

ORDINANCE NO. 99-1016

AN ORDINANCE AMENDING TITLE 17.06.030, OFFICIAL ZONING MAP OF THE OREGON CITY MUNICIPAL CODE OF 1991, BY CHANGING CERTAIN DISTRICTS

WHEREAS, the applicant/owner is requesting to increase the intensity of use of the site by changing the zone of Clackamas County FU-10, Future Urbanizable 10-Acre District to City of Oregon City R-8, Single-Family Dwelling District that would allow residential units to be developed at 5.5 units per acre; and

WHEREAS, the City recognizes that the supportive findings and conclusions adopted by the Planning Commission on May 24, 1999, which recognizes that the applicant provided evidence of the "need" for low density residential uses for Oregon City; and

WHEREAS, the proposed use best meets the land use needs and promotes the safety and security of the residents of the City and the State.

Now, therefore,

OREGON CITY ORDAINS AS FOLLOWS:

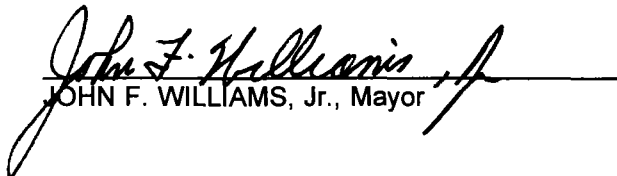
This application is hereby approved for the following property with the findings and conclusions attached as Exhibit 1 and incorporated herein:

Tax Lot 1490, Clackamas County Assessor Map 3S-1E-12D, zoning designation is hereby changed from Clackamas County FU-10, Future Urbanizable 10-Acre District to City of Oregon City R-8, Single-Family Dwelling District

Read for the first time at a regular meeting of the City Commission held this 7th day of July, 1999 and the foregoing ordinance was finally enacted this 7th day of July, 1999.

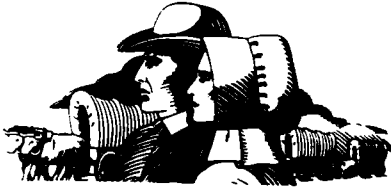

JEAN K. ELLIOTT, City Recorder

ATTESTED to this 7th day of July, 1999.


JOHN F. WILLIAMS, Jr., Mayor

ORDINANCE NO. 99-1016

Effective Date: August 6, 1999



CITY OF OREGON CITY

Incorporated 1844

320 WARNER MILNE ROAD | OREGON CITY, OREGON 97045
TEL 657-0891 | FAX 657-7892

COPY

FINAL ORDER

In the matter of the application of:

FILE NO. Zone Change 98-18 & PD 98-06

APPLICANT: Trahan Consulting, Inc.
1419 Seventh Street
Oregon City, Oregon 97045

PROPERTY OWNER: Harold O. Payson
19802 South Central Point Road
Oregon City, Oregon 97045

REQUEST: Zone Change from Clackamas County FU-10 Future Urbanizable 10-Acre District to City of Oregon City R-8 Single-Family Dwelling District with a concurrent Preliminary Plan for a 40-lot Planned Unit Development.

LOCATION: Clackamas County Tax Assessor Map 3S-1E-12D, Tax Lot 1490

A hearing having been held on June 16, 1999, it is hereby ordered that:

- () Application is allowed.
- (X) Application is allowed with the following modifications
and/or conditions: Conditions are attached as Exhibit "A".
- () Application is denied.

This Order is based upon findings attached in Exhibit "A" and incorporated as if fully set forth herein.

DATED: July 7, 1999


JOHN F. WILLIAMS, Jr., Mayor

Final Order/File No. ZC98-18/PD98-06

BEFORE THE PLANNING COMMISSION
FOR THE CITY OF OREGON CITY, OREGON

In the matter of an application for zone)	
change approval and preliminary approval)	FINDINGS OF FACT, CONCLUSIONS
of a planned unit development on)	OF LAW AND FINAL ORDER
10.68 acres of property located in the)	
southeast quadrant of the intersection of)	
Central Road and White Lane)	
(Map 3S-1E-12D, Tax Lot 1490)	

This matter came before the Planning Commission for a decision on May 24, 1999. This application came before the Planning Commission for a duly noticed hearing on April 12, 1999. The Planning Commission closed a public hearing for this matter on April 12, 1999, and made a motion to (1) keep the record open for 7 days to allow for additional written comments; and (2) allow the applicant to respond to the comments within 7 days. At the April 26, 1999, the Planning Commission reviewed the additional comments and the applicant's response, and opened the hearing to allow additional testimony on the revised site plan submitted by the applicant. At the April 26, 1999, meeting, the applicant requested the Planning Commission to grant a 14-day continuance of the 120-day processing requirement to allow the applicant and staff to prepare findings of fact supporting the revised site plan. The Planning Commission made a decision to review the findings and conditions of approval at the May 10, 1999, meeting. At the May 10, 1999, meeting, the Planning Commission directed staff to revise findings and conditions of approval for the May 24, 1999, Planning Commission meeting.

Following deliberations are based on all of the testimony and evidence that was presented at the April 12 and April 26, 1999, public hearings. At the April 26, 1999, hearing, the Planning Commission voted unanimously to approve the application for approval of the zone change and preliminary approval of the Payson Farm planned unit development ("PUD").

The Planning Commission finds that the applicant has met the burden of proof in demonstrating that the proposed zone change and PUD application complies with the applicable approval criteria.

I. Introduction and Background

The applicant proposes a 40-lot Planned Unit Development on the subject 10.68 acre property. The site is located in the southeasterly quadrant of the intersection of Central Point Road and White Lane. The property was annexed to the City in May 1998.

The application applied for (1) zone change from Clackamas County FU-10 (Future Urbanizable - minimum 10 acres to City of Oregon City R-8 (Single Family Dwelling District - minimum 8,000 square feet), and (2) preliminary Plan for a 53- Lot Planned Unit Development that has been revised by applicant to reduce the number of lots to 40. The proposed lots range in size from 4,999 square feet to 6,569 square feet. The front lot widths range from fifty to seventy-five feet. The lot depths range from seventy five to one hundred ten feet.

The proposed plan includes approximately 2.04 acres of open space. The area dedicated to open space is approximately 19% of the total area (10.68 acres). A PGE tower is located within the proposed open space area, along the northerly property boundary.

The development potential of the subject property is affected by the PGE easement that consists of approximately 1.57 acres of the subject property (15% of the total area).

The application came before the Planning Commission for duly noticed public hearings on April 12 and April 26, 1999. Based on the evidence that was presented, the Planning Commission deliberated and voted to approve the zone change and PUD application.

II. Analysis of the Approval Criteria

A. Zone Change from FU-10 to R-8

1. Oregon City Municipal Code 17.06.050©

a. Is the proposed zone change consistent with applicable Comprehensive Plan Goals and Policies?

The following goals of the Comprehensive Plan are applicable to the requested zone change: Growth and Urbanization Goals and Policies, Housing Element Goal, Community Facilities Goal, and Transportation Goal. We concur with the applicant's analysis of all the applicable goals.

The applicant has submitted the required information for the traffic study that has been reviewed by staff and the City's traffic engineers. Staff agrees with the result of this study and finds that the conditioned transportation improvements to both White Lane and Central Point Road are adequate to offset the impact of the proposed development. Future transportation improvements will be necessary at the intersection of Leland Road/

Warner- Parrot Road and Central Point Road/ Warner- Parrot Road and the traffic SDC's generated as a result of this development will be sufficient, along with those from prior and subsequent developments in the impact area will be sufficient to offset the impacts associated with the development.

The revised site plan includes the storm detention area within the subdivision and the Urban Growth Boundary; hence, the site plan no longer violates the Urbanization Goal and Policies.

Since the applicant requests a zone change with a concurrent PUD development, the Urbanization Goal, the Community Facilities Goal and the Transportation Goal are analyzed within the specific context defined by the proposed PUD development.

b. Is the proposed zone change consistent with the lotting patterns in the immediate surrounding area?

The subject property is currently zoned FU-10. The area north of the site is within the Urban Growth Boundary but has not yet been annexed to the City. Land uses in this area are primarily residential on parcels that range from one to ten acres. The area west of the site is zoned R-10 and is occupied by recently constructed residential developments.

In general, the areas surrounding the subject property are within the Oregon City Urban Growth Boundary area and are designated Low Density Residential on the Comprehensive Plan Map. The existing land use and the zoning pattern indicate that this part of the city is in gradual transition from outlying low density residential areas to urban residential use. The Low Density Residential Comprehensive Plan Map designation may be implemented by R-10, R-8, and R-6 Single Family Residential Districts.

c. Is the requested zone change consistent with the character of the surrounding area? If the land is constrained by steep slopes or other natural features (wetlands, vegetation, etc.) R-10 shall be designated.

The subject property does not contain inventoried natural features. Staff finds it not necessary to require the lots to meet the R-10 standards.

B. Preliminary Planned Unit Development

Section 17.64.120 sets forth the PUD approval criteria. Section 17.64.140 sets forth the development standards for Planned Unit Development.

1. Oregon City Municipal Code 17.64.120

Section 17.64.120. This section identifies **five preliminary PUD plan approval criteria** that have to be met in order to approve an application for preliminary PUD plan. With the imposition of the conditions of approval as set forth in Exhibit A, the application complies with each approval criteria.

a. Is the proposed PUD consistent with applicable Comprehensive Plan Goals and Policies and with the purposes for allowing PUD (17.64.120.A) ?

Purpose of PUD

Section 17.64.120(A)The purpose of this section is “to promote an arrangement of land uses, lot sizes, lotting patterns, housing and development types, buildings, circulation systems, open space and utilities that facilitate the efficient and economic use of land, and in some instances, a more compact, pedestrian-oriented, mixed-use urban design. Specifically, this can be accomplished through the PUD process with cluster developments, zero lot line and townhouse type developments, and mixed use developments that integrate compatible neighborhood commercial and office uses with residential uses in a single development or within a single building”.

We find that the revised site plan fulfills this purpose section because it facilitates the efficient use of land by incorporating the easement area into open space, minimizes the loss of buildable area to street area through a well planned circulation system and provides lot sizes that are only slightly smaller than those in a typical R-8 neighborhood thereby making the most efficient use of the area as is possible given the restraints imposed by the existing developments.

17.64.010.B. The purpose of this section is “To preserve existing natural features and amenities and/or provide useful common open space available to the residents and users of the proposed PUD. Specifically, it can be accomplished through the PUD process by preserving existing natural features and amenities, creating new neighborhood amenities such as pocket or regional parks and open spaces that serve neighborhoods or on-site open spaces that meet the needs of the development’s future residents. In exchange, the city will extend residential density transfers and bonuses to increase the density on developable portions of the property”.

We find that the property does not contain any inventoried natural features. Under the ordinance provisions, a PUD development shall provide useful common open space available to the residents and users of the proposed PUD (OCMC 17.64.010.B). As stated in OCMC 17.64.040.D, “no particular amount of on-site open space is required for a PUD. However, the applicant should endeavor to provide at least twenty-five percent of the property’s total area as common open space for the recreational needs of the development’s residents either on-site or off-site and in close proximity to the development. This amount may be reduced or eliminated entirely if the applicant can demonstrate there is adequate existing public park or open space with amenities within one-quarter mile of the site with good pedestrian and bicycle access”.

We find that the revised site plan complies with this criterion. Open space accounts for approximately 25% of the developable area (area minus streets) and will be available for use by the residents of the PUD. The Planning Commission finds that the open space as shown on the revised site plan is consistent with the requirement to endeavor to provide twenty-five percent open space because the 25% is not an absolute requirement. Further, this open space is “usable” as required by City Code based on the evidence in the record showing that the easement area continues to remain available for use by the owners in any way that is not inconsistent with its use as a PGE easement. Although appropriate uses may be minimally restricted, i.e. for kite flying, these restrictions do not render the property unsuitable for the general uses of open space including both passive and active uses. The applicant has submitted evidence which tends to prove that the earlier concerns of the Planning Commission regarding potential adverse effects associated with residents being in close proximity to overhead transmission lines is not accepted nor proven in the scientific community.

Section 17.64.010(B) This section requires “To protect and enhance public safety on sites with natural or other hazards and development constrains through the clustering of development on those portions that are suitable for development...”.

We find that the site was evaluated by the Public Works Department, the Engineering Section of the Community Development Department, and the Fire Department in order to determine the potential public safety impacts associated with the development of the subject property. No public safety hazards requiring mitigation were found.

The PGE tower is located within the open space area of the proposed PUD. A site plan for open space development has been provided and requires PGE approval prior to filing a final plat. Any significant modifications to the site plan must be reevaluated by the Planning Commission. This condition will assure compliance with the requirements to enhance public safety.

Section 17.64.010.D. This section of the code anticipates that certain dimensional requirements of underlying zones and general development standards, including those governing street right-of-way and pavement widths, may be adjusted to better achieve the above purposes.

We find that the modifications to the standards as requested by the applicant and applicable to the revised site plan are appropriate for the PUD and will allow the development of this property in a manner consistent with the adjacent properties.

Section 17.64.030. This section states that “A development proposal may be processed as a PUD at the applicant’s option so long as at least fifty percent of the gross area bears a residential plan designation, at least fifty percent of the net developable area is proposed for residential uses, and the development proposes at least eighty percent of the gross density allowed by the underlying zone. If the property bears a PUD designation, the property may be developed in accordance with this chapter...”

The subject property is approximately 10.68 acres. The gross density for the site is 58 units under the R-8 zoning standards. 80% of 58 is 46, so 46 units would be required if there is not an adjustment to the minimum density standard. The applicant is proposing 40 units and has requested an adjustment from the mandatory minimum 80% gross density standard.

Section 17.64.040© states “The applicant may request, and the decision maker may approve, adjustments from all dimensional requirements of the underlying zone except that gross density shall not be less than eighty percent of gross density *on buildable lands* on the underlying planning and zoning designation.” The language “shall not be less than 80% of gross density on buildable lands” when read in conjunction with the language in 17.64.030 means PUD’s have a minimum mandatory 80% gross density standard that must be met unless an adjustment is warranted, in which case the minimum mandatory 80% gross density standard may be reduced to 80% of total density allowed on buildable lands in the underlying zone. Buildable lands means the land that is developable and is equal to the gross area minus all portions that are undevelopable due to wetlands, natural features, steep slopes, or street rights-of-way. Unless the applicant shows otherwise, street rights-of-way will be assumed to occupy twenty percent of the property’s gross area.

An adjustment to the minimum mandatory 80% gross density standard is warranted in this case because the proposal otherwise complies with the purposes of the PUD and because the following factors affect this site: 1) a significant portion of the site is not buildable due to a PGE power line easement; 2), smaller lots and higher density

than that which is being proposed by the applicant on this site would not be consistent with the surrounding land use patterns; 3) the applicant is requesting adjustments to the setback and other dimensional standards so the property will remain consistent with the character and nature of surrounding properties; and 4) the applicant is providing almost 25% open space, thereby limiting the applicants ability to build more units to achieve a higher density.

Of the 10.68 acres on this site, 3.64 acres are not buildable due to the PGE easement and street rights-of-way. Thus, the buildable land is 7.04 acres. The maximum density that would be allowed under the R-8 zoning on the buildable land is 38 units. 80% of 38 units is 30. The applicant proposes to construct 40 units, which is at least 80% of density allowed on the buildable land. Because an adjustment to the minimum mandatory 80% gross density standard is appropriate, and because the applicant proposes to develop more than 80% of the density allowed on the buildable land under the R-8 zoning standard, this criteria has been met.

Section 17.64.040.A. This section allows outright detached single family dwellings as part of a PUD.

The applicant proposed detached single family houses. Therefore, this requirement is met.

Section 17.64.040.C. This section states that “All dimensional standards that would otherwise apply to a property or development may be adjusted in the context of a PUD without a separate variance application. However, unless an adjustment is specifically requested and explained in the PUD application or recommended by the city, the dimensional standards of the underlying zone will be assumed to apply. The applicant may request, and the decision maker may approve, adjustments from all dimensional requirements of the underlying planning and zoning designation...”

We find that the proposed modifications are consistent with the purposes for which a PUD is allowed. The modifications applicable are as set forth in Condition # 38 and # 39. Therefore, this criterion is met.

17.64.120.B The proposed preliminary PUD plan meets the applicable requirements of the underlying zoning district, any applicable overlay zone (e.g., Chapters 17.44 and 17.49) and applicable provisions of Title 16 of this code, unless an adjustment from any these requirements is specifically allowed pursuant to this chapter.

We find that a detailed description of all modifications proposed by the applicant is set forth in the Conditions of approval (Condition #3).

b. Does the proposed PUD comply with the requirements of the underlying R-8 zoning district found in OCMC 17.10?

The requirements that apply in the R-8 district and the applicant's proposed PUD are summarized as follows:

<u>Dimensional Standards</u>	<u>R-8 Minimum</u>	<u>Proposed PUD</u>
Minimum Lot Size	8,000 square feet	7,035 square feet
Minimum Lot Width	70 feet	50feet (selected lots)
Minimum Lot Depth	100 feet	75 feet (selected lots)
Front Setback	20 feet	15 feet (selected lots)
Interior Side Setback	9 feet and 7 feet	9 feet and 7 feet
Corner Side Setback	20 feet	15 feet
Rear Setback	20 feet	10feet (selected lots)

The analysis of this criterion is provided in B(1)(a).

c. Does the applicant propose a phasing schedule?

17.64.120.C. Any phasing schedule proposed by the applicant must be reasonable and not exceed five years between approval of the final PUD plan and the filing of the final plat for the last phase. Dedication or preservation of open space or natural resources, in a form approved by the city, must be recorded prior to the construction of the first phase of any multi-phase PUD.

This applicant does not request a phasing schedule therefore this criteria is inapplicable.

d. Has the applicant demonstrated whether all public services have adequate capacity to support the development?

17.64.120.D. The applicant has demonstrated that all public services and facilities have adequate capacity to serve the proposed development, or adequate capacity is assured to be available concurrent with development.

The proposal was evaluated by the public services and facilities providers and their comments finding compliance are set forth in the record.

The applicant has submitted the required additional information for the traffic study that has been review by staff and the City's traffic engineers. We agree with the result of this study and find that the conditioned transportation improvements to both White Lane and Central Point

Road are adequate to offset the impact of the proposed development. Future transportation improvements will be necessary at the intersection of Leland Road/ Warner- Parrot Road and Central Point Road/ Warner- Parrot Road and the traffic SDC's generated as a result of this development will be sufficient, along with those from prior and subsequent developments in the impact area will be sufficient to offset the impacts associated with the development.

We accept the Applicant's analysis of other public services as set forth in the application including the conclusion that adequate capacity exists to serve this development, therefore, this criteria is met.

e. Are the adjustments from the dimensional standards in the underlying zone justified or necessary to better achieve the purpose of a PUD?

17.64.120.E. All adjustments from any applicable dimensional requirement requested by the applicant or recommended by the city are justified, or are necessary to advance or better achieve the policies of this chapter than would compliance with the dimensional requirements of the underlying zoning.

The modifications proposed by the applicant are discussed in this report as part of an analysis of B(1)(a) and (b). Further, the Planning Commission finds that the requested adjustments are necessary to allow development as proposed in the revised site plan as a PUD.

III. CONCLUSION

The following requests for the 10.68-acre subject property (Assessor's Map 3S-1E-12D, Tax Lot 1490) were submitted by the applicant:

1. Zone Change from Clackamas County FU-10 to City of Oregon City R-8 Single-Family Dwelling District; and
2. Preliminary Plan for a 53- Lot Planned Unit Development that has been revised by Applicant to reduce the number of lots to 40.

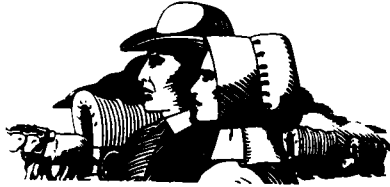
Based on all the evidence presented to us and for the reasons set forth above, we find that the applicant has complied with the approval criteria for the zone change and preliminary approval of the PUD.

Accordingly, the Planning Commission recommends the following:

1. That the City Commission **APPROVE** the zone change from Clackamas County FU-10 to City of Oregon City R-8 for the subject 10.68-acre property (Assessor's Map 3S-1E-12D, Tax Lot 1490) based on the revised findings as set forth above.

FINDINGS - PAYSON FARM PUD/ZC

2. That the City Commission finds that approval of PD98-06 is appropriate at this time based on the revised site plan and the revisions to the findings as set forth above and that with the adoption of the Conditions of Approval as set forth in the attached Exhibit A, this application complies with all applicable approval standards.



CITY OF OREGON CITY

Incorporated 1844

320 WARNER MILNE ROAD | OREGON CITY, OREGON 97045
TEL 657-0891 | FAX 657-7892

FINAL ORDER

In the matter of the application of:

FILE NO. Zone Change 98-18 & PD 98-06

APPLICANT: Trahan Consulting, Inc.
1419 Seventh Street
Oregon City, Oregon 97045

PROPERTY OWNER: Harold O. Payson
19802 South Central Point Road
Oregon City, Oregon 97045

REQUEST: Zone Change from Clackamas County FU-10 Future Urbanizable
10-Acre District to City of Oregon City R-8 Single-Family Dwelling
District with a concurrent Preliminary Plan for a 40-lot Planned
Unit Development.

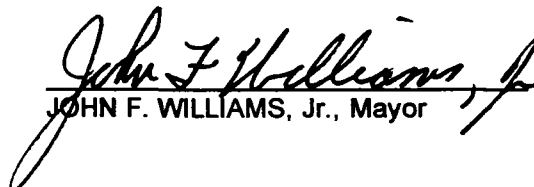
LOCATION: Clackamas County Tax Assessor Map 3S-1E-12D, Tax Lot 1490

A hearing having been held on June 16, 1999, it is hereby ordered that:

- () Application is allowed.
- (X) Application is allowed with the following modifications
and/or conditions: Conditions are attached as Exhibit "A".
- () Application is denied.

This Order is based upon findings attached in Exhibit "A" and incorporated as if fully set forth herein.

DATED: July 7 , 1999


JOHN F. WILLIAMS, Jr., Mayor

Final Order/File No. ZC98-18/PD98-06

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CITY OF OREGON CITY

INCORPORATED 1844

COMMISSION REPORT

TO THE HONORABLE MAYOR AND COMMISSIONERS

FOR AGENDA

DATED

July 7, 1999

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Page

Subject: Proposed Ordinance No. 99-1016, An
Ordinance Amending Title 17.06.030,
Official Zoning Map of the Oregon City Municipal
Code of 1991, by Changing Certain Districts -
Findings of Fact, Conclusions of Law and Final Order -
continued from June 21, 1999 meeting

Report No. 99-129

At its June 21, 1999 meeting, the City Commission conducted a public hearing on a zone change from Clackamas County FU-10 to City R-8 Single Family Dwelling District with a concurrent Preliminary Plan for a 40-lot Planned Unit Development on property as requested by Harold O. Payson, 19802 South Central Point Road. As a result of that hearing, the City Commission tentatively approved the request. Because the ordinance enacting the zone change had not been posted as required by City Charter, consideration of the ordinance was continued to the July 7, 1999 agenda.

On the July 7, 1999, agenda is proposed Ordinance No. 99-1016 (copy attached) which contains the Findings of Fact and Conclusions of Law and Final Order.

Notice of proposed Ordinance No. 99-1016 has been posted at City Hall, Municipal Elevator and Pioneer Community Center by direction of the City Recorder. It is recommended that first and second readings be approved for final enactment to become effective August 6, 1999.


CHRIS JORDAN
Interim City Manager

jke
Attach.
cc:

Interim Planning Manager
Property Owner



CITY OF OREGON CITY

INCORPORATED 1844

COMMISSION REPORT

FOR AGENDA

DATED

June 16, 1999

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TO THE HONORABLE MAYOR AND COMMISSIONERS

Page

Subject: Zone Change from County FU-10 to
City R-8 with a Concurrent 40-Lot
Planned Unit Development - Central Point Road and
White Lane - Public Hearing and Final Order

Report No. 99-122

If approved, Proposed Ordinance No. 99-1016

On April 12, 1999 and April 26, 1999, the Planning Commission was presented a zone change application from Clackamas County FU-10, Future Urbanizable 10-Acre District to City R-8, Single Family Dwelling District with a concurrent Preliminary Plan for a 53-lot, subdivision-style, Planned Unit Development application. The subject property is approximately 10.68 acres in area and is owned by Harold O. Payson. The development potential of the site is affected by a PGE tower along the northerly property boundary and the PGE easement that consists of approximately 1.57 acres of the subject property (15 percent of the total area).

This matter came before the Planning Commission for a decision for a duly noticed public hearing on April 12, 1999. The Planning Commission closed the public hearing on April 12, 1999, and adopted a motion to (1) keep the record open for seven days to allow for additional written comments; and, (2) allow the applicant to respond to the comments within seven days. At the April 26, 1999 meeting, the Planning Commission reviewed the additional comments and the applicant's response, including the revised site for a PUD application, and opened the hearing to allow additional testimony on the revised site plan submitted by the applicant. The 53-lot PUD Preliminary Plan was revised by the applicant to reduce the number of lots to 40 and enlarge the proposed open space from 1.95 acres to approximately 2.04 acres.

At the April 26, 1999 hearing, the Planning Commission voted unanimously to approve the zone change application with the concurrent 40-lot, subdivision style, Planned Unit Development and directed the applicant and staff to prepare findings. At the May 24, 1999 meeting, the Planning Commission reviewed and adopted the findings.

Based upon the entire record of this matter, the Planning Commission found that the applicant demonstrated that the R-8 zone designation is appropriate for the subject property and meets the zone change approval criteria as required by OCMC 17.06.050 and forwarded its findings and recommendation to the City Commission for action. The Planned Unit Development is dependent upon approval of the zone change.



CITY OF OREGON CITY

INCORPORATED 1844

COMMISSION REPORT

TO THE HONORABLE MAYOR AND COMMISSIONERS

FOR AGENDA

DATED

June 16, 1999

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Page

Subject: Zone Change from County FU-10 to
City R-8 with a Concurrent 40-Lot
Planned Unit Development - Central Point Road and
White Lane - Public Hearing and Final Order

Report No. 99-122

If approved, Proposed Ordinance No. 99-1016

Attached for Commission review are the following documents: 1) proposed Ordinance No. 99-1016; Findings of the Planning Commission; and, Planning Commission minutes of April 12, 1999 and April 26, 1999. The zone change and Planned Unit Development file and the evidence submitted to the Planning Commission at the hearings are available for review at City Hall, Planning Commission.

Notice of proposed Ordinance No. 99-1016 (copy attached) has **NOT** been posted as required for both readings to be held at the same meeting; therefore, if the Commission upholds the decision of the Planning Commission, it is recommended that first reading only be approved with second reading continued to the July 7, 1999 meeting.

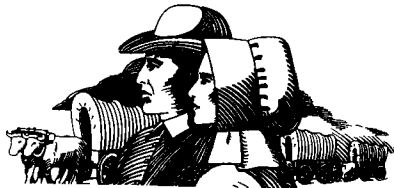

CHRIS JORDAN
Interim City Manager

BS:jke

Attach.

cc:

Int. Planning Manager
Property Owner



CITY OF OREGON CITY

Incorporated 1844

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FINAL ORDER

In the matter of the application of:

FILE NO: Zone Change 98-18 & PD 98-06

APPLICANT: Trahan Consulting, Inc.
1419 Seventh Street
Oregon City, Oregon 97045

PROPERTY OWNER: Harold O. Payson
19802 South Central Point Road
Oregon City, Oregon 97045

REQUEST: Zone Change from Clackamas County FU-10 Future Urbanizable 10 Acre District to City of Oregon City Single-Family Dwelling District with a concurrent Preliminary Plan for a 40 lot Planned Unit Development.

LOCATION: Clackamas County Tax Assessor Map 3S-1E-12D, Tax Lot 1490

A hearing having been held on June 16, 1999, it is hereby that:

- ☒ Application is allowed.
- ☐ Application is allowed with the following modifications
and/or conditions: Conditions are attached as Exhibit "A"
- ☐ Application is denied.

This Order is based upon findings attached in Exhibit "A" and incorporated as if fully set forth herein.

June 16,
DATED ___, 1999

John F. William Jr., Mayor

Final Order/File No. ZC98-18/PD98-06

RECOMMENDED CONDITIONS OF APPROVAL

WATER

1. All required public water system improvements shall be designed and constructed to City standards. These standards include the latest version in effect at the time of application of, but are not limited to: Oregon City Municipal Code, Water Master Plan, and the Public Works Design Standards for Water Distribution Systems.
2. The Fire Marshall shall determine the number of fire hydrants and their locations. Fire hydrants shall be fitted with a Storz metal face adapter style S-37MFL and cap style SC50MF to steamer port. This adapter is for a 5-inch hose. All hydrants to be completed, installed and operational before framing begins. Hydrants shall be painted with Rodda All-Purpose Equipment Enamel (1625 Safety Orange Paint) and all chains shall be removed from the fire hydrants.
3. Backflow prevention assemblies are required on all domestic lines for commercial buildings, all fire service lines, and all irrigation lines. Backflow prevention assemblies are also required on residential domestic lines greater than or equal to 2-inch in diameter or where internal plumbing is greater than 32 feet above the water main. The type of backflow prevention device required is dependent on the degree of hazard. The type of device to be installed in any specific instance will be determined by City Water Department personnel certified as cross connection inspectors. All backflow prevention devices shall be located on the applicant's property and are the property owner's responsibility to test and maintain in accordance with manufacturer's recommendations and Oregon statutes.
4. Any existing wells on the site shall be capped and abandoned according to state regulations. Documentation must be provided to the city prior to beginning of construction.

SANITARY SEWER

5. All required public sanitary sewer system improvements shall be designed and constructed to City standards. These standards include the latest version in effect at the time of application of, but are not limited to: Oregon City Municipal Code, Sanitary Sewer Master Plan, and the Public Works Design Standards for Sanitary Sewers.
6. A gravity sewer main will be required to provide sewer service to this project. The sewer line shall drain to the sanitary manhole at the intersection of Parrish Road and Central Point Road. The sewer line must be extended to the northern boundary of the project sites frontage on Central Point Road, and to the western boundary of the project sites frontage on White Lane.
7. Applicant must process and obtain sanitary sewer system design approval from

- DEQ.
8. Existing septic system on site shall be abandoned and documentation provided from Clackamas County prior to beginning construction.

STORM SEWER/DETENTION AND OTHER DRAINAGE FACILITIES

9. Storm water detention system shall be located within the Urban Growth Boundary.
10. Staff recommends that the storm water detention facility be public and constructed to public works maintenance specifications. If the detention facility is proposed to be private, the applicant shall provide a guarantee maintenance agreement for approval by the City Engineer and attorney. This agreement, if approved, shall be recorded before the final plat and noted on the final plat.
11. All required public storm sewer system improvements shall be designed and constructed to City standards. These standards include the latest version in effect at the time of application of, but are not limited to: Oregon City Municipal Code, Oregon City Drainage Master Plan, and the Public Works Design Standards for Drainage.
12. Storm detention shall be required for this development. Detention requirements shall be as follows:
 - a. The peak release rate for the 2-year design storm after development shall not exceed the pre-developed 2-year design peak runoff rate.
 - b. The peak release rate for the 25-year design storm after development shall not exceed the pre-developed 10-year design peak runoff rate.Applicant must process and obtain an erosion control permit (1200C) from DEQ prior to approval of construction plans.

DEDICATIONS AND EASEMENTS

13. Applicant shall dedicate sufficient right-of-way to provide 35 feet of right-of-way on the applicant's side of the centerline of the existing Central Point Road right-of-way. This dedication shall be provided along the entire site frontage with Central Point Road. Applicant shall dedicate sufficient right-of-way to provide 25 feet of right-of-way on the applicant's side of the centerline of the existing White Lane right-of-way. This dedication shall be provided along the entire site frontage with White Lane. Applicant shall dedicate 50 feet of right-of-way for all proposed interior local streets. Applicant shall also dedicate a 1-foot sidewalk easement adjacent to the right-of-way along the entire site frontage with White Lane, and along both sides of all interior local streets. Both the City of Oregon City and Clackamas County shall approve all dedications along Central Point Road and White Lane.
14. Public utility easements shall be dedicated to the public on the final plat in the

following locations: Ten feet along all street frontages, rear lot lines, and the project boundary, and five feet along all side lot lines. Easements required for the final engineering plans shall also be dedicated to the public on the final plat. The side lot line requirements can be waived once utility locations have been identified and the need for side lot line easements is determined by the City Engineer to be unnecessary except where identified by said utilities.

15. All off-site utility easements required for this project shall be obtained and recorded prior to approval of construction plans.

STREETS

16. Half-street improvements are required for White Lane along the entire frontage with the project. A half-street improvement is defined as improvements to the centerline of the street plus an additional 10-feet of pavement. For White Lane this includes: half of a 32-foot paved section plus 10 feet for a total of 26 feet of pavement, curbs, gutters, 4-foot planter strips between the curb and the sidewalk, 5-foot sidewalks, street trees, easements, centerline monumentation, city utilities (water sanitary and storm drainage facilities), traffic control devices and street lights in compliance with the City Code for Oregon City and its various Master Plans. Both the City of Oregon City and Clackamas County shall approve all improvements along White Lane.

Half-street improvements are required for Central Point Road along the entire frontage with the project. A half-street improvement is defined as improvements to the centerline of the street plus an additional 10-feet of pavement. For Central Point Road this includes: half of a 50-foot paved section plus 10 feet for a total of 35 feet of pavement, curbs, gutters, 7-foot sidewalk, 3'X3' tree wells adjacent to curb, street trees, easements, centerline monumentation, city utilities (water sanitary and storm drainage facilities), traffic control devices and street lights in compliance with the City Code for Oregon City and its various Master Plans. Both the City of Oregon City and Clackamas County shall approve all improvements along Central Point Road.

Full street improvements are required for all interior local streets. For local streets a full street improvement includes: 32 feet of pavement, curbs, gutters, 4-foot planter strips between the curb and the sidewalk, 5-foot sidewalks, street trees, easements, centerline monumentation, city utilities (water sanitary and storm drainage facilities), traffic control devices and street lights in compliance with the City Code for Oregon City and its various Master Plans.

17. White Lane shall be improved from the northern corner of the site to Central Point Road with a 20-foot wide pavement section centered in the existing right-of-way. The existing road section shall be removed and reconstructed to City

local street structural section standards. This shall include transitions from the 20-foot section to the White Lane half-street improved section, and from the 20-foot section to Central Point Road. Both the City of Oregon City and Clackamas County shall approve all street improvements.

18. When the first lift of asphalt is installed, Applicant shall provide asphalt berms or another adequate solution, as approved by the City Engineering Division, at storm catch basins or curb inlets on all streets to ensure positive drainage until the second lift of asphalt is installed.
19. Applicant shall show non-vehicular access strips along the street frontages of all corner lots except for the 40 feet on each street furthest from the intersection.
20. Street names have not been proposed at this time. All street names shall be reviewed and approved by the City (GIS Division 657-0891, ext.168) prior to approval of the final plat to ensure no duplicate names are proposed in Oregon City or the 9-1-1 Service Area.
21. All street improvements shall be completed and street name signs shall be installed prior to issuance of building permits. The applicant shall pay the city and the city installs street name signs at all street intersections (OCMC 16.12.350, G).
22. All sidewalks for this subdivision are the responsibility of the Applicant. The applicant may transfer the responsibility for the five-foot sidewalks adjacent to the right-of-way as part of the individual building permit requirement on local streets, however failure to do so does not waive the applicant's requirement to construct the sidewalks. Applicant shall complete all sidewalks on residential lots within one year of City acceptance of public improvement completion unless a building permit has been issued.
23. Applicant shall install sidewalks along the entire frontage of Central Point Road, along the entire frontage of any existing houses, along the frontages of all tracts, and all handicap access ramps at the time of street construction.
24. Street lights shall be owned by the City of Oregon City and installed at the expense of the Applicant. The Applicant shall prepare a street light plan, subject to City and PGE approval, by a qualified electrical contractor. Streetlights shall be placed at street intersections and along streets at property lines. The required lights shall be installed by a qualified electrical contractor. Streetlights are to be spaced and installed per recommendations of the Illuminating Engineering Society of North America as published in their current issue of IES, RP-8 to provide adequate lighting for safety of drivers, pedestrians, and other modes of transportation. Streetlights shall be 100-watt high-pressure sodium fixtures mounted on fiberglass poles with a 25-foot mounting height. Any necessary electrical easements shall be dedicated on the final plat.

GRADING AND EROSION CONTROL

25. A rough grading plan shall be submitted with the construction plans. The

applicant's engineer shall certify rough grading elevations to +/- 0.1 feet. A final lot grading plan shall be based on certified grading elevations and approved prior to the issuance of a building permit. If significant grading is required for the lots due to the location or the nature of the site, rough grading shall be required of the developer prior to the acceptance of the public improvements. There shall be a maximum grade differential of two (2) feet at all project boundaries. Grading shall in no way create any water traps, or other ponding situations.

26. An Erosion Prevention and Sedimentation Control Plan shall be submitted for City approval. Dewatering excavations shall not be allowed unless the discharge water meets turbidity standards (see below) or is adequately clarified before it enters adjacent drainage courses, and before it leaves the site. Discharge from man-made, natural, temporary, or permanent ponds shall meet the same standard. Effective erosion control shall be maintained after subdivision site work is complete and throughout building permit issuance. Construction activities shall not result in greater than 10 percent turbidity increase between points located upstream and downstream of construction activities. Plans shall document erosion prevention and control measures that will remain effective and be maintained until all construction is complete and permanent vegetation has been established on the site. Responsible party (site steward) for erosion control maintenance throughout construction process shall be shown on the Erosion Control Plan. Staff encourages applicant to select high performance erosion control alternatives to minimize the potential for water quality and fish habitat degradation in receiving waters.
27. Applicant must process and obtain erosion control permit (1200C) from DEQ prior to approval of construction plans.

GEOTECHNICAL

28. A geotechnical report shall be prepared for the proposed project site that addresses the existing soil conditions. The report shall contain recommendations for construction of roadways and other public facilities. The report should also include any special requirements for the construction of residential building foundations.

ENGINEERING

29. Design engineer shall schedule a pre-design meeting with the City of Oregon City Engineering Division prior to submitting engineering plans for review.
30. All required public works improvements shall be designed and constructed to City standards. These standards include the latest version in effect at the time of

application of, but are not limited to, the following list of documents: Oregon City Municipal Code, Water Master Plan, Transportation Master Plan, Sanitary Sewer Master Plan, and the Drainage Master Plan. It includes the Public Works Design Standards, which is comprised of Sanitary Sewer, Water Distribution System, and Drainage. This list also includes the Street Work Drawings, the Clackamas County Department of Utilities' Erosion Prevention and Sediment Control Plan Technical Guidance Manual (by reference), Appendix Chapter 33 of the Uniform Building Code (by reference), the Site Traffic Impact Study Procedures, and the City of Oregon City Review Checklist of Subdivision and Partition Plats.

31. Technical Plan Check and Inspection Fees. A five-percent (5%) Technical Plan Check and Inspection Fee shall be paid prior to approval of the final engineering plans for the required site improvements. The fee is the established percentage of a City-approved engineer's cost estimate or actual construction bids as submitted by the applicant. Half of the fee is due upon submitting plans for final approval, the other half is due upon approval of the final plans.
32. The Applicant shall consult with the City Engineering Division prior to development on this site during wet weather seasons, defined as November 1 through April 30th. The City Engineering Division may require the applicant's geotechnical engineer's or other appropriate professional engineer's to provide written justification outlining why such development at this site is appropriate during these wet weather seasons. Such consultation shall be at the expense of the applicant.
33. The Applicant shall submit a draft copy of the proposed Conditions, Covenants, and Restrictions (CC & R's) to the Planning staff, for review and approval, prior to final plat approval. These CC & R's shall include requirements for maintaining surface runoff patterns established for each lot, maintaining any proposed private storm lines or detention, and for individual lot owner's conformance to the City's erosion control standards when establishing or renovating landscaping and for continued maintenance of the open space by the Homeowner's Association including an assessment or other funding source to assure the future financial ability of the Association to maintain the open space.
34. It is the responsibility of the Applicant to ensure that all outside agencies have been contacted and any appropriate approvals obtained for the construction of the project. Copies of approvals shall be supplied to the City to be filed with the City's files. Failure to do so shall be a justification for the City to prevent the issuance of a construction, or building, permit or to revoke a permit that has been issued for this project.
35. Failure to adhere to any of these conditions of approval shall be cause for the City to seek legal action and/or revocation of this permit approval.
36. The Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future

that benefit the Property and assessing the cost to benefited properties pursuant to the City's capitol improvement regulations in effect at the time of such improvement.

37. The Applicant shall be responsible for paying all fees associated with the recording of documents such as non-remonstrance agreements, easements, dedications, etc..

SITE DESIGN STANDARDS

38. The final PUD plan shall conform to the following lot design standards:

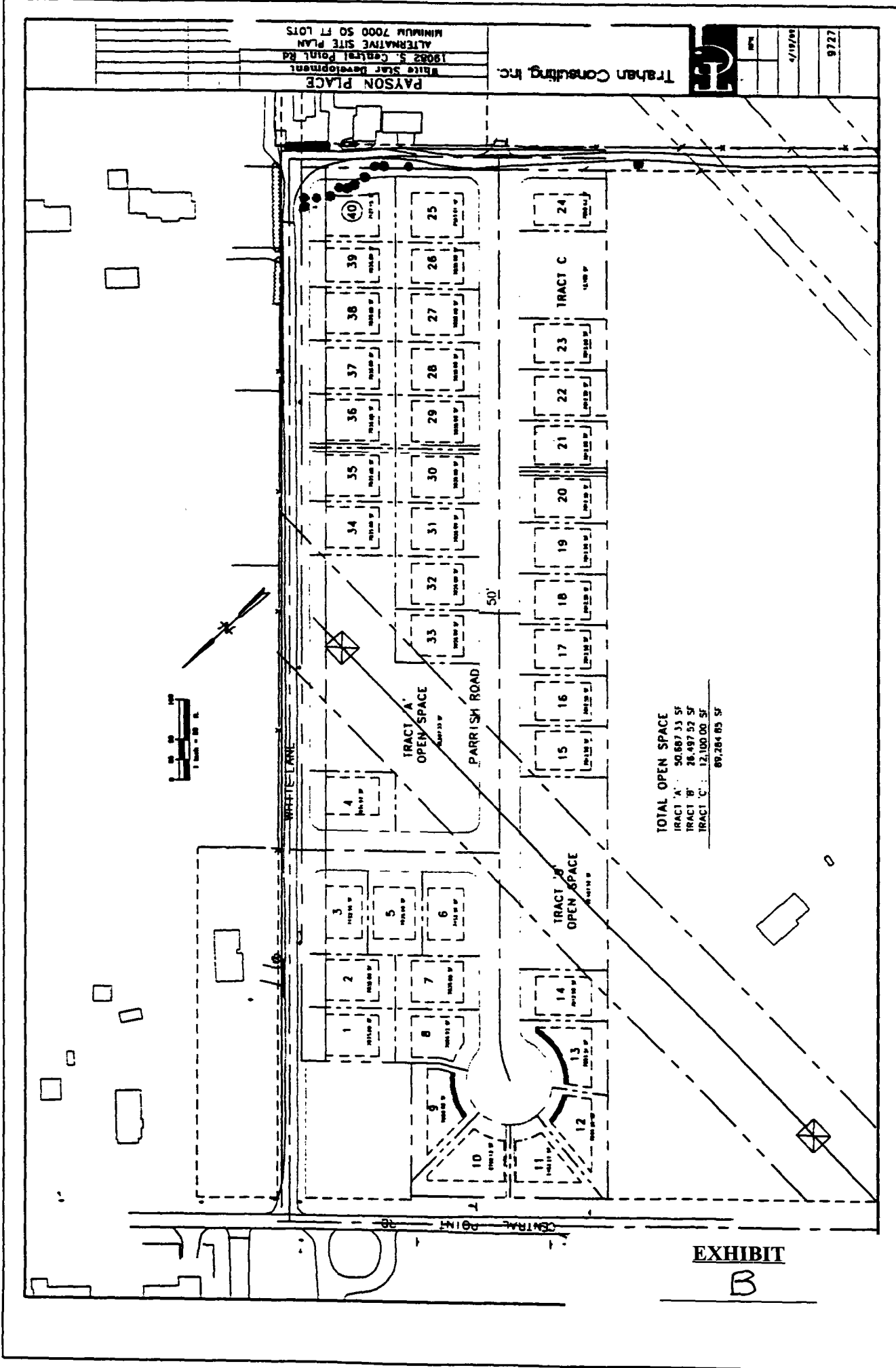
- a. Reduce the minimum front yard setback requirements for lots 9, 12, 13 to 15 from twenty feet to fifteen feet except the garage entry shall remain set back to 20 feet.
- b. Reduce the minimum front yard width requirements from seventy feet to fifty feet for all proposed lots.
- c. Reduce the corner yard setback requirements from twenty feet to ten feet for lots 3, 4, 6, 24, 25, and 40.
- d. Reduce the minimum lot depth requirements from one hundred feet to seventy five feet for lots 8, 9, 10, 11, 12 and 13.
- e. The proposed 10 feet wide pedestrian easement shown on the revised site plan, dated April 19, 1999, between lots 20 and 21 shall be eliminated.
- d. The internal street network, including the block length and perimeter standards, shall be in compliance with the site plan submitted by the applicant.

39. Any material deviation from the proposed open space design submitted by the applicant in their original proposal shall be brought back before the Planning Commission for review and approval.

40. The open space shall be owned in undivided interest by the lot owners. The lot owners interest in the open space shall be included in the deeds that are conveyed to the initial owners and the lot owners and the lot owners interest in the open space shall be noted on the final plan.

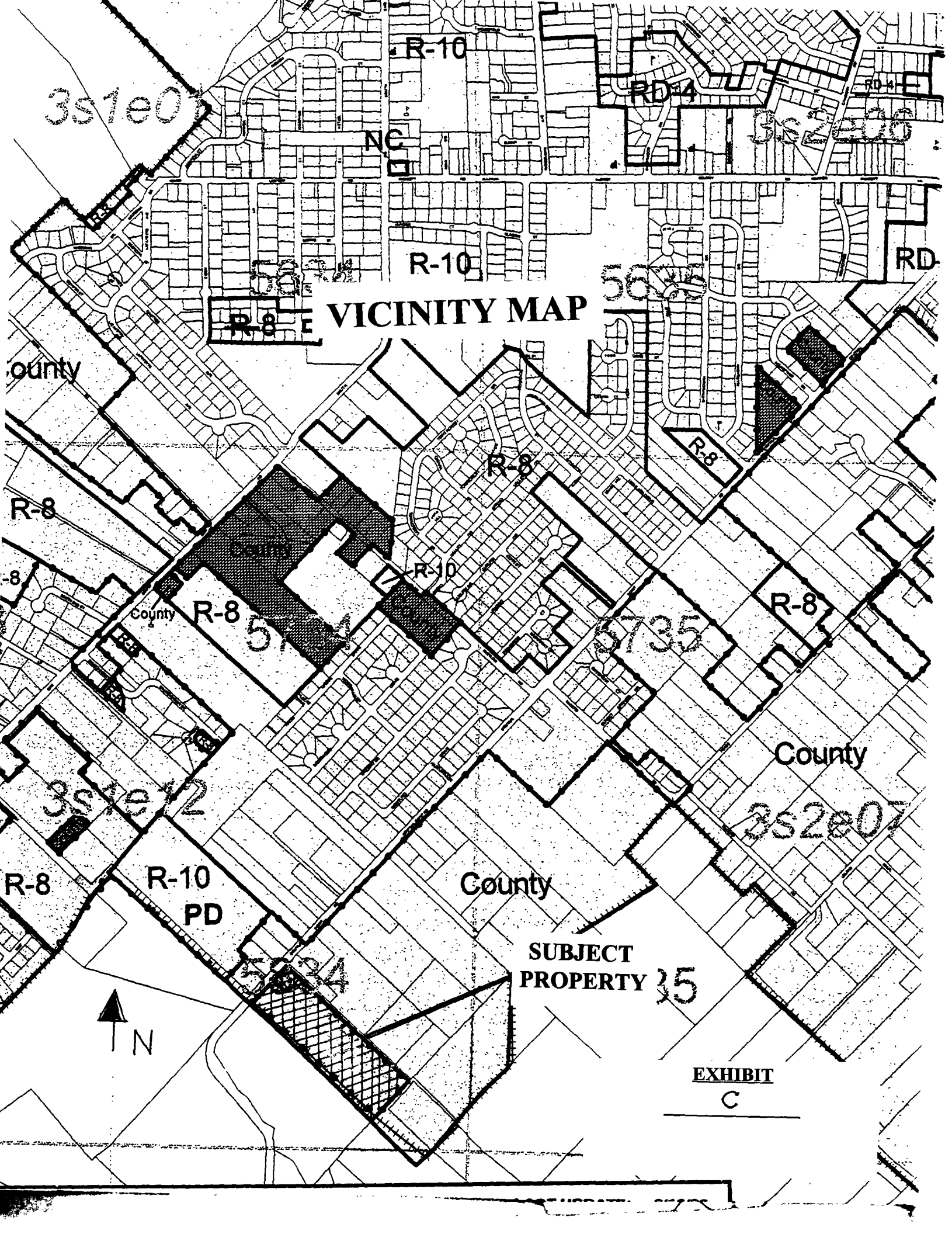
MISCELLANEOUS

41. Prior to approval of a Building Permit, the applicant will be required to sign, notarize and record in the deed of records for the City a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming and forest practices for which no action or claim is allowed under ORS 30.936 or ORS 30.937.



TOTAL OPEN SPACE
 TRACT A : 50,687.33 SF
 TRACT B : 28,497.52 SF
 TRACT C : 12,100.00 SF
 89,284.85 SF

EXHIBIT
 B



VICINITY MAP

**SUBJECT
PROPERTY 35**

EXHIBIT

C

**CITY OF OREGON CITY
PLANNING COMMISSION MEETING
APRIL 26, 1999**

(EXCERPTS RELATED TO FILE NO. PUD 98-06 & ZC 98-18)

MOTION

Commissioner Mattson motioned to deny File No. PUD 98-05 & ZC98-15 and instructed staff to draft findings for adoption at the May 10, 1999, hearing. **Commissioner Vernon** seconded the motion.

ROLL CALL: Commissioner Mattson, Aye; Commissioner Surratt, Aye; Commissioner Vernon, Aye; Acting Chair Hewitt, Aye. **MOTION CARRIED 4-0.**

Acting Chair Hewitt called for a five minute recess. The Planning Commission will hear the next item on the agenda, File No. PUD 98-06 & ZC 98-18, which is a continuation of Trahan - Whitestar Development.

Acting Chair Hewitt reconvened the meeting.

File No. PUD 98-06 & ZC 98-18 (*Continuation*) Trahan Consulting & Whitestar Development; 53 lot Planned Unit Development "Payson Farms" with Zone Change from County FU-10 to City "R-8" Single Family Dwelling District: 19802 S. Central Point Road - South of White Lane on Central Point Road; Clackamas County Map 3S-1E-12D tax Lot 1490.

Marnie Allen stated the record had been left open for seven days for people who opposed this application and requested an opportunity to submit written information and was left open for an additional two days after that for the applicant to submit rebuttal to that new information. Then the record closed and has returned for deliberation and decision only.

Acting Chair Hewitt asked if everyone has had the opportunity to read Ms. Fowler's written submittal to this application. It will now be open for commission discussion.

Commissioner Surratt stated the properties in and around the adjoining area are currently R-8 and R-10. There is no problem with the zone change request of R-8 Single Family.

Acting Chair Hewitt reviewed the PUD application that had been originally submitted. There had been some conflicting information regarding the possible dangers of power lines that cross this site.

Commissioner Mattson stated there is concern with having structures constructed under the power lines.

Commissioner Surratt stated that Ms. Fowler has been in contact with PGE and has received an easement under the power lines. The applicant has made an attempt to discover what is a feasible improvement under that right-of-way.

Acting Chair Hewitt asked staff if part of the information provided by Ms. Fowler is new information?

Marnie Allen responded this is a discretionary decision for the Planning Commission to decide upon whether it is new information or the submittal of rebuttal testimony. There has been a new site plan submitted with 40 lots instead of the original 53 lots. It is the Planning Commission's decision whether this is in rebuttal to the testimony presented by the neighbors that there were too many lots. This is the same property site but showing fewer lots.

Acting Chair Hewitt reviewed the written material presented.

Commissioner Mattson stated the concerns were the lot density transfer in placing more lots for a higher density and the open space existing under the power lines. Was the criteria used to transfer that density appropriate and does the higher density affect the adjacent properties and the detention pond was to be placed on site rather than off-site as it was shown originally. This plan submitted does alleviate some concerns.

Acting Chair Hewitt stated tract A and tract B remained the same and there was no water on site to be drained. The open space area appears to be larger.

Marnie Allen stated with the revisions submitted, the applicant's attorney is claiming that there is 24 percent open space.

Acting Chair Hewitt stated tract C appears to be a detention facility, not open spaced. The staff was asked if the staff had a change to their recommendations with respect to the new plan the applicant has submitted?

Barbara Sheilds responded the staff did not have adequate time to analyze the additional information to prepare a recommendation.

Commissioner Mattson stated it is incumbent on the applicant to convince the Planning Commission to grant what is being requested and it is also incumbent upon the Planning Commission to make a decision upon what is received and deliberated within the time frame established. If the 120 day rule is not relaxed, then the period for re-negotiating and/or resubmitting is gone. The staff should review this submittal and modify their recommendations.

Marnie Allen recommended the Planning Commission could reopen the record and hear the applicant's attorney and hear the questions asked of the commission or keep the record closed and continue to discuss among the commissioners and ask questions of staff. If the commission opens the record, the others in attendance at this meeting are to be given the same opportunity to submit testimony.

Stacy Fowler stated Mr. Cosgrove had said at the last meeting there would not be sufficient time for the staff to address the traffic study. That is not what is being said at this meeting.

Bryan Cosgrove stated the pedestrian plan has changed as it is off-set, as in the original submittal, it was lined up. This is creating an issue that the city would need to address.

Commissioner Mattson stated the submittal of the new plan shows that the detention facility has been moved from off-site to on-site, the lot sizes have changed. There is no letter from PGE entertaining a question to whether play structures can be allowed under the PGE easement area which is identified as the major part of the proposed site's open space. The bulk of the testimony given was the question of the appropriateness of the density for this site, and the PUD plan. The staff needs to return and review the conditions of approval for the revised plan as the applicant had concerns with the original conditions of approval that staff had recommended.

Commissioner Vernon agreed that it would most helpful to have staff's recommended conditions of approval. The conflict that exists is that the staff and commission was aware at the last hearing that a new site plan would be submitted and the transportation study may not be reviewed by staff. This creates an uncomfortable feeling as to the message that was left to the applicant by the city.

Commissioner Surratt agreed to Commissioner Vernon's statement.

Marnie Allen stated all interested parties would have the opportunity to comment on staff's recommendations for change of advices for approval or any other recommendation that would be presented to the Planning Commission.

Commissioner Mattson stated concern that there be all the I's dotted and T's crossed on this application as there was so much information that was not fully discussed during the first hearing when the commission came to the conclusion to extend this application. The commission may revisit the conditions and the design and if the commission is satisfied that the conditions and design meet the criteria the plan could be approved.

Commissioner Surratt stated both of her concerns regarding the PGE easement and its uses have been addressed. The residents of this site would have a difficult time pulling out of the driveways, but this has been addressed by repositioning the pedestrian path.

Commissioner Mattson stated the Planning Commission generally does not review revised plans without reopening the hearing.

Marnie Allen stated Chairman Hall had spoke to the applicant about returning to the Planning Commission for their discussion of the R-8 zoning. The applicant requested the Planning Commission not deny the PUD and would return in two weeks and would, at that time,

withdraw the plan and submit something new. The difficulty the Planning Commission is to deal with, is there enough evidence for the Planning Commission to find that the revised site plan submitted complies with all the approval criteria. Will the conditions, that will be revised, be consistent with the approval criteria. Someone may object and appeal the Planning Commission's decision because they felt it was new information that they were not given the opportunity to comment on.

Acting Chair Hewitt reopened the record for File No. PUD 98-06 & ZC 98-18. The only portion to be addressed and heard will be the new site plan and the submitted evidence submitted following the closure of the record up to this time.

PUBLIC TESTIMONY

Stacy Fowler, 18044 Peters Skenes Way, Oregon City, OR. 97045. Represents the applicant.

Stacy Fowler stated the revised site plan is close to the same site plan originally submitted that does contain small changes. The applicant has submitted findings with this site plan. There has been some open space reduced from tract A and B to create wider lots. Tract C has been added as open space to house the storm drainage detention facility by removing it from the off-site location to being an on-site facility. This site can be considered as open space. The circulation plan has changed, but the transportation for automobiles is the same. The pedestrian walkway on the west side has been off-set. There was testimony that the pedestrian access would run into adjacent properties and that pedestrian walkway can be removed. This was to break up the long block length. The changes that are seen on the new site plan submittal are addressing the staff's recommendations for denial or change. The staff had not concurred with the applicant's analysis that the site plan was in line with the transportation and urban growth policies. The staff agrees with the result and this transportation analysis has been approved by the city's traffic engineers. The revised set of conditions of approval are what was discussed at the last hearing.

Commissioner Vernon asked if the open space was to be developed as shown at the last hearing?

Stacy Fowler responded the applicant would develop the open space similar to what was presented at the last hearing. PGE is requiring a site plan that has been approved prior to them implementing their policies. The applicant will develop the open space as allowed by PGE.

Acting Chair Hewitt stated Condition No. 21 states, "this condition shall be deleted based upon the fact the code requires the owner to pay for the signs and for the city to install them and the code allows for bonding of street improvements rather than completion prior to issuance of building permits". He added he was uncomfortable in agreeing with this condition by removing any requirements of financial bonding for street improvements.

Stacy Fowler responded that the staff's recommended condition originally stated construction of street improvements shall be required prior to the issuance of building permits.

Bryan Cosgrove stated in discussing with Mr. Trahan, the condition stated that street signs were to be installed prior to the issuance of building permits. This condition was not consistent with the city's code. There was no discussion of street improvements at that time. The original condition states, "All street improvements will be completed and street name signs shall be installed prior to issuance of building permits".

Commissioner Mattson stated Condition 21 should be changed to reflect Chapter 16.12.350, that the applicant purchases the signs, the city installs them.

Acting Chair Hewitt stated Condition 36 should be deleted based upon the fact that it states, "the city's legal authority to assure compliance with these conditions and other city code provision is appropriately set forth in and a manner of city ordinance". This should contain a standard condition of approval.

Bryan Cosgrove stated the other conditions of approval are standard. This condition reflects the discussion the staff had with Mr. Trahan reflecting where septic systems and wells were believed to exist. In past experience a well and/or septic tank is discovered on a site. Condition 36 may not comply, but if it does, then the applicant has to meet those conditions in the code.

Stacy Fowler stated the applicant is requesting the deletion of conditions that do not apply to this site. Once the property has been approved for development, the developers of the property will not have a clear understanding of what actually existed on the site, such as wells and septic tanks, and there will be no proof that these items were removed because those items did not exist on the site. State law requires that if there is an existing well on the property, that well shall be abandoned. New development is required not to use existing septic tank systems, but to connect to the public wastewater system.

Acting Chair Hewitt stated Condition 36 should read, "Failure to adhere to these conditions of approval shall be cause for revocation for this permit approval."

Commissioner Mattson suggested not to belabor Condition 36, but to leave it stand as is. Condition 34 was approved with the addition that the city's legal counsel shall have review and approval and adding the maintenance of the open space.

Bryan Cosgrove stated staff had concerns with the new alignment of the pedestrian access way. The current configuration in the new site plan would not be acceptable, as this off-set pedestrian path does not travel anywhere and the city does not deem this improvement desirable. This pedestrian path could be deleted. Condition 40 states that PGE has final design review authority for the open space easement.

Stacy Fowler responded PGE has the final authority of what can be constructed within its easement and how it is constructed. The application submitted includes the site plan for the open space. The applicant has agreed to develop that open space in accordance with that site plan, but this proposed development does require PGE's approval. If PGE does not approve the proposed development within their easement, then the applicant will be required to return to the city and deliberate once again on the improvement within the open space.

Commissioner Mattson stated Condition 40 will be revised to state upon the review of the proposed open space development by PGE and if PGE does not approve the design as submitted to the city, the applicant will be required to return to the city for a revised development plan to comply with PGE's conditions and the city's conditions. The city will have final approval.

Marnie Allen advised the Planning Commission that the PUD requires the minimum density of 80 percent of the gross density on the land allowed in the underlying zone. If the Planning Commission interprets the PUD Ordinance to mean 80 percent of gross density on the total area as opposed to gross density on buildable land, 40 lots is below the minimum density standard that is set in the ordinance. The applicant should have 46 lots.

Commissioner Vernon stated PGE's easement is not buildable land. What would the percentage be if this easement were to be excluded from the gross density of buildable land?

Marnie Allen responded then the applicant would exceed the 80 percent requirement. The ordinance that describes gross density of buildable land excludes the easement and 20 percent for right-of-ways and allows adjustment to what would otherwise be the minimum that would set under the code. This interpretation can be addressed within the findings of the Planning Commission's decision.

Stacy Fowler stated the PUD Ordinance does allow this transfer. If the Planning Commission does interpret the ordinance to say, determine the maximum number of units that can be built, use gross density of the buildable land then take the chart of the zone change requested times the maximum growth density for a PUD. When the 80 percent rule is interpreted, the ordinance states that lot sizes can be flexible and the improvement can be designed to create what is allowed, except that the ordinance requires the development to be built at 80 percent.

Marnie Allen stated to arrive at buildable lands the Planning Commission would determine that PGE easements, steep slopes, and 20 percent for streets and right-of-ways were not buildable lands. This would reduce the gross area then to the buildable area, whereby, the 80 percent calculations would be determined. This application then does comply with the PUD Ordinance.

Commissioner Mattson asked what side yard setbacks were being used for the new site

plan that was submitted?

Stacy Fowler responded the reason the applicant requested to modify the minimum side yard setbacks from 9.7 feet to 5 feet on each side was to allow more work placement of the homes and less constriction based on specific guidelines.

Commissioner Mattson stated this creates 10 foot alleyway and would create a negative impact on subdivisions of this type.

Stacy Fowler stated the applicant would delete the request for Condition E referring to the modification of side yard setbacks.

Marnie Allen suggested that the Planning Commission state findings to allow the exception to the PUD Ordinance establishing density based upon the gross buildable land and agreed to draft the language for this finding for the commission.

Stacy Fowler stated the Planning Commission did not review Condition 16, and the applicant does need that modification. Gutters are a part of the pavement even though they are concrete. It cannot be allowed to reflect that there are 26 feet of pavement and then gutters because they cannot be built all within the right-of-way.

Dean Norlin responded that this condition has been the city's standard condition and this condition is not requiring anything additional. Other developers have not questioned the purpose of this condition. This improvement will be build according to the city's detail measuring from the center line to the curb and gutter, part of that 26 feet or 16 feet will include approximately one foot and that will be concrete. It does not say there will be 26 feet of pavement.

Stacy Fowler stated Condition 25 requires as-builts in order to get construction plans approved. That is not possible.

Dean Norlin stated this has been an on going problem for the staff. When engineering drawings are presented and approved prior to any construction taking place. The staff requests finished foundation elevations. Following the improvement of streets and utilities, there are often times additional grading and fill across the site so the elevations can vary up to two feet. Then the applicant has to return to request modifications. What is being asked by staff is after the site has been graded, roads are complete, the staff then inspects and verifies that the final grading matches the existing grading plan or if there is a difference, adjust the foundation elevations so the building permits can be issued. The staff reviewed this condition when working with the Smelser Project and came up with a condition to certify a rough grading plan and then submit a final lot grading plan.

Marnie Allen asked if this application was returning to the Planning Commission to adopt final findings and conditions? If so, is the applicant willing to consider the 120 day waiver

for two weeks to draft the findings and conditions so that conditions will be upheld on an appeal if this application be appealed.

Stacy Fowler asked if the two weeks were granted, how long will it be before the City Commission will hear this application?

Acting Chair Hewitt responded that the Planning Commission does not have a time line as to when the City Commission will hear this application.

Bryan Cosgrove stated the City Commission meets the first and third Wednesday of each month. This application will be presented to the City Commission on the next available agenda.

Stacy Fowler agreed to waive the 120 days for the approval of the findings and conditions by the Planning Commission.

Bill Vandermolen, 20016 S. White Lane, Oregon City, Or 97045. Representing the applicant.

Bill Vandermolen stated his property is located directly east of the proposed site and supports the development of this area. This is the land to develop as it contains poor soil and is rocky. The neighbors immediately adjacent to this site have been impressed with the efforts of Stacy Fowler and the developer to work with them and have resolved all the issues that were brought forth during the testimony of the first hearing.

Acting Chair Hewitt asked for other testimony in favor of the application. Hearing none asked for those not in favor of the application.

Kathy Hogan, 19721 S. Central Point Road, Oregon City, OR 97045. Opposing the application.

Kathy Hogan stated the zone change should be an R-10 for the compatibility at the edge of the UGB. In addition, there was no response to the concern regarding the outlet of the detention pond. The traffic along Central Point Road is very heavy and the residents of this subdivision will need to watch carefully when entering onto this road.

Commissioner Mattson stated the detention pond drains into a natural swail.

John Martinson, Jr., 20495 S. Geiger Road, Oregon City, OR 97045. Opposing the application.

John Martinson stated his earlier testimony was for protection for farm land and that there be an added buffer on the property. The density is still too high. The R-8 zoning proposed

is still smaller than what was developed across the street on Parish Glen.

Acting Chair Hewitt asked for additional testimony. Hearing none it was referred back to the applicant for rebuttal.

REBUTTAL

Paul Knox, 1419 - 7th Street, Oregon City, OR 97045. Representing the applicant

Paul Knox stated to assure Ms. Hogan that the applicant will be in compliance with the city's standards to assure that water flowing downstream will not impact the adjacent properties.

Acting Chair Hewitt asked for additional rebuttal testimony. Hearing non, the record was closed.

Acting Chair Hewitt suggested the city could use the waiver of remonstrance language that the county uses to address the concerns expressed by Mr. Vandermolen.

Commissioner Mattson stated the applicant has satisfactorily addressed concern by the submittal of the revised plan.

MOTION

Commissioner Mattson moved to approve File No. PUD 98-06 and ZC98-18 with the amendments and revisions that have been discussed and that staff return with a draft of findings for approval at the May 10 Planning Commission meeting and have this application appear on the City Commission's agenda for their second meeting in June for consideration.

Commissioner Vernon seconded the motion.

ROLL CALL: Commissioner Surratt, Aye; Commissioner Mattson, Aye; Commissioner Venon, Aye; Acting Chair Hewitt, Aye. **MOTION CARRIED 4-0.**

Gary Hewitt, Acting Planning Commission Chair

Barbara Shields, Interim Planning Manager

**CITY OF OREGON CITY
PLANNING COMMISSION MEETING
APRIL 12, 1999**

(EXCERPTS RELATED TO FILE NO. PUD 98-06 & ZC 98-18)

Commissioner Surratt stated she was not at the first hearing since this was her first evening to sit on the Planning Commission, but was pleased with the revised application as presented. She desired to see the history of this site maintained. There have been statements from homeowners that they purchased the houses knowing that Ainsworth House was a bed and breakfast and did hold events. In order to fulfill our regional framework by incorporating business into our residential areas, this kind of thing will have to take place.

Commissioner Vernon stated this was a good application. By eliminating the additional capacity request of 50 people does help with the parking issue. She has attended a function at this site and parking appeared to be a problem. The applicant did do a good job.

Commissioner Mattsson stated he had no concerns with this application at this time. The issues raised have been addressed. The rebuttal did respond to the comments that were made.

Chairman Hall stated agreement with what has been said by the commissioners. Over and above that, the operation of this facility is an asset to the community. There should be an enclosure of sorts around the garbage area.

MOTION

Commissioner Vernon motioned to approve File No. CU 99-01 the Conditional Use Permit to allow the increase of the kitchen facilities with the provision that the garbage area be enclosed. **Commissioner Mattsson** seconded the motion.

ROLL CALL: Commissioner Hewitt, Aye; Commissioner Mattsson, Aye; Commissioner Surratt, Aye; Commissioner Vergun, Abstain; Commissioner Vernon, Aye; Chairman Hall, Aye.
MOTION CARRIED 5-1 ABSTENTION.

Marnie Allen state this is the final decision of the Planning Commission and the notice of the decision will be reduced to a written decision and mailed out. Whoever wants to appeal this decision can file an appeal after that decision has been mailed out appealing it to the City Commission.

Chairman Hall called for a five minute recess.

Chairman Hall reconvened the meeting.

File No. PUD 98-06 & ZC 98-18 Trahan Consulting & Whitestar Development; 53 lot planned Unit Development "Payson Farms" with Zone Change from County FU-10 to City "R-8" Single Family Dwelling District; 19802 S. Central Point Rd. - South of White Lane on Central Point Rd; Clackamas County Map 3S-1E-12D tax Lot 1490.

Chairman Hall called for any conflict of interest or biases by any member of the Planning Commission on this matter.

Brian Cavenass, Project Manager of Trahan Consulting, 1419 - 7th Street, Oregon City, OR 97045. Representing the applicant.

Brian Cavenass stated the reason he was attending the meeting was to raise an issue of an actual conflict of interest that has arisen the past two weeks with Commissioner Hewitt. There have been a series of allegations that have been going on regarding some alleged relationships that our company has, myself, and Mr. Trahan. Commissioner Hewitt filed a complaint two weeks ago with the government Ethics and Standards Commission in which he has made allegations. In response, Trahan Consulting has filed a Tort claim notice with the city specifically naming Commissioner Hewitt and several members of the Community Development Department. Given the circumstances, there is apparent evidence that there is a conflict of interest between Commissioner Hewitt and Trahan Consulting which could adversely impact on our clients.

Chairman Hall asked what Trahan Consulting is requesting of the commission?

Brian Cavenass responded requesting that Commissioner Hewitt excuse himself on a basis of an actual conflict of interest with Trahan and with a potential negative impact it could have with their clients.

Commissioner Hewitt stated as he understood the law, he did not think that it was the correct terminology to be used in this matter. The statement was made by Mr. Cavenass that he may not be able to hear this application in a fair manner and would be prejudiced in some way. A conflict of interest may not be relevant in what is being brought forward. The opportunity should be given him to search his own mind on anything that is related to an application and decide whether or not he could hear it in a fair and just manner. Because of what is at hand has no bearing on how he views the fairness of the criteria against the city code and the zoning ordinance.

Chairman Hall called for an Executive Recess of the Planning Commission members with Marnie Allen, Legal Counsel. Chairman Hall asked if there was a member of the news media in the audience.

Chairman Hall reconvened the meeting.

Chairman Hall asked if Commissioner Hewitt wished to make a comment.

Commissioner Hewitt commented that contrary to the requests made by Mr. Cavenass, he could make a fair and impartial decision of this application based on the criteria of the zoning ordinance and city code and the presentation by the applicant this evening or any application

brought forward in the future by this organization.

Chairman Hall asked the city attorney if the notice had the correct date when it was published in the newspaper?

Marnie Allen stated she was told by the applicant the newspaper did have the correct date. If the only error is the date in the staff report, it would be an insignificant error and would not require the city to reset this hearing date.

Chairman Hall stated he had one other question addressing that issue. The map that was sent out for notification of this project hearing is it the same map that is currently hanging on the wall?

Barbara Shields responded the correct date was included in the public hearing notice to be published and the correct map is on the notice as well.

Marnie Allen stated the correct map appears on page 1 of the staff report despite there being a different map on page 40.

STAFF REPORT

Barbara Shields stated the staff recommends approval of the requested zone change from Clackamas County FU-10 to City R-8 zone and deny the PUD request. The requested denial for the Planned Unit Development is based upon the following conclusions: the request is not consistent with the Comprehensive Plan Transportation Goal 6; and the traffic impact analysis presented by the applicant is not adequate to meet the city's transportation future analysis. This Planned Unit Development is not consistent with the objectives of the Planned Unit Ordinance. This PUD will require two acres of open space. The applicant is proposing 18 percent open space of the entire area. The applicant has not submitted any documentation that supports there would be a public park or open space. The proposed open space area identified is within a PGE easement. The applicant has proposed this to maximize the development potential of the subject property. The Planning Commission may approve this request if the commission finds the applicant's objective to maximize the development potential is justified by the application. Based on the analysis, staff concludes that the applicant has not provided sufficient information to meet the criteria for a PUD. Therefore, the staff recommends denial of the PUD request for this application. At this time she entered into the record a letter from Hazel Grove/Westlink Neighborhood Association. The applicant has provided additional copies of the traffic impact analysis. This is the same copy that is in the staff report that is to be entered into the record as well.

Chairman Hall stated it is not necessary to read the letter into the record unless someone wishes it to be read. The staff is recommending denial of the PUD request but recommending approval for the zone change from the county's FU-10 to the city's R-8 zone. The zoning map

shows this property is already zoned as R-8 and it is before us again for an R-8 zone change. Was the zoning map before us in error?

Barbara Shields responded after considerable research the property is still zoned FU-10. She was unaware of the map that Chairman Hall was referring to.

Chairman Hall stated the map that appears on page 40 illustrates that this property is zoned R-8. Again, wishing to clean up any errors could this be clarified.

Barbara Shields stated the zoning map reflects a mistake.

Commissioner Hewitt stated the commission had a discussion some time ago whereby Tamara DeRidder found a discrepancy between the Comprehensive Plan Map that was approved by Clackamas County and the Comprehensive Plan Map that was approved by the city. Subsequently, she did discover when the city did a zone change on a Comprehensive Plan Map, as the commission has done in prior years for that map, and if it is not forwarded to the Clackamas County Planning Department long range section to be reviewed, copied and accepted by Clackamas County then that map is invalid. This is just a lack of updating the county within the agreement that allows this to take place.

Chairman Hall stated Ms. DeRidder assigned a particular zoning classification and it had never been recommended for adoption. The property had been zoned with no classification. The classification for this property is to be zoned from the county's FU-10 to the city's R-8. The issues presented for denial of the PUD was traffic, and noncompliance with the PUD Ordinance regarding the proposed open space.

Barbara Shields stated there was not sufficient information submitted by the applicant to recommend approval for these issues.

Commissioner Vergun asked if the traffic study was submitted in the proper time frame to be reviewed by the city's engineer?

Barabar Shields stated the traffic study is the same report that was already provided as part of the record and is located on page 2 of the staff report and page 22 of the whole packet.

Commissioner Vergun asked where is the PGE tower located on the property?

Barbara Shields responded it is located within the proposed open space area.

Chairman Hall referred to the letter entered into the record by Mr. Evans and he references a traffic study dated November 17, 1998, and this traffic study was dated April 7, 1999.

Brian Cosgrove stated the traffic study dated April 7, 1999, is a different traffic study from the study dated November 17, 1999. There is not enough time for staff to review this study and return a recommendation to the commission.

Jay Toll stated there is water available to this site from Central Point Road. The sanitary sewer is available. The storm sewer layout is okay with the exception of the detention pond being located within the urban growth boundary. This would make it more of a planning issue rather than an engineering issue and there is the issue of it being a private or public detention system. The applicant will be required to construct a half street improvement on Central Point Road along the entire frontage of this project. A half-street improvements will be required for White Lane along the entire frontage of this project. Entire street improvements will be required for streets within the subdivision. There will be 20 feet paved of the northern end of White Lane adjacent to the property out to Central Point Road to provide access between the applicant's property frontage on White Lane and Central Point Road.

Commissioner Mattsson asked if the parcel that would contain the detention pond is owned by the applicant?

Jay Toll responded he was not sure.

Commissioner Mattsson asked if the staff had any other discussions about alternative designs for the detention pond?

Jay Toll responded he did not recall having discussions or seen alternative designs.

Chairman Hall expressed concern regarding the 120-day rule on this application and why is this application at this stage?

Barbara Shields responded that the city has the adequate time to meet the 120 day rule at this stage of the process.

Stacy Fowler, 1785 Willamette Falls Drive, West Linn, OR 97068. Represents the applicant.

Stacy Fowler stated the applicant and his staff is prepared to move forward with this application. The applicant has been prepared and has attempted bring forth a complete application that has been requested by the staff. The issues that are being addressed this evening are not the doing of the applicant. The applicant, every step, has identified the correct property, has known the correct dates, had traffic reports as requested by the staff, has jumped through every hoop. She pleaded that because mistakes have been made on one side that the commission would let them proceed. This project has been a long time in the making. This proposed development has been in the planning stages for more than a year and a half. The annexation process was brought before the city. There should be a staff recommendation for approval, but

there is not. The staff does not believe the application complies because of the lack of open space. The staff says there is 18 percent of open space and the applicant says there is 23 percent of open space. This is less than 25 percent so the applicant must show that there are adequate parks in the area so that it does increase the open space figure to 25 percent. This was never discussed with the applicant or the applicant's representatives. The city's ordinance states the applicant shall endeavor to provide 25 percent of the total area of the property for open space. It does not say 25 percent of the gross area of the property. The city's PUD Ordinance defines gross area as being the entire area. At this time she presented Exhibit B for the record. The exhibit shows the calculation the staff has arrived at for 18 percent of open space using the gross area and what the applicant has arrived at is 23 percent of open space. The applicant has calculated the open space area to be 23 percent figured on the amount of land that would be developed. The applicant reduced the acreage of the development by reducing the amount of land used to develop the streets. There is no issue regarding density. The PUD minimum is 47 units. The proposed number of units is 53 in this application. The PUD Ordinance does not read that the entire gross area be used to figure the open space percentage. Since the streets will be dedicated to the public, it is only appropriate that the acreage be reduced by the amount of land used to develop streets since the applicant will be giving 25 percent of open space. After the application was submitted, the staff required the applicant to dedicate an additional 10 feet to White Lane. This is an additional 11,000 square feet of land that is being taken off the top.

Commissioner Hewitt stated the PUD's that has come before this commission had less than eighteen percent open space.

Stacy Fowler stated that Exhibit B does not only identify the open space area, but also shows that the applicant's plans to make it very useable for open space. This preliminary plan for open space was submitted to the city at the time of the submittal of the application. The development will have smaller than 10,000 square foot lots and it will be a development that people will be proud to call home. The April 7, 1999, traffic study was provided in response to a March 15 letter and telephone request that the original traffic study did not respond to a 20-year build out. When the November traffic study was submitted to Ms. DeRidder it stated on the front page that this study analysis does not address specific intersection levels of service of full build out or twenty year future horizon as required in the Oregon City impact study guidelines. There were discussions between Ms. DeRidder, myself and Trahan as to whether or not there was an appropriate 20 year future traffic analysis necessary for small subdivisions. The applicant had been specifically told that the study was not necessary. On November 30, Ms. DeRidder sent a letter to Mr. Butorac that stated what is needed for the Smelser Trahan subdivision, short form analysis only. This subdivision was of similar size as this proposed subdivision and it was believed that this is what the city had requested. The application was deemed complete on February 17, by Ms. DeRidder. On March 15, the applicant was given a notice that the application was not complete because the application was not sufficient. The applicant has spent an additional \$3,500 to prepare this traffic report. She asked the Planning Commission not to hold up the application, because the applicant has not been given the information so that timely submittals could continue the project moving forward.

Commissioner Surratt asked if the applicant did have a report from PGE as to whether their right-of-way was being encroached upon since the applicant's open space is in the PGE right-of-way.

Stacy Fowler responded PGE reserves in its right-of-way the right to access its towers for work as necessary. PGE does not allow homes or other structures within that right-of-way. It is permissible to build playground structures.

Commissioner Surratt asked if the applicant had obtained a safety study as there were no safety studies submitted in the packet.

Stacy Fowler stated no safety study was submitted as it was not thought it to be the burden of the applicant to prove the safety of the PGE lines.

Commissioner Surratt referred to the safety studies to address the children playing under the PGE lines. Has the applicant obtained any study from PGE as to the safety of children playing under the PGE lines? A red flag was raised when it was apparent the applicant had chosen the open space under the PGE lines.

Commissioner Mattsson requested reasoning behind the PUD request and the reasoning behind the variances requested prior to the discussion of the traffic issue.

Stacy Fowler stated under the PUD ordinance it is impossible to preserve 25 percent open space and dedication of property for easements and still maintain 8,000 square foot lot sizes.

Chairman Hall asked if the applicant was requesting for variances as variances may not be necessary.

Commissioner Mattsson stated there are shaded areas that reflect seven 10 foot set back variances. He expressed his biggest concern was a philosophical issue of turning a utility easement into a public recreational space for the purpose of doing density transfer in a PUD.

Stacy Fowler stated the applicant asked for a PUD because the city's code says if an applicant has development constraints in the property, property density can be transferred from an area that has developmental constraints to an area that does not.

Commissioner Mattsson asked why the applicant did not consider developing an R-8 subdivision on this site?

Stacy Fowler responded the applicant could have requested an R-8 subdivision on this site. The applicant could have applied for an R-6 which might have been approved. Within the PUD request the lot sizes range 6,000 square feet. If the applicant would have requested for a

straight subdivision, the PGE right-of-way would have been fenced by a chain link fence and the right-of-way area would have been where trash would have been dumped and the weeds would have grown. By using this PGE right-of-way for an open space this would eliminate the no-man's land strip area.

Chairman Hall asked how the city could be certain that the homeowner's association be of continuing operation and maintenance of the property?

Stacy Fowler stated the county requires in their conditional of approval that the homeowner's association be responsible for the operation and maintenance of the open space in perpetuity. The city does not enforce CC&R's, but the city has that as a condition of approval and if that is violated, under the city's ordinance, it can be brought forward as a condition of approval.

Chairman Hall stated that could also be put on the face of the plat and the plat does require city approval with signature.

Stacy Fowler stated the city could enforce it from the face of the plat.

Commissioner Vergun asked how the homeowner's association would have consistent funding to assure maintenance of the property?

Stacy Fowler responded the city could require the homeowner's association to carry adequate funding for continued maintenance for a year and the city could require that the association's bylaw give the city power to perform maintenance or take over the area if it is not being maintained and in turn bill the homeowners for the maintenance cost of the property. The city can lien property owners for maintenance issues. If the bylaw and articles of incorporation of the homeowner's association give authority to a third party to oversee the maintenance then that third party has the power to do so.

Commissioner Vernon stated the homeowner's association is only as good as the homeowners within it. If the majority of them are unwilling to pay for maintenance it will cause a problem if there is not a mechanism such as this. Another important factor that needs to be addressed is if someone purchases a lot in this subdivision and is not made aware of the CC&R's and is not made aware of what the financial responsibilities are to be a homeowner in this subdivision. There needs to be some recourse.

Chairman Hall explained in essence this becomes a contract between the city and the homeowners for the maintenance of the property. In consternation of that, this cost does become a lien against the properties.

Marnie Allen stated that there are legal issues pertaining to the city imposing liens on private properties. There are process implications, Measure 6 implications and other issues that

must be considered when proposing this type of agreement.

Commissioner Hewitt asked if the smallest lot in the development was 5,999 square feet or was this an average of the lot sizes?

Stacy Fowler responded that she understood the smallest lot would measure 5,999 square feet and they increase in size from there.

Commissioner Hewitt stated reviewing the map for this development it appears there is a lot measuring 4,894.81 square feet. Some of the lots are larger than 6,000 square feet. This 5,999 square foot lot size appears to be an overall average of lot sizes. This issue will be addressed due to the fact that people present at this meeting do own lots that measure 10,000 square feet.

Brian Cosgrove stated the staff does recommend denial of the PUD as the staff did not receive the traffic study until Friday and the public hearing is being heard Monday. There has been no time to review the traffic analysis. A mistake was made as to the reference, however, it does not excuse the fact and this study could not be reviewed over the weekend. The staff requests, if the applicant is agreeable, to continue this hearing so this study could be reviewed and bring this development back to a public hearing on May 10.

Chairman Hall stated there are many people present waiting to testify regarding this project. They have spent a great deal of time waiting and they should be heard this evening. The commission in the past has heard testimony and delayed reviewing the traffic report at a later date then made a decision.

Marc Butorac, Traffic Engineer with Kittleson & Assoc., 610 SW Alder St. Suite 700, Portland, OR 97205. Representing the applicant.

Marc Butorac stated the original traffic study was submitted in November, 1998. The applicant was stepping away from the traditional method of doing things in Oregon City. This was directed by two staff members that are no longer here. To look at eight other developments that occurred in this area and look at the study that was submitted late last week, there is still the same issue that comes up over and over again are the intersections of Central Point Road and Warner Parrot Road. Warner Parrot Road and Leland Road are tight in space. There is a queuing issue there today. There is a queuing issue there after the first in process development and the other eight in process developments that are in front of this development, six of which have been approved and two which have not, one prior to this meeting and one including this one. That issue is preexisting and will continue to degrade. The transportation system plan which is currently going on is reviewing that issue, however, that is the only issue. The majority of the traffic from this site will go up Central Point Road. The staff could review this along with the city's consultant traffic engineers and the city will still return to the same issue over and over again. This is the reason why Ms. DeRidder and Rich Carson, at the time, said why should we

make this developer spend \$6,000 on a study when the city has seen this issue come up many times. This is why the decision was made to go to a short end study versus the full extent study. To follow-up on Ms. Fowler's points, the staff report for the zone change, that is in the packet, mentions the traffic study that was submitted in November 17, both on page 10 of 24 and 13 of 24. In that letter, for the record, never stated that this study was incomplete. The David Evans report was completed on March 10. This report was submitted three or four months before it gets to review. The applicant has followed all the directives of the staff and last week met the conditions based upon the comments that were asked by staff. This is a small development and there would only be 50 daily trips generated from this development. The staff has agreed and David Evans has agreed that there needs to be a review of the way traffic studies are done in this city.

Paul Trahan, 1419 - 7th St., Oregon City, OR 97045. Represents the applicant.

Paul Trahan reviewed the engineering conditions and discussed the conditions the applicant has concerns with. On page 33, under water, condition 3 speaks to water back flow prevention. These are construction items. The applicant asks that this be struck. These back flow preventions are addressed during the time of construction. Condition 4, states any existing wells be removed. The applicant asks that this condition be struck as there are no existing wells on this site. Under sanitary sewer, condition number 8, the applicant asks that condition be struck as there are no existing septic systems on the site. On page 35, at this time he introduced Exhibit F, Condition 13 states the applicant shall dedicate a one foot sidewalk easement. This condition has been negotiated out with the staff. The staff is requiring constructions of improvements that do not fit within the right-of-way. Therefore, they are asking for an additional one foot easement outside of the typical sections. In other words they are requesting 51 feet for a 50-foot right-of-way. Condition 15, at this time he introduced Exhibit E, speaks to the staff requiring off-site utility easements for this project shall be obtained and recorded prior to approval of construction. Exhibit E shows a blown up portion of the intersection of Central Point Road and White Lane and tax lot 1301 is not a part of this project. The applicant suggests that certain improvements be made along Central Point Road that will stop at the end of the project. There will be a sidewalk that stops dead. The applicant would like to continue the sidewalk around to intersection which would create a better looking project. The applicant did not want to be put into the position to obtain this easement from the county. The city should be responsible in obtaining this easement. If the applicant does construct those improvements along the frontage of Central Point Road, these improvements are probably within the TSP Plan and the applicant would like to be reimbursed with credits on the transportation SDC's permit costs. This same condition exists on White Lane for the applicant to construct the improvements to the end of the property. Again, the applicant would request the city to acquire the necessary easements for this extension on White Lane.

Chairman Hall asked if the applicant or the applicant's representatives spoke with the landowner of tax lot 1401 for procurement of this property?

Paul Trahan stated this tax lot is owned by the county and that is where the fire station was to be constructed.

Marnie Allen stated concerns of the appropriateness of the Planning Commission to determine if the city is going to acquire property from the county. SDC credits are also not decided by the Planning Commission.

Paul Trahan continued, Condition 16, third sentence down stating White Lane this includes: one-half of a 32 foot paved... the applicant would like to substitute the word travel portion in place of the word pavement. In the city the gutters are asphalted and the street is paved. The street will not be paved up to the curb line, but to the gutter line and that 25 foot includes the gutter. Condition 16 also speaks to a 4 foot planter strip. This has been discussed with staff and it should read the planter strip should 3 ½ foot planter strip. If all the conditions requested by the staff are calculated, these improvements would be 6 inches outside of the right-of-way. The next paragraph down, the condition speaks to half street improvements are required on Central Point Road. Midway in the paragraph there is a 7-foot sidewalk and 3'x3' tree wells adjacent to curb. How far apart are they to be planted? The last paragraph speaks to full street improvements are required for interior streets. There is again the 4-foot planter strip that should be 3 ½ foot. On page 36, condition 21, speaks to installation of street signs. The applicant would wish this condition to be consistent with the city's Ordinance, Chapter 16.12.350, item g, whereby, the applicant will pay for them and the city shall install them.

Commission Vergun stated Public Works has gone back and forth on this issue. If the ordinance states they pay and the city installs, that is what will be done.

Paul Trahan continued on Condition 23, the word should be replaced by the word their entire frontage of any existing houses... and all handicapped access ramps at the time of street construction. The applicant believes those installations should only be required in front of this proposed development.

Commissioner Hewitt suggested it should read along the entire frontage of this development.

Paul Trahan continued, on Condition 25, this cannot be done. This has been discussed with staff and this condition has been changed for future projects and changed for this proposed development. The final lot grading plan is based upon as builts after the grading, but it also has to be included with the original plans to go in before the grading starts. This is a catch 22. The applicant cannot submit a final lot grading plan based on as builts until the grading is done, but they are requiring to be a part of the engineering plans. A rough grading certification has been worked out showing a rough grading plus or minus a tenth. Then the engineers will develop a site grading plan from that and submit it separately to the city.

Stacy Fowler stated on condition number 28, the applicant believes the city's traffic engineer will confirm the traffic analysis presented. It would be appropriate to strike condition number 28 as it exists and substitute a condition which says "subject to approval of the traffic study by the city's engineer and agreement that no additional negative impacts are created". If the study proves that there would be negative impacts then the applicant would have to return to the Planning Commission. If it is deemed correct in its analysis then the applicant can move forward. Condition 34 should be amended to read that the CC&R's should also be submitted to the city's legal counsel. At the end of this condition an addition should be made to read "to include provisions to assure continued maintenance of the open space by the homeowner's association to the extent permitted under the law". If the commission deems it necessary, it could read "Allow the city to maintain the open space if necessary to the extent permitted by law. If this could not be worked out between the applicant and staff, this condition would the need to be brought before the Planning Commission for a final planning decision. The applicant did not include variances for block lengths in the application. This is addressed in the letter from Trahan Consulting that has been included in the packet and identified as page 65. On page 39 an additional condition "f" could address "Exceed maximum block length standard by 255 feet and maximum block perimeter by 370 feet".

Marnie Allen addressed condition number 9 that had not been addressed by the applicant. That condition states the storm water detention system be located within the urban growth boundary. That condition is imposed and recommended so that the plan is consistent with applicable urbanization goals. The city cannot extend services outside an urban growth boundary. The plan shows the detention facility is located outside the urban growth boundary. The plan will have to be amended to show the detention facility to be within the urban growth boundary or the plan is inconsistent with this condition.

Stacy Fowler stated the applicant accepts that condition that the detention facility stay within the urban growth boundary. It will probably be located in one of the lots down in the corner.

Bill Vandermolin, 20016 S. White Lane, Oregon City, OR 97045. Represents as being a proponent for the applicant.

Bill Vandermolin stated he resides on the property of 45 acres that lies directly east of this proposed development. Philosophically what the city and METRO is doing is to provide more housing is the right thing to do. To develop homes in this area is the right place to do it. This property is stoney loam. It is difficult to farm. There is no water for farming. He stated he supports this development, but does have a few concerns. The lot size in this development seems to be fairly small. The more homes there are, the more problems there will be with traffic. The intersection at Warner Parrot and Central Point Road and where it was revised and connects to Linn Avenue and Leland Road is a bottle neck and will only get worse. Lots 53, 52,34,33,32, and 31 is the area that specifically borders his property. These lots are very small and asked where will the cars be parked for their homes. Are they going to be parking bordering South

White Lane and impede the flow of traffic or are they going to be parking in driveways on the lots? He raises cattle on his property and he needs to pull out making a wide turn to haul his cattle. This will narrow the area for him to travel with his truck. He supports the areas that are being developed along the flat area of Oregon City, but he would like to have his concerns addressed.

Paul Knox, Project Engineer for Trahan Consulting, 1419 - 7th Street, Oregon City, OR 97045. A proponent for the application.

Paul Knox stated he wanted to specifically address the concern of Mr. Vandermolin. The present condition of the street is currently a 10-foot travel lane. The proposal is requesting a half street improvement. Therefore, would this would make a wider paved area. There may be some parking restrictions in this particular area, but there is a provision of two parking spaces per each lot plus the parking space within the garage.

Chairman Hall asked for other proponents to speak. Hearing none, he asked for opponents to speak.

Mike Baggs, 210 Ogden Drive, Oregon City, OR 97045. An opponent of the application.

Mike Baggs stated that he resides on Ogden Drive, but owns the property located at 20036 S. White Lane since 1981. He lived on the property for approximately ten years and then moved and is moving back. The lot sizes are small and it appears along Central Point Road the smaller the lot sizes the quality of the houses diminish. He expressed the same concerns regarding the lots identified by Bill Vandermolin. The garages are faced on that side. The garages should face Parrish Road or White Lane. All the land behind this area is all farm land and is very rural land and he would like having the least amount of disruption as possible from the neighbors that will be residing there. He stated he is not against this development. He grows Christmas trees on the property. The open space is a good idea and encouraged the city to hold the developers to their promise that this land is kept up. There is red-tail hawk that fly around that area. They keep mice population down and are pleasant to hear. There is a family of owls that perch along White Lane. There are six deer that roam in that area. This will be some pleasant and excitement for those people that will reside in this development. The development up the street from this development have lot sizes that are 8,000 to 10,000 square feet.

Commissioner Mattsson asked about his reference to the garages?

Mike Baggs responded if the houses are located here the garages will be here the houses could be turned to keep the fences along here to keep the foot traffic off the adjoining properties. Having plenty of sidewalks all the way around will keep people from walking along our driveways.

Daniel Gossack, 19445 Westling Dr., Oregon City, Or 97045. An opponent of the application.

Daniel Gossack stated he was chairman of the Hazel Grove/Westling Farm Neighborhood Association. The general concerns of the association go to the issue of fire protection in this area. The construction of the fire station to be located in this area is moving at a very slow pace. There is an incredible amount of development in Oregon City and until there is an additional fire station the response services will decline. Police protection is also a general concern. Specifically to this development the storm water issue that has been raised this evening. There is a concern that the open space has been selected to be placed under the power lines. Ms. Fowler referred to the open space identified in Parrish Glen which is a detention pond and some open area with a sewer pump station. There was no attempt made by the applicant to meet with the Hazel Grove/Westling Farm Neighborhood Association until last Friday. The signage of the property is attached to the Paul Trahan political signs that have fallen forward making it look as though it were a political sign rather than notification of development. The association was under the impression that the R-8 subdivision had already been approved as noted on the map so the R-8 subdivision issues have not been addressed. The other issue is the number of vehicles that will be traveling on White Lane.

Judy Floyd, 20040 S. White Lane, Oregon City, OR 97045. An opponent of the application.

Judy Floyd stated she had purchased her property in June two years ago and was very surprised as she thought that she was at the end of a little country lane. With the open space located under the PGE easement, what kind of homeowners insurance would these property owners have to obtain. If there are no restraints, children will be playing under those lines flying kites, etc. She questioned the validity of the annexation of this property that took place earlier.

Chairman Hall explained that the property lies contiguous via a road. At the time this property was annexed the owner went before the Portland Boundary Review Commission for the annexation over a year ago.

Commissioner Hewitt stated that if the audience has any questions that are unable to be answered at a meeting, these questions may be addressed to the city's planning staff.

John Martinson, Jr., 20495 S. Geiger Road, Oregon City, OR 97045. An opponent of the application.

John Martinson stated that he is part of a land trust, a non profit corporation, that does some farming of 64 acres and forest land management. The farmers best neighbor is another farmer. The neighbors would like to ask Mr. Payson to reconsider this proposed improvement. It is requesting that the application requesting a change from FU-10 to R-8 be denied in order to

preserve this property as farm land. If housing is to be allowed, there needs to be safeguards built in to protect adjacent farm lands. Those protections could include a buffer or barrier between the housing area and the farm land. There needs to be notices in deeds that being near farm land the owner will encounter smells, flies, chemical applications to the ground. The only arterial for this area is Central Point Road. The density should be reduced. Placing a dense development on the edge of the urban growth boundary seems inconsistent to the quality of existing residential areas as well as the farm land areas. The hydrological report for the storm water system appears to be incomplete. In heavy rainfall years there has been standing water where the development is being proposed. There may be need for increasing the storm water system to handle this concern. It is the hope that any development of the storm water system be friendly to the wildlife that is in this area. Having the playground/recreational area located under the PGE easement will emit electromagnetic radiation. He asked that the record be held open to those farmers that are outside the 300-foot notification area.

Commissioner Hewitt asked how long did he wish to have the record open? Would a two week period be sufficient?

Marnie Allen stated that it may be seven days, but she requested to refer to the statute on this provision.

Kathy Hogan, 19721 S. Central Point Road, Oregon City, Or 97045. An opponent to the application.

Kathy Hogan asked once the detention pond is located where does the run off go from there? Will it be necessary to have an easement on someone else's property because once it fills up where does the water run off to? At this time she submitted Exhibit J showing that most people were under the assumption that there were going to be 39 houses developed on this property.

Chairman Hall stated the layout that Ms. Hogan is presenting has two entrances onto Central Point Road, one being White Lane and the other being designated as Street A. This is a different layout than that was illustrated on the board.

Kathy Hogan stated this would address the concerns of the neighbors that spoke to lots 53 through 31. They would be larger lots. School buses are turning into White Lane to turn around and Canby School buses turn into my driveway to make that turn. This is a concern. The school bus needs to be addressed. If the children are waiting for a school bus where will they wait to catch the bus. The lot sizes should be 10,000 square feet to be compatible with the surrounding area. At this point she presented Exhibit I. The water run off flows down to the ditches and runs down to Mr. Chapin's property.

Ann Mortin & Jeanne Shimpton, 19721 S. Central Point Rd., Oregon City, OR 97045. A opponent to the application.

Ann Mortin stated she has resided on this property for 40 years. They raise cattle and try to maintain wildlife habitat and has done tree planting. She was not aware that this hearing was being held this evening, but would support anything that Mr. Martinson had to say. There is a great deal of wildlife in this area. There were a number of neighbors that did not receive notification of this hearing and asked that this record be held open for others to speak as well.

Larry Bennett, 19731 S. Central Point Rd., Oregon City, OR 97045. An opponent of the application.

Larry Bennett stated he resides across the street from the proposed project. This area is being developed and presently there are homes within two hundred feet from his back yard. Larger lots have been approved on the surrounding development areas. This development is proposing 5,000 to 6,000 square lots. The lot sizes will condense people into a smaller area and what will they do for outside recreation. He currently has .87 of an acre that he mows and has trees and will need to place a fence around his property. From a liability standpoint, he has to protect the only existing park in the area. Where are the children going to play? Traffic is only one concern that needs to be addressed. The livability of these developments for families and children should be seriously considered.

Chairman Hall asked if there were others who wished to speak in opposition.

Don Wheeler, 19898 S. White Lane Dr., Oregon City, OR 97045. An opponent to this application.

Don Wheeler stated there is adjoining property that drains across White Lane onto the neighboring property. How will this drainage be handled once this development is built? There is a level of landscaping that is shown on the proposed open space, but what if the homeowners do not wish to pay for that upkeep of that area. Is there some criteria for maintenance? The intersection of Central Point and Warner Parrot Roads is a problem now. Why is the city adding to the problem? Many of the houses that are constructed do not have people living in them. Why is there more houses being added? The lot sizes are too small.

Chairman Hall asked if there were others who wished to speak in opposition. Hearing none he asked for any rebuttal.

REBUTTAL

Paul Knox, Project Engineer, with Trahan Engineering, addressed the specific concerns regarding the storm drain system. The proposal of locating the storm drainage detention facility has been shelved and it will be constructed within the project limits. There were concerns expressed with water flow across White Lane onto other property. The consultants are obligated to prevent neighboring properties from flooding. This issue will be addressed during the design review stage of this development. There is a feature located in the middle of this property that is

called a sink which is a low spot with no defined outfall until it pools up for a while. Within the conditions of approval the applicant is obligated to release not only restrict flows to less water than it is, but less water than what is going through now. These will be a continued matter of review by the city.

Commissioner Hewitt asked with the detention pond being moved to a site within the property on one lot, that lot being the smallest on the site, would that be sufficient to handle this detention facility?

Paul Knox responded that the detention facility would likely be constructed over more than one lot. The site will require engineering specifications identifying a set volume for the flow.

Commissioner Hewitt confirmed that the area for the detention facility will be in a substantial area due to the shallow depth.

Paul Trahan introduced Exhibit K into the record. He stated that he was familiar with neighborhood associations and their procedures. The CCIC had a workshop with Tamara DeRidder, the city and their consultant Karen Tilton. The applicant had set out this procedure and it was agreed to by Tamara DeRidder. On page 3, there was a concern that the neighborhood associations was receiving notice of these applications. It was assumed by the applicant that once the application was submitted to the city, this notification would take place immediately. The city was to notify the neighborhood associations after the application was deemed complete. This notification was not done by the staff. Once the applicant realized the neighborhood associations were not notified, a packet was given to them immediately.

Brian Cosgrove stated the reason the neighborhood association was not notified, because there is no formally recognized neighborhood association affected by this development. The CCIC was notified with the handout Mr. Trahan has presented along with the property owners within 300 feet of the property. The city has fulfilled every notice requirement.

Chairman Hall stated there is conflicting testimony as to who was to receive this. It is the hope that as many people that should have received this notification did in fact receive this notification.

Stacy Fowler stated the adverse parking issues addressed have been mitigated through the PUD by not requesting front yard variances to apply to the garage area recognizing that there would be a concern for additional parking in driveways. There was testimony if the lot sizes were 10,000 square feet there would be 37 units. Under the R-10 it is 4.4 units times the amount of acreage which is 10 acres which would be a minimum of 44 units plus the PUD ordinance allows for up to 30 percent for density bonuses. There has been testimony brought up about how a farmer's best neighbor is another farmer. There are state laws that have been implemented through the legislature which address these concerns. These protect farming practices from the influx of development and prevent people building homes next to farms, thereby, turning the

farm practice into a nuisance. There has been much testimony regarding the open space area. The open space area measures 84,700 square feet. The PGE easement measures 54,000 square feet. The PGE easement runs triangularly through the property. The open space area outside of the PGE easement represents five lots. Not everyone can afford the beautiful homes that some of the people testified own. The applicant would like to propose combining lot 53 with 52, lot 34 with 33, and lot 32 with 31. Take these six lots and make them into three lots. This would create fewer garages, fewer parking. This would change the request from a 53-lot approval to a maximum 50 lot approval. The storm detention facility will be located in the lowest area of the property and will take as much property that is required to meet engineering standards.

Commissioner Hewitt asked if there would be a fence around the tower to keep children from harms way?

Stacy Fowler stated the tower will be fenced.

Commissioner Hewitt stated there will be plantings of vegetation in the area. This matter will be handled at the design review stage of the development. It is a standard condition of approval that all vegetation will be kept alive and all that dies off will be replaced.

Chairman Hall asked for further questions. Hearing non the public hearing was closed.

Chairman Hall stated there are two items with one a zone change and a PUD. The Planning Commission can approve or disapprove both applications. The request for continuance may have been for the PUD, but there needs to be clarification of this. The issuance for continuance is for seven days.

Marnie Allen stated the record is to remain open for seven days to receive written testimony and another seven days to receive rebuttal from the applicant.

Commissioner Hewitt since a continuance is being discussed, the staff may have the opportunity to review the traffic report.

Chairman Hall suggested if the Planning Commission does not include a denial, it would not be scheduled for the Planning Commission's next meeting. There needs to be an opportunity for the commission to review the documents. That necessitates a longer time period than 14 days.

Marnie Allen stated that is correct. The city needs to keep in mind of the 120-day rule, unless the applicant wishes to grant a waiver of the 120-day rule.

Stacy Fowler stated the applicant will not take seven days to respond to written testimony. The applicant will attempt to stay within the 120-day rule.

Commissioner Hewitt cautioned Ms. Fowler as there may be a problem with the traffic study. If there is a problem will two days be sufficient time to respond to any problems?

Commissioner Mattsson states this site abuts the urban growth boundary on the south side of the property and it is island inside the urban growth boundary and the county land has not been annexed into the city. An infrastructure can be developed to serve traffic, storm water, etc., but the bigger concern is the appropriateness of this density of development within the environment it is being proposed in. Despite all the state laws, the city laws, the METRO rules the city has the comprehensive plan which addresses the appropriateness in adjacent development in nature and character. The neighboring properties are one to ten acres in size which is a far cry from an R-8 subdivision which is not even achieving an R-8 size lots. There is a problem of using density transfer to create more lots which is not appropriate to this level of density. There is a philosophical problem in creating open space for recreation area located under power lines and may not be safe and suitable for play structures and children for activities of that sort. Cost is not the only criteria for determining density appropriateness. There needs to be more affordable housing in this city. This is not the place for it. The issues of transportation that have been addressed are not going to be addressed and cannot be addressed with this development. Placing a higher density in this location basically puts children in the position of proximity of attractive nuisances. There has been no provisions addressed to protect the adjacent farm lands from that impact. There has been no response to attempt to create buffers to protect this use from the adjacent uses. It has been described that this area is transitioning from rural to an urban area and he disagreed with that. This particular property becomes the last buffer zone between urban and rural. This density does not support that image.

Commissioner Vernon stated her comments are like Commissioner Mattsson's regarding the PUD. It would be desirable to have some information from PGE about the liability issues related to the play area under the power lines. The storm water is another big issue as it has been moved from the originally planned location. The questions are how is that going to work and where does the water runoff go? The number of lots have been reduced and how does that fit into the final design. In terms of the rezoning of this property is necessary, but this kind of density is not absolutely necessary in this area. This is the best plan for open space that has come before the Planning Commission. The negative part of the open space is the location of the utility lines.

Commissioner Vergun stated he was also concerned about the power lines. Has the commission members faced a similar situation in the past?

Chairman Hall responded that this commission for last years he has served has never had this come before it. Washington County's Parks and Recreation District have operated quite well with situations similar to this one.

Commissioner Mattsson stated that a number of years ago there was a development that did have power lines that ran through it. It was fenced off and maintained and did not have play

structures under them.

Commissioner Vergun stated he wished he had more information regarding the safety issues regarding the power lines. Ms. Fowler testified that if it would become an R-8 subdivision this section would be fenced off and not be attractive. This may be true, but the safety factor is very important.

Chairman Hall stated the only other one that comes to mind is a development around Molalla Avenue near Gaffne Lane. This was done many years ago.

Commissioner Surratt stated she has worked with utilities and normally permits are issued and people do have play structures under the right-of-ways. The homeowner's association needs to have documentation so that a buyer is informed of what the liability is. This is usually presented by the utility companies. She preferred continuing with the R-8 zoning, but not at the PUD standards and have the applicant create the larger lots.

Commissioner Hewitt stated he agreed with Commissioner Mattsson's statements and with Commissioner Vernon's statements. The applicant needs to be applauded for the large, well thought out open space area. Under 17.64.010 under Purpose, that was referred to by Commissioner Mattsson, a PUD is to promote an arrangement of land uses, lot sizes, lotting patterns, housing and development types, building, circulation systems, open spaces, and utilities to facilitate the efficient and economic use of land and in some instances a more compact pedestrian mixed use. This site is located at the very end of the city limits. If that property on the south side of the development would be absorbed by the city and this would all work out, there probably would not be an issue with the lot sizes. He did not support the PUD request for some of the same reasons the staff recommended denial.

Marnie Allen stated before the commission entertains a motion there is a concern for the people that have requested a continuance. It should be clarified that if the Planning Commission denies this application there would not be a need for written testimony as there would not be a request for a continuance of this application.

Commissioner Hewitt stated the people that brought forth the continuance of this application were looking for larger lot sizes. The commission could recommend the zone change but would not recommend the PUD. The larger lot sizes would then be a reality and that would negate the need for those people to keep the record open.

Chairman Hall stated the record was not that crystal clear as to what items were being addressed to keep the record open on.

Commissioner Mattsson stated there was not differentiation made between the PUD and the zone change during the discussion.

Marnie Allen stated the applicant has approached her and requested the withdrawal of the PUD application. This will only leave the zone change for the commission to consider. The record still needs to be opened for seven days to receive written testimony.

Stacy Fowler suggested the application be amended and give the commission an additional submittal which reflects R-8 lots. The applicant will increase the lot sizes in the PUD to 8,000 square feet. The same layout will be used, but with larger lot sizes. If the record is to remain open, the applicant would like to supplement the record to include that minor change.

Chairman Hall suggested that a decision be made whether the commission will leave the record open on the R-8 issue. Once that has been decided then the commission can consider the remainder issues of the application.

Commissioner Vernon motioned to leave the record open for nine days with the first seven days for the submission of written testimony and the last two days will be for the submittal of rebuttal from the applicant and ZC 98-18 be considered at the next regularly scheduled meeting on April 26, 1999. **Commissioner Hewitt** seconded the motion.

ROLL CALL: Commissioner Hewitt, Aye; Commissioner Mattsson, Nay; Commissioner Surratt, Aye; Commissioner Vergon, Aye; Commissioner Vernon, Aye; Chairman Hall, Aye.
MOTION CARRIED 5 -1.

Marnie Allen stated Ms. Fowler has asked to withdraw the PUD application and resubmit a subdivision application which would start as a new application for a separate process.

Stacy Fowler stated the applicant wishes to present this same plan that will have 8,000 square foot lots for a zone change. If the applicant has to resubmit and start over again then that is what will be done. It would be preferable if the commission would allow the applicant to submit a modified plan for the zone change based upon comments made at this hearing.

Marnie Allen stated the subdivision application would be handled as a type 2 before the planning staff. If the applicant wants a straight subdivision instead a PUD with 18 to 25 percent open space that otherwise complies with the PUD criteria with the R-8 zoning standards.

Chairman Hall stated the commission needs to address the PUD application. Does the commission wish to continue it as suggested?

Commissioner Vergun stated there is still an issue with the traffic study and the turn around time getting it to the city's traffic engineer to review.

Chairman Hall stated the commission will not determine whether it be approved or not. The commission is asking whether it be continued. The issue of the traffic study is a little touchy, as the applicant testified that they did exactly what the city wanted them to do. Then the

city changed its mind.

Marnie Allen stated the applicant asked to continue the record for the PUD in the same manner and they will return with both applications at the next meeting and it will be decided at that meeting if the applicant will withdraw the application for the PUD. There has been some discussions back and forth regarding the traffic study. In the exhibit the applicant submitted on page 2 of the report, one that it was for another application, but the commission can decide whether it is credible to believe that staff that is here told them the same information for this application. Page 2 of that report describes the procedures that specifically talks about phase II of the traffic analysis in a twenty-year build out. So when the applicant states they were given information that they were not required to submit a study reflecting a twenty-year build out it indeed appears on page 2 of the report.

Chairman Hall stated if that is what the staff felt, this application should not have been deemed complete.

Commissioner Mattsson wondered about the semantics of it being deemed complete and how does the city deem something complete.

Commissioner Hewitt understood that the traffic study could be reviewed within that nine-day period of time. If the record was left open for 14 days, would 2 weeks be long enough for the engineer to review the traffic study?

Jay Toll stated the staff could push this as a priority, but there is no control over what DEA does. They can be asked that the city have this window for their review and as they are the city's contract provider they may do that, but there are no guarantees.

Commissioner Vernon motioned for the continuance be for 7 days written testimony and 7 days for rebuttal. Commissioner Hewitt seconded the motion.

ROLL CALL: Commissioner Hewitt, Aye; Commissioner Mattsson, Nay; Commissioner Surratt, Aye; Commissioner Vergun, Aye; Commissioner Vernon, Aye; Chairman Hall, Aye.
MOTION CARRIED 5-1.

Marnie Allen clarified for those in the audience that this application will return to the Planning Commission on the April 26, 1999.

Chairman Hall recessed the meeting for five minutes.

Chairman Hall reconvened the meeting.

Chairman Hall stated that the hour is very late and it will be difficult to make clear and concise decisions at three in the morning.

Commissioner Hewitt motioned to continue the public hearing item File No. PUD 98-05 & ZC 98-15 to the next meeting.

Commissioner Hewitt amended his motion that File No. PUD 98-05 & ZC 98-15 appear as the first item on the agenda. **Commissioner Vernon** seconded the motion.

ROLL CALL: Commissioner Hewitt, Aye; Commissioner Mattsson, Aye; Commissioner Surratt, Nay; Commissioner Vernon, Aye; Chairman Hall, Aye. **MOTION CARRIED 5-0.**

Chairman Hall announced that he would not be present at the April 26 meeting.

Commissioner Hewitt stated it is necessary that the next two meetings will have a quorum of the Planning Commission present.

Chairman Hall adjourned the meeting.

James Hall, Planning Commission Chairman

Barbara Shields, Interim Planning Manager