in front and hindering one from exiting a driveway. There were different levels and types of congestion along the corridor today.

The team looked at the collision history of the roadway. Today it carried between 16,000 and 23,000 vehicles per day. It was classified in the City Transportation System Plan (TSP) as an arterial. Between years 2000 and 2003, there were 27 reported collisions, and there were likely more that did not have any record. Nineteen of those collisions resulted in injuries. Approximately half of the collisions occurred at private, unsignalized driveways. The collision data was related to other corridors in the State of Oregon and other roadways that were classified into urban and rural facilities. The team compared the Oregon Department of Transportation (ODOT) data in urban areas on similar arterial facilities. They developed collision rates for the corridor. The collision rate in urban areas in Oregon was 2.4 collisions per million entering vehicles along the corridor. That was related to the 3.27 which was what was out there today in that one segment of Beavercreek Road. Essentially, the segment had a collision rate that was about 35% higher than the statewide average for similar facilities.

The Beavercreek Road Improvement Project was first identified as part of the Hilltop Urban Renewal Plan in the 1980's and was part of the economic development strategy for that area. It had been in the TSP as having a need for a five-lane facility with two lanes in each direction and a center left-turn lane with a bike lanes and

sidewalk on each side of the road. Recently, the Hwy 213/Beavercreek Road Project was completed at one end. This project would tie to the improvements done several years ago at Molalla Avenue to the recent improvements done as part of the Hwy 213/Beavercreek Road Project. He indicated the cross section with two lanes in each direction, the center left-turn lane, bike lanes, landscape strip, and pedestrian facilities.

Access management is the careful planning of the location, design, and operation of driveways, median openings, intersections, and street connections. He discussed how those driveway locations were planned. The purpose of access management was to provide access to parcels in a manner that preserves the safety and efficiency of the roadway system. The businesses had a need for access to their facilities, but that part of Beavercreek Road also provided a key link in the City's roadway network that carried vehicles through the transportation system. The capacity of the roadway and access had to be balanced.

Why was access management important? It could improve safety for motor vehicles, pedestrians, and bicyclists. The traffic flow and capacity of the roadway system could be improved, which was important because the City had invested a significant amount of money in the infrastructure of the roadway system as a whole. This piece of Beavercreek Road was an important component of the entire transportation system, and the capacity needed to be maintained. Freight mobility needed to be improved in order to get goods and services to the businesses in the area. They also needed to look ahead and provide some permanent and efficient access to businesses in the corridor so they knew what their long-term access would be as they grew and planned for the future.

Another component of access management was medians. He showed figures that indicated a piece of Beavercreek Road with a driveway that had 16 potential conflict points. If there were a median at that location, the conflict points would be reduced. One of the purposes behind the median was to improve capacity by reducing those conflict points. There was a lot of data on how medians helped collision rates, and ODOT studies showed that collision rates could be reduced by about 30%. The medians also provided an opportunity for landscaping and improved aesthetics of the facility. In some cases, as part of the short-term access management plan, they could provide a refuge for pedestrians. Ideally, one would want pedestrians to cross at signalized crossings. They would not want the traffic signals too close together, so signals might be spaced 900 to 1,000 feet apart. There were opportunities to cross at points between the signals by providing a median, and pedestrians could cross the road in two stages.

The project team presented the draft Access Management Plan at three open houses. All of the businesses owners were contacted, and the team met with a majority of them to gain an understanding of their needs. From December to now, there were changes in the Plan as the team understood how the businesses worked, how delivery vehicles entered the sites, and how to accommodate in the short-term while reaching the long-term objectives. Based on those comments, there were numerous modifications to the draft Plan.

The adopted Plan would help with implementation as new development or redevelopment occurred along the corridor. There would be multiple locations where they would have cross-access easement requirements where there would be an easement from one property through another property. That would allow one property to have an access easement through an adjacent property to get to a location where there might be a signalized access point. Those things might occur as property redeveloped over time. The ability of the City to gain the cross-access easements would allow it to achieve some of the goals in terms of lowering the number of driveways along the corridor and providing medians that would improve safety while meeting long-term access needs. Access easements were important. The team wanted to implement the short-term access management plan as part of the Beavercreek Road Improvement Project. They would also like the ability to provide all the properties adjacent to Beavercreek Road connectivity to a traffic signal. They tried to provide access easements that would allow access to a traffic signal by every property.

Ms. Kraushaar discussed project funding. This started as a construction project that was moved into a TSP amendment project. The project was first identified in the Hilltop Urban Renewal Plan in the 1980's. There was recognition that this would probably be a good time to close the Hilltop Urban Renewal District because the urban renewal taxes being collected may benefit the general fund. The Urban Renewal Commission

(URC) voted this spring against continuing to collect more funds for the Beavercreek Road Project but to keep the funds in reserve for the Project. Complementing those funds would be utility funds, water line replacement, and storm drainage improvements. Storm drainage, utility funds, and system development charges (SDC) would be used for the utility side. The City would also use some transportation SDCs to fill the gap where there would have been some extra urban renewal money. She and Mr. Kabeiseman were working on a cooperative agreement between the URC and City Commission to obligate those funds for the project. Regardless of the construction of this project, the Plan should be adopted because when vacant properties came in for development or for redevelopment the planning department would have a tool to say what needed to be done and to ensure the City was progressing in terms of how Beavercreek Road would look in 20 years. Regardless of whether the project was built in the next 12 months, staff wanted to ensure there was a Plan in place.

Ms. Kraushaar stated for the record that staff had provided the Planning Commission with a summary of the public involvement efforts that had taken place to date and described the different meetings with the businesses and general public. She mentioned that the City sent out a letter and colored drawings to the businesses with whom the team was working so they would be completely aware of this meeting and also so in case they had not seen the Plan that was being carried forward for adoption. She also provided a copy of the PowerPoint presentation for the record and a summary of the changes made throughout the project.

Mr. Konkol added for the record that the letter from Wallace Engineering dated June 15, 2005, was Exhibit A, which included the short-term and long-term plans. The PowerPoint presentation was Exhibit B. The summary of road improvements and Plan changes to date on May 31, 2005, was Exhibit C. The public involvement summary would be Exhibit D; it was three pages. There was also a letter from Mr. Spencer dated June 27, 2005, that would be Exhibit E. The boards the Planning Commission was about to see were Exhibit F.

Mr. Bealey filled the Planning Commission in on where the team started and how it progressed. The board was presented at the December 8 open house, which was actually an iteration beyond where the team started. The design team started with an access-controlled project and took a critical look at it from a business standpoint. Where did the team need to eliminate medians to provide reasonable access to all of the businesses? They started essentially with a median-controlled plan and then brought it to that stage for the December open house. This was the plan presented in December, and the team got feedback that there were some other concerns from the businesses and things they wanted the team to look at. This was a visual of what the Plan looked like in December. The next board showed what it looked like in May 2005.

The short-term access management plan was the plan the team would like to implement with the Beavercreek Road construction. Some of it remained similar to the December Plan, but a lot of it had changed. He reviewed some of the key elements of the Plan and some of the changes from the December version and even since March and April. The team talked to the businesses and property owners and heard their concerns how people would access their sites and take deliveries.

One of the big changes in the short-term access management plan was starting the project where the Molalla Avenue/Beavercreek Road realignment project in 1996 ended. That project was done, and the team thought the best thing to do was to start where that project left off and continue to the east where the Hwy 213/Beavercreek Road Project ended. With that, initially they were showing a traffic separator curb along that stretch to prohibit left-turning access off Beavercreek Way onto Beavercreek Road. That had since been eliminated. The team looked at some changes for Beavercreek Way and decided that was done in 1996 and should not be explored at that point. That might change in the long-term plan.

There were some concerns raised about access and a pedestrian crossing issue. The design provided a pedestrian refuge that was different from the December Plan. Also there were some different accesses. As Mr. Coffey mentioned, some of the driveways did not line up. One of the key locations was traffic trying to turn into Nelson's and also traffic coming from the opposite direction trying to turn into the Southridge

Center. That ended up in a conflict point because they overlapped. That was one of the areas the team wanted to look at and correct due to that misalignment of the two opposing driveways.

There was an existing signal at Molalla Avenue. The team proposed a new signal at Fred Meyer to replace the existing spanned wire signal and to set up the signal for the future road extension to the north. The team also proposed providing a new signal at Fir Street. Those were some of the key elements. The team was still trying to work out some kind of agreement for the property owners interested in a new signal to access the commercial property and also Southridge. Southridge had a legal document signed in the 1980's that talked about a new access. The team talked with interested property owners about a potential signal, and that would be shown in the long-term plan. It might eventually come into the short-term plan, but it was a work in progress. The team was still trying to meet with those property owners and come to some conclusion on implementation time.

Ms. Kraushaar added that one of the things the team heard about the signal was that if it was going to go in then it might be better to wait two or three years and install it with some development. The Southridge businesses and property owners would rather have construction happen once rather than tearing up the road again in a few years. The team was working to coordinate with property owners on both side to see if the signal could be part of the short-term construction project. The traffic engineers and the City still felt making left turns out of Beaver Creek Way presented some safety issues. They also understood those were existing property owners, an existing gas station, an existing glass company, and an existing vacuum cleaner store that relied on the traffic patterns continuing to be the same so they could feel good about their businesses being successful. The team decided to leave the traffic separator out for now. If an increase in accident rates was seen in the future, then that issue might have to be revisited.

Mr. Bailey said Ms. Kraushaar brought up a good point about what happened now and in the future. There were a lot of existing businesses that had been at that location for a long time. Some of the changes were scary for them, and that was not unusual. The goal with the long-term plan was to put those issues on the table now so that if the properties did turn over, consolidate, or redevelop, then people knew it as a concern that would need to be addressed eventually. As new property owners or new development came on board, people knew what the issues were, and it was not a surprise. That was part of the long-term goal.

The big things on the long-term plan were essentially those three items:

- Reduce conflict points
- Improve safety
- Increase vehicle capacity on Beaver Creek Road.

The specific objectives of the long-term access management plan are to:

- Provide all properties adjacent to Beaver Creek Road connectivity to a signalized intersection on Beaver Creek Road.
- Close and/or consolidate driveways to reduce conflict points and improve overall safety.
- Cross-over agreements between property owners during redevelopment to meet the goals and objectives. Locations of cross-over connections were shown conceptually. Final locations might be adjusted during the site plan process provided the goal of the long-term Plan was met.
- The implementation of the Plan would come as properties were redeveloped, consolidated, or if there were general property changes along Beaver Creek Road.

He emphasized that the cross-over plans were conceptual. The goals were shown in conceptual states. When someone came on design, it could be incorporated in the site plan knowing what they were trying to achieve. The alignment of the intersection was also conceptual at this point. It showed the general location, and the intent of the Plan was to show the idea.

Scott Manseur of DKS and Associates in Portland said he and Mr. Bailey had worked on this closely. One critical issue of the long-term plan was the spacing of traffic signals. They were about 1,000 feet apart making them easy to time. They would provide for a good flow and proportion. Pedestrians would have a

signalized crossing every 1,000 feet, and there would be cross-over easements to all those properties. Signals at 1,000 foot intervals provided for better connectivity to each of the businesses.

Mr. Coffey said before the pedestrian crossing was incorporated there was a signal at Fred Meyer and at Molalla Avenue. The spacing was consistent along the corridor for pedestrian crossings.

Ms. Kraushaar commented on the land use that was adopted by the Planning Commission and City Commission in the Comprehensive Plan and zoning maps. She understood the area was zoned mixed-use corridor on the north side and commercial on the south side. With those sorts of land uses, the City would want to prepare to provide sidewalks and bike lanes for good multimodal activity in that particular area.

Chair Orzen asked for questions.

Commissioner Lajoie did not hear comments about the Comprehensive Plan designation north of Molalla Avenue and the zoning. Did this Plan accommodate the long-term vision for that side of the road?

Ms. Kraushaar replied that she believed it did.

Commissioner Lajoie understood it allowed flexibility. Right now there were certain uses that could change over the next twenty years. Did the Plan accommodate the road over that period of time?

Ms. Kraushaar said this Plan would run until it was amended by some other document. Particularly since the north side was mixed-use corridor, the City would anticipate some of the smaller properties consolidating and providing that mixed-use flavor one hoped to see on Beavercreek Road. She discussed consolidating the accesses and having right-in and right-out. The long-term plan looked at how they should connect. She believed it did provide the tool to help those land uses happen in the long-term.

Commissioner Lajoie observed the concept of the two lanes in both directions and the center lane intuitively seemed like a good idea even when it became more mixed-use. Would this still be a workable concept?

Ms. Kraushaar believed it is. The only other thing one might wish to see was not quite so many lanes. Oregon City did not have many five-lane transportation facilities. Beavercreek Road was seen as a large road connecting Hwy 213 to the Hilltop area, so those extra lanes were needed for capacity. Other than just the mass of the road, she felt it had all the amenities one might need to serve the land use.

Commissioner Lajoie understood the Plan served the area as it was now with small businesses. As things changed the Plan could easily be manipulated and most of the pieces were in place so Beavercreek Road would function into the future.

Mr. Konkol built on the concept of supporting the current land uses plus what is foreseen in the future. As the population continued to expand and the use of the road increased and larger developments came in, making those left-turns across two lanes would be an issue for safe ingress/egress that would potentially impact how those properties could be redeveloped. There could be safety issues as well as a capacity issues that a Plan that funneled to a light would help alleviate.

Commissioner Roddey said the discussion was about short- and long-term plans. He asked staff to discuss the timeframes involved.

Ms. Kraushaar replied the short-term plan would be constructed today if the Beavercreek Road improvements project was implemented. It addresses the needs of the existing businesses but also the increased number of lanes addressed the increased through traffic. As much as it was about the existing businesses, it was also about people trying to get to the high school in the morning. In the short-term plan construction that would start next February. The long-term plan was dependent upon redevelopment and how quickly new development came in. She could not make a guess at how long it would take to implement the entire long-range plan. It could be 10 or 20 years, but that depended on the market.

Commissioner Roddey understood the City was prepared to live with the conflict points that would exist in the short-term plan until the long-term plan was implemented.

Ms. Kraushaar replied that every time the TSP was updated, the City looked at all the roads to see where there were problems or deficiencies in the system. She thought this would hold through the upcoming TSP update in the next 12 months. When the TSP was updated in another five years, the City would look at Beavercreek Road again to identify any deficiencies. It might be determined that there was an unacceptable level of traffic accidents at a particular location, and staff would look at how to solve that problem. In that case, the Plan might need to be amended. There was a vehicle for making modifications as deficiencies are identified.

Commissioner Powell had a question about funding. Ms. Kraushaar mentioned that SDCs were a piece of the funding. He asked how it was determined what percentage of the SDCs should go into the project since it was a five-lane, major thoroughfare that brought all new traffic to Hilltop and to the residential and business community.

Ms. Kraushaar replied that staff used a complicated equation is used. The water and sewer master plans were updated, so both provided clear percentages. In the cases of the other master plans that were not so current, staff would determine if it was an upsizing and what portion of a pipe could be covered with SDCs. Street funds were used for maintenance. Staff typically would not use the street fund to build new lanes, but it could use street funds for some of the pavement improvements. Today, the pavement on Beavercreek Road was in poor condition. If it was not a roadway expansion project, then the City would have to at least be looking at a pavement rehabilitation project in that area. There was another little pot of money that the City got when the County transferred jurisdiction to the City. The County paid the City a small amount for pavement repairs, so some of that money could be used. It was called upgrade streets annexed fund. The actual new lanes were very much a transportation SDC charge. The need for sidewalks, bike lanes, and a five-lane cross section was specifically called out in the TSP, so SDC funds could be used.

Commissioner Powell understood the street fund would pay for maintenance.

Ms. Kraushaar replied the street fund could be used for roadway, but the fund was very limited. There was not a lot of money that could be spent on street maintenance. There was about a \$200,000 to \$300,000 budget for street maintenance in Oregon City annually. That did not go far on a project like this. That was when staff looked to how much of the project was attributable to widening the road, adding sidewalks, and adding bike lanes. Urban renewal funds could be used to fill in where other funds were lacking.

Commissioner Powell found it interesting to listen to reports on all the new projects and developments and that SDCs could not be used for many things. He appreciated hearing how those funds could be used for something that would impact the community as a whole.

Mr. Kabeiseman the critical part of using SDC funds was that they had to go to capacity-increasing improvements. That was where the increase in lanes went to capacity increasing and made it SDC eligible.

Commissioner Powell thought this project would definitely fit.

Ms. Kraushaar added there would be no general fund money going into a project like this. There was often confusion that these projects somehow impacted the City's general fund. They were completely separate pots of money.

Chair Orzen asked if there was a percentage breakdown of the funding source.

Ms. Kraushaar had general numbers, but the design was not yet completed. The cost estimates were very rough at this time, and she did not have exact numbers.

Chair Orzen inquired about the impact that Clackamas County will have when the development at Red Soils is fully built out.

Mr. Konkol replied that the county had only performed a pre-application conference approximately a month ago and because an application was not submitted, the city does not have a traffic report or information regarding the traffic capacity of the project.

Chair Orzen asked if the numbers will most likely cause a greater impact on Beavercreek Road.

Mr. Konkol replied that he imagined they would.

Commissioner Powell asked if the community favored the short term or long term approach.

Mr. Coffey stated that there was no opposition to the long-term plan. The short-term concerns dealt with access. He noted that the project will focus on businesses that front the project while keeping in mind the impact of the public driving the facility.

Ms. Kraushaar added that projects of this nature are commonly opposed because of the impact the construction phase will have on business owners. She agreed that within long-term construction projects people generally reroute themselves. However, Beavercreek is a wider road and traffic will not have to be rerouted around the businesses such as in 7th street improvements. The city is progressing in directing people into driveways and getting contractors to comply with standards. The city is interested in the long-term benefits of the project for the nearby businesses.

Mr. Coffey interjected that when contractors are reviewed, he inquires how they would work to keep traffic flowing. The city would additionally structure the contract to minimize the impact on property owners while getting the project completed within a reasonable amount of time.

Ms. Kraushaar added that the public often requests that projects get built at night, but the costs increase significantly, making every proposal a compromise.

Commissioner Powell inquired about Clackamas County's involved in the project because of their position on top of the hill. Would build out of Clackamas County facilities effect the short-term plan and bring the long-term plan into fruition faster?

Ms. Kraushaar answered that once the plan is adopted, it is dependent on timing. The county will submit a traffic study with the application and mitigate traffic issues proportional to the impact of the development.

Mr. Kabeiseman added that when the county submits their plans to the city they will have to address transportation impacts immediately adjacent to the site and further show that there will not be impacts elsewhere that cause the City's transportation plan to fail in one way or another. If it does, the city will deny the application. System Development Charges (SDC's) recognize that development will have impacts on other areas not directly adjacent to the development and throughout the city. SDC's address the impact of the development elsewhere in a more diffuse way around the city. The Beavercreek Plan will support Clackamas County when the application is submitted or the county will find a way to make it sufficient or the city will deny the application. By adopting the Plan now, the city recognizes that there will be future development and the capacity will increase. Hopefully the Plan will be sufficient enough to accommodate the expected traffic for the foreseeable future. Hopefully the county will not submit a plan that will cause the area to fail. He reassured that the county will pay for their impact to the immediately adjacent area and SDC's will pay for their share to mitigate their impact to the rest of the city.

Ms. Kraushaar added in a direct response that the city did not involve the county in the plan.

Commissioner Powell noted that he thought they would be interested.

Mr. Konkol added that the Clackamas County and the Oregon Department of Transportation were provided with copies of the proposal for comment.

Commissioner Seasholtz asked if it is logical to start with interconnections off the right-of-way, especially on the north side, in considering keeping the businesses functioning.

Ms. Kraushaar responded that it is logical and the city will pursue working with businesses, however many businesses are not ready to allow the city cross their property. She concurred that it is an excellent logical idea.

Mr. Coffey noted that from a construction standpoint, the Plan will keep the traffic flowing on the south side with two travel lanes while making improvements on the north side of the street. The process would continue with development on the south side of the street.

Ms. Kraushaar stated that the city would always try to maintain driveway access at all times.

Commissioner Seasholtz noted if businesses would access from each other's property when the driveways are closed they could maintain customers.

Mr. Coffey responded that typical contracts maintain at least one open driveway at all times so a crossover is maintained and businesses can have at least one access.

Commissioner Orzen asked for additional questions regarding the proposal. After hearing none she opened the hearing for public comment.

Mr. Konkol called Mr. Shafer.

Mr. Joseph Shafer introduced himself as a land use planner in Portland representing the Southridge Shopping Center. After describing the location, he stated that he noticed an evolution about the Plan with regards to the signal. He noticed it was a possibility in the December plan and currently it is in the long-term plan, but discussions regarding the light have a ways to go. Since uncertainty in the funding, it has been placed aside and because funding is back on track, it is moving forward again. He noted that there are many tenants, each affected in a different way. The shopping center supports the concept of the signal, as do city engineers, and is unsure why it will not be pursued sooner than later. With increasing development to the east and west and as Beavercreek is becoming a bottleneck; there is an increasing difficulty in getting into and out of all the driveways. He noted that signalization is the long-term solution.

Commissioner Powell asked the number of tenants Mr. Shafer represents in the center.

Mr. Shafer responded that there are 27 spaces. They are not all occupied and there is flexibility dependant on the tenant.

Chair Orzen asked if he concurred with the Plan as it is to put in both signals.

Mr. Shafer replied yes, but had concerns of the western most signal, with the conceptual road to the north proposed by Walmart. Shouthridge feels that regardless of who develops the property to the north they will need public road access or they will cause too much traffic at the Molalla signal causing capacity problems there.

Chair Orzen asked for additional questions.

Mr. Younger supported the installation of the light in the short term. The light will accommodate future development of the property that he still owns as well as accommodate access for other properties. He is working with Southridge Shopping Center, Walmart and Pacland to propose the light in the short-term plan

rather than the long-term plan. Installation in the short-term plan would prevent the installation of a divide in the center of the road, which would be taken out 6 months later with development for the light. He added that the city has been working well on the plan with business owners.

Mr. Konkol noted that there were no other persons who signed up for public comments. He asked for others who wished to speak.

Mr. Eugene Hawk with the Barryhill Park Apartments noted concerns with the walkway extended an additional 14 feet from a building within Barryhill Park Apartments. The proposed 42-inch wall will not eliminate the sound from the traffic that will be moved 20-feet closer to one of the units. He was additionally concerned about the driveway. If the road were widened 10 to 20 feet, cars leaving the facility would be forced to sit on a 2-3 percent slope. The slope would be problematic in icy conditions.

Ms. Kraushaar asked Mr. Hawk to point out the location on the map.

Mr. Stephen Wybra introduced himself as the owner of the Barryhill Park Apartments. He clarified that presently the approach to Beavercreek Road from the complex is fairly flat. The removal of 20 feet will cause the ingress/egress to be located on a slope which is problematic, especially in icy conditions. He requested an increased barrier because the road will be closer to his property. He noted that they will have residents close to the modified road and he felt it was not safe with the removed buffer.

Commissioner Seasholtz asked about the second driveway.

Mr. Wybra clarified that it was in the long-term plan.

Commissioner Powell asked if Mr. Wybra was requesting a sound barrier, such as those in Arizona.

Mr. Wybra responded that he is not adverse to the project, but wanted a larger wall to decrease noise and keep out vehicles.

Commissioner Seasholtz Asked again about the second driveway.

Mr. Hawk stated that he didn't see how there would be the capability to change the driveway unless there were major changes in elevation.

Ms. Kraushaar responded that those issues are design details which will be reviewed in the final aspect of the project. The city will be reviewing the transition of the grade of the road into existing driveway at a later date. A noise study was done and the wall does not result in an increase in decibels, but the city is willing to explore other options.

Chair Orzen asked if there would be landscaping along the wall.

Ms. Kraushaar responded that there is not much space and a curb tight sidewalk is already in place at the location without a landscape strip. She added that the city is sensitive to the gentleman's concerns.

Mr. Hawk asked where the power lines would be located.

Ms. Kraushaar noted that recently PGE has been having the centerline of the power lines placed 12-inches from the back of the curb and 24-inches from the front of the curb. The poles will likely be in the sidewalk.

Mr. Hawk asked about putting the lines underground.

Ms. Kraushaar responded that that underground costs are overwhelming.

Chair Orzen thanked everyone who testified and asked for rebuttal or further comments.

Mr. Coffey added that this was the Access Management Plan and not roadway construction. There were certain requirements that had to be met before a traffic signal could go installed. There were certain volume thresholds or pedestrian threshold criteria. If the City put in a traffic signal today at this location, it would not meet warrants that one looked for in terms of volume. One did not want to unnecessarily install a traffic signal and was why it was not in the short-term plan.

Ms. Kraushaar noted there was no driveway at Southridge today, and the City did not want to get involved with onsite improvements on the private property side. If a signal were installed, the City would want to make sure the driveway went in to make it functional. Even on the north side driveway did not serve enough people to warrant a signal. It would have to be part of an overall development plan with the adjoining property owners. The need would be triggered by development and affects funding.

Chair Orzen asked where the funding would come from.

Ms. Kraushaar hesitated to discuss any funding conclusions because of the limited detail at this time.

Chair Orzen asked for additional questions.

Mr. Rocky Younger mentioned that the property owners liked the light that went in on Molalla Avenue. The property owners were assessed in a local improvement district (LID) for their shares. He understood the property owners would pay for the intersection that would go in.

Chair Orzen closed the public testimony portion of the hearing and began commissioner deliberation.

Commissioner Powell was generally impressed with the Plan, and a lot of work had gone into the project. He liked the idea of the third intersection as he felt it made a lot of sense. He believed it was incumbent upon the property owners to sit down with the City and come up with a workable plan. Obviously, there was going to be some construction needs within the shopping center, and he thought that discussion should move forward. Overall, the Plan was a critical need for the City. He was concerned about not moving it forward. Oregon City had already hurt itself with the urban renewal decision in his opinion. If the City did not move forward with the Plan and get it implemented soon, then the City would see construction happening with nothing but piecemeal applications and resulting in long-term problems. He fully supported the Plan and wanted to see it move forward as soon as possible. Economic long-term viability relied on this, so he wished to move forward.

Commissioner Seasholtz wanted to see some way of getting in the extra single lane as soon as possible even if that meant working with the property owners to get those intersections in that were a part of it. She, too, was concerned about viability long-term, and this Plan moved Oregon City in the right direction. The sooner the better. She wanted to make it clear to those who felt their concerns had not been specifically addressed that this was a concept plan. It was a starting point. As Ms. Kraushaar said, the final design would work these things out in the end. Right now this Plan needed to move forward.

Commissioner Lajoie also supported the Plan. This was a piece of the puzzle. When one looked at the whole traffic system in conjunction with what was done at Hwy 213, at Molalla Avenue, and further down, this made perfect sense. The timing seemed right. The City seemed on top of this right now, and it was a strategic point that needed to be solved both short- and long-term and thought about. He believed the document and all of the work put into it was very good and he supported it.

Commissioner Roddey recommended that the Plan be moved forward.

Chair Orzen definitely recommended that the Plan move forward. It was well-thought out, and she complimented the consultants for working with the business owners and doing as much as possible to facilitate the process so it would work for everyone. This was a vital link and the final piece of transportation needed on the Hilltop to make it viable for economic development. If this Plan did not move forward at this time, one might not see it happen for 10 years. It behooved the Planning Commission to make sure the URC brought this Plan and funding forward. Otherwise, as she said, the City would not be able to do it. She anticipated seeing the Plan happen. She liked the way the new roadway systems were brought in to connect all of the different businesses. She thought it would open up a lot of opportunity for other businesses in the area and provided more places where people could live near transportation. She felt this was a very good thing for the area, and she wanted to see it brought forward. She asked for a motion.

Commissioner Lajoie noted there was a memo from PacLand.

Mr. Konkol replied it was a request that the Planning Commission continue the hearing. The Planning Commission may do so if it wished to hear additional information, and the public record was still open and would be open until the City Commission closes it. If the Planning Commission chooses to make a recommendation at this meeting, PacLand would still have the ability to submit the information to the City Commission for review. It was at the Planning Commission's discretion.

Commissioners Powell moved for adoption of ordinance L 05-03 and move it forward to the City Commission.

Mr. Konkol polled the Planning Commission. Commissioners Seasholtz, Roddey, Powell, and Lajoie and Chair Orzen voting 'aye.' Motion passed 5 – 0.

Mr. Konkol said this would be sent to the City Commission with a recommendation for approval. The hearing would be August 3, 2005, at 7:00 p.m. in the Commission Chambers.

Chair Orzen thanked the businesses for their involvement and asked for comments.

Mr. Konkol reported the City Commission would have a public hearing on the Beutel Road annexation on July 6, 2005, which the Planning Commission forwarded with no recommendation. The Planning Commission would hold hearings on July 25 and July 28, and on August 1, a downtown solutions presentation was tentatively scheduled for a work session.

Chair Orzen adjourned the meeting.

Respectfully Submitted

Tony Konkol, Senior Planner