

**CITY OF OREGON CITY
CITY COMMISSION
MEETING MINUTES**

MAY 5, 2004

Mayor Norris called the regular meeting of the City Commission to order at 7:05 p.m. on May 5, 2004 at City Hall, 320 Warner Milne Road, Oregon City.

Roll Call: Commissioners Doug Neeley, Gary Hewitt, Tom Lemons, Bob Bailey, and Mayor Alice Norris.

Staff Present: Larry Patterson, City Manager; Edward J. Sullivan, City Attorney; Gordon Huiras, Police Chief and Public Safety Director; Nancy Kraushaar, City Engineer and Public Works Director; Dan Drentlaw, Community Development Director; Dee Craig, Community Services Director; Leilani Bronson-Crelly, City Recorder; and Tony Konkol, Associate Planner.

1.0 CALL TO ORDER

1.1 **Mayor Norris** asked each member to introduce himself.

1.2 Flag Salute

1.3 Presentations

- Proclamation: Law Enforcement Memorial Week and LEM Day
Mayor Norris read a proclamation naming the week of May 9 – 15, 2004 as *Law Enforcement Week* and May 15, 2004 as *Law Enforcement Memorial Day*.
- Proclamation: National Historic Preservation Week
Mayor Norris read a proclamation naming May 3 – 9, 2004 as *National Historic Preservation Week*.
- Presentation to Richard Bloom (B&B Leasing Co.), Waste Haulers' Hall of Fame
Commissioner Lemons recognized Richard Bloom, B&B Leasing Company, for his unparalleled knowledge of the waste hauling industry. Bloom purchased the company from his father in 1959 and continues to operate it with his daughter Pam Bloom. It has been in continuous operation since 1935. Under Bloom's guidance the company has become one of Oregon's true family business success stories. It has over 43 full-time employees and 22,000 accounts. The City Commission recognized Bloom for his dedication.

Mr. Bloom thanked the residents of the City. He has lived in Oregon City for 69 years, and his children have grown up here. He considers this his town.

Mayor Norris congratulated Mr. Bloom for being inducted into the International Waste Haulers' Hall of Fame.

- Presentation from Friendship City

Mayor Norris recently met with the Mayor of Maui to co-sign a proclamation and exchange gifts. Oregon City presented the County of Maui with an original painting of Willamette Falls by part-time Oregon City and Maui resident Robert Suzuki. Maui County presented the City of Oregon City with a beautiful monkey pod bowl symbolic of the relationship the County wishes to have with Oregon City. The various gifts will be displayed at the Oregon City Library.

Mayor Norris discussed several ideas shared during her visit that included having an area in the visitors' center promoting Maui, health and wellness, emphasis on native people, web links, and a culinary exchange.

- Special Report on Median and Left-Turn Lane on Beaver Creek Road and Hwy. 213

City Engineer and Public Works Director Nancy Kraushaar provided an update on the project. As construction on this project nears the end with the paving, median landscaping, and final lane configurations almost done, people are expressing concern about sufficient left-turn movements from Beaver Creek Road to Hwy. 213. People were also asking why the landscaped median is so large.

Ms. Kraushaar provided an aerial photo and a drawing of the final design. The main concern was sufficient space to stack vehicles turning left from Beaver Creek Road to north bound Hwy. 213. Peter Coffey, P.E. of DKS Associates, the traffic-engineering firm hired for this project, was present to provide information on the design criteria and a brief summary of the calculations and configurations.

She indicated the site on an aerial photo. One of the reasons this project was constructed from a safety standpoint was to accommodate the evening traffic with cars turning from Hwy. 213 on a road with a 55 mph speed limit. Before the project, there was one left-turn lane, two through lanes, and one through lane going into town for a total of four lanes. There were five lanes in both directions on Hwy 213. There were also extra lanes on the other leg of Beaver Creek Road to accommodate Berry Hill Shopping Center traffic.

Ms. Kraushaar showed a slide of the design. At this time there is only one left-turn lane, but in the final design will be six lanes with two dedicated to left turn movements. The questions being asked had to do with sufficient capacity for left-turning vehicles with the landscaped median.

Mr. Coffey indicated he had been working with the Oregon Department of Transportation (ODOT) and the City of Oregon City for about two years. One of the most important things to remember at this point is that what was there before and during construction will be very different from what will be there when the project is finished. At this time it is difficult to put into perspective what the intersection will look like when it is finished this summer. Before the project

started, the intersection was at capacity during peak hours. One of ODOT's key concerns was the 55 mph speed on Hwy. 213 and making sure the turn pocket had enough time to clear. ODOT focused on making sure the left turn lanes on Hwy 213 have enough green time. During construction, the left-turn lanes on Beavercreek are suffering. ODOT is doing this on purpose for safety reasons.

Mr. Coffey said after construction, the intersection would be at about 70% capacity with the double turn lanes. The queuing will be very different because a lot more green time will be allocated. He projected this intersection will have about an 18-year design life. The traffic pockets were designed based on estimated volumes in 2024. He discussed peak hour conditions and the 95th percentile based on those projections. The eastbound left turn pocket is 225 feet long. Today the queue is backed up because there is only a single lane. When the project is done the signal time will be adjusted to allow more green time along with extra capacity. If a big box like a Costco store were built in the future, the developer would be required to do a traffic study and probably lengthen the pockets. Based on what is anticipated, these queue lanes will accommodate the volume. He felt comfortable with his analysis that was approved by ODOT.

Mayor Norris asked the rationale for the median.

Ms. Kraushaar said the median could simply be asphalt with striping. It provides a safety benefit by separating two lanes of traffic. The other critical issue is access control to the Rinkes driveway with right in/right out only. The median also establishes a green space at this major intersection and reduces the impervious surface thereby reducing the amount of retention and mitigation of Newell Canyon and the streams below. The community and Metro articulated this point during discussions about preservation and mitigating impacts. The more medians with trees in arterials, the greater the reduction of air pollution and improved storm water quality. The greater the green area, the better the air quality and water resources interaction.

Commissioner Neeley commented Oregon City has grown a lot over the past 15 years at about 3%. That translates to a doubling in 20 years' time. If the intersection being built will be at 70% capacity in peak hours now, its life will not be as long as projected. He presumed the median could be converted in time if additional lanes were needed.

Mr. Coffey replied that could be done at some time in the future.

Ms. Kraushaar added only so much vehicle capacity can be added at any point in time without becoming a separated grade interchange. Hwy. 213 will be the dominating movement. Even if the left turn lanes started at 1st Street, drivers would have a problem turning left onto that street, and it would be almost impossible to allow enough green time. At some point this will need to be a separated grade interchange if the intersection continues to grow.

Commissioner Neeley discussed right-of-way procurement and asked if it was accurate to say that enough property was acquired to allow the separated grade design.

Mr. Coffey thought not but would check on it.

Ms. Kraushaar said the separated grade interchange would depend on the final design. The Hwy. 213 Corridor Study proposed a compact urban diamond, and she believes there would be sufficient right-of-way to do that. ODOT would probably approve that concept. This project was constructed in such a way as to be readily modified into the diamond.

Commissioner Hewitt asked Coffey to explain separated grades.

Mr. Coffey said it would be like an interchange with an overpass or an underpass.

Commissioner Hewitt was one of those who thought it should have been done that way to begin with despite the lack of funds. He has heard many comments from citizens who make a right-hand turn from Hwy. 213 to Beavercreek toward City Hall, and he has seen traffic backed up all the way to the pizza parlor. He heard that this short, two-lane highway will clear out because it will have a little more green time, and the two lanes on Hwy 213 will get a little less green time than they do right now. More vehicles will be able to turn left from Beavercreek Road to Hwy. 213 northbound. What is queued into that space will escape, and left turn lanes will be able to fill what was left behind. With traffic backed up to the old Molalla highway, how in the world will there not be a bottleneck at the beginning of the median? Granted there is more green time, but there is still the same amount of traffic in one lane that will likely be backed up behind the median. He was asked these questions, so he was asking the engineers.

Mr. Coffey thought the green time would be more significant because there are two left turn lanes. His other point was that during a one-hour period there might be 30 cycles per hour or about every two minutes. For example, if there are two cars that cannot get through a cycle, that is 60 cars that takes up 25 feet each or 1,500 feet. It is easy to get a queue that keeps building, but a little additional green time on each cycle will move a lot more cars. He has experience in projects like this and with signal timing, and he will be able to add a little more green time to keep the traffic moving.

Commissioner Hewitt said what we see today does not compute down the road, but "seeing is believing."

Ms. Kraushaar added if there is an unanticipated land use change in the future, the development would have to modify those left turn lanes. All the legs of the intersection must be considered.

Commissioner Lemons discussed the two lanes turning from Beavercreek Road going north onto Hwy. 213 and asked how many cars could be accommodated.

Mr. Coffey said at 25 feet per vehicle 18 – 20 cars could be stacked.

Commissioner Lemons understood 40 – 50 cars are stacked right now. He was really concerned about this because Beavercreek Road is the City's jurisdiction while Hwy. 213 is ODOT's. He has to answer to the citizens of Oregon City, and he asked if there were two lanes going through Hwy. 213 to the south on Beavercreek Road. The concern is that the two turn lanes are full and cars are backing up into the signal and blocking traffic that wants to flow on down Beavercreek. He felt that issue needed to be addressed. He has no problem with the concept but would like to know how much it would cost to remove the median in the future if it is not working.

Ms. Kraushaar said it would probably cost \$60,000 - \$70,000.

Commissioner Lemons did not have a problem with the concept but was concerned about these issues.

Mr. Coffey reaffirmed his comfort with the design.

Commissioner Neeley felt relations with ODOT had improved but was concerned if the City had the commitments on the green time changes.

Mr. Coffey will work with ODOT on the signal timing although Hwy. 213 is ODOT's primary concern.

Ms. Kraushaar added there was very clear direction from the community that it wanted to find as many green space sites as possible. There may be some compromises in the future. Substantial completion should be June 30 or possibly mid-July.

2.0 CITIZEN COMMENTS

- Sam Gentry, 9140 SE St. Helens Street, Clackamas, Oregon 97103. He spoke representing Gentry Home, a small Oregon City homebuilder, regarding the proposed Comprehensive Plan changes. He understood these would amend lot sizes and zoning issues relating to residential and commercial development. At the Planning Commission meeting, Tom Gentry received a copy of the draft zoning for R-8. Not only had the lot sizes changed but also the setbacks and the types of houses allowed. The draft zoning states, "the length of the garage wall facing the street may be up to 40% of the length of the street facing the building façade or up to 50% of the length of the façade if the garage is recessed 5 feet from the longest street facing façade." He interpreted this to say that all front yards are allowed to

be a minimum of 15 feet deep as long as the garage is set back 5 feet. This can create a 15 foot deep front yard that is only 6 feet deeper than some of the side yards. This would extend down the block with a strip-like landscape with little or no street appeal. Gentry Homes are of a more traditional design with garages in front of the house. He provided pictures that showed more landscaping and more front yard area. The straight line of the front yard is broken up by the garage to house offset. He understood this offset design was more architecturally pleasing than the straight-line design. From the proposed language, it was his impression the façade would be more of a straight line. Garages made deeper to accommodate 3 – 4 cars will diminish the first floor living space and result in the need for more two-story designs. Driveway and street parking may also increase if garage space is reduced. Gentry has constructed about 130 homes in Oregon City with most of them being one-story with three car garages. He has a list of 10 – 12 families interested in purchasing some of the existing plans. If the proposed design standards are approved, Gentry will lose these potential buyers. He did not believe other builders were aware of these proposed changes. Gentry hoped the City Commission would consider the impact on local builders before approving the amendments.

Commissioner Neeley suggested those wishing to speak to the Comprehensive Plan amendments wait until the Commission discussion unless they cannot stay.

- Kathy Hogan, 19721 S. Central Point Road, Oregon City
She announced the Hazel Grove Westling Neighborhood Association meeting on May 20 and posted on the Internet.

Community Development Director Dan Drentlaw briefly discussed Historic Preservation Week and distributed this year's edition of *Oregon City Historic Notes*. The City received a state grant for certain programs including the Historic Review Board that reviews structures on the National Historic Inventory, the McLoughlin Conservation District, and Canemah District. Oregon City has an active historic preservation program. The publication also outlines the code requirements and some of the benefits of being on the National Register.

Mayor Norris thanked Leilani Bronson-Crelly for setting up the Friendship relationship with the County of Maui. She further indicated no public funds were used for her trip to Maui.

3.0 CONSENT AGENDA

Mayor Norris said two items were removed for discussion: 3.4 – Commission Report No. 04-084 and 3.6 -- Commission Report 04-088.

Commissioners Neeley/Bailey m/s to approve Consent Agenda Item Nos. 3.1, 3.2, 3.3, 3.5, 3.7, and 3.8. A roll call was taken, and the motion passed with Commissioners Bailey, Neeley, Hewitt, Lemons, and Mayor Norris voting 'aye'. 5:0.

3.1 Approval of Meeting Minutes of Work Session of April 7, 2004;

- 3.2 Approval of Regular Meeting Minutes of April 7, 2004;
- 3.3 Commission Report No. 04-083, Public Official Bond for City Manager;
- 3.5 Commission Report No. 04-085, Proposed Resolution No. 04-16, Certification of Eligibility of City of Oregon City for State Shared Revenues;
- 3.7 Commission Report No. 04-089, Proposed Resolution No. 04-18, the Vacation of a Portion of a Vehicular Non-Access Strip on 13678 Gaffney Lane (Lot No. 1 of the Cokeron Subdivision) EV 04-004; see TP94-08; and
- 3.8 Commission Report No. 04-081, Restrictive Covenant Non-Remonstrance Agreement for the Bay Meadows Subdivision – TP03-01.

Consent Agenda Items Pulled for Discussion:

- 3.4 Commission Report No. 04-084, Memorandum of Understanding with AMR for Lifeguard Program at High Rocks – Agreement No. 04-501.

Mayor Norris removed that item for discussion and to affirm Oregon City's participation in this program with the City of Gladstone. AMR provides \$85,000 in services to keep the river between the two cities safe for use. She acknowledged AMR's contributions. The program will begin on May 29.

Commissioner Lemons wanted the record to show that since this program began the reduction in loss of life and accidents has been significantly reduced.

Commissioners Bailey/Neeley m/s approval of agenda item 3.4 – Commission Report No. 04-084, Memorandum of Understanding with AMR for Lifeguard Program at High Rocks – Agreement No. 04-501.

Commissioner Hewitt said this was a wonderful example of the Commission's goal of partnering with others. The \$85,000 is at no charge to the residents of Gladstone and Oregon City.

No citizen comments.

A roll call was taken, and the motion passed with Commissioners Bailey, Neeley, Hewitt, Lemons, and Mayor Norris voting 'aye'. 5:0.

- 3.6 Commission Report No. 04-088, Proposed Resolution No. 04-17, Initiate the Vacation of Undeveloped Portion of John Q. Adams Street between 14th & 15th Streets.

Commissioner Neeley was concerned that 6 – 7 years ago there was a slide and the water was diverted through this right-of-way. Are there protected easements on all other facilities if the street right-of-way is given away?

City Attorney Edward Sullivan said the City might do that if the easements are retained. This action begins the process with a hearing to follow.

Commissioners Neeley/Bailey m/s approval of agenda item 3.6 -- Commission Report No. 04-088, Proposed Resolution No. 04-17, Initiate the Vacation of Undeveloped Portion of John Q. Adams Street between 14th & 15th Streets. A roll call was taken, and the motion passed with Commissioners Bailey, Neeley, Hewitt, Lemons, and Mayor Norris voting ‘aye’. 5:0.

4.0 PUBLIC HEARINGS

LAND USE TYPE PUBLIC HEARING ITEMS:

- 4.1 Commission Report No. 04-087, Proposed Ordinance No. 04-1004, Zone Change of Two Properties from “R-10” Single-Family Dwelling District to “R-6” Single-Family Dwelling District; Clackamas County Map 3S-2E-7DD, Tax Lot 1900 and 3S-2E-7D, Tax Lot 501 (ZC 04-01)

City Attorney Sullivan reviewed the quasi-judicial hearing criteria listed in the staff report. Participants must direct their attention to these criteria through arguments and statements of evidence and any other applicable criteria. Failure to raise an issue with sufficient specificity to allow the decision makers or other participants to understand that criterion will preclude review by the Oregon Land Use Board of Appeals on that criterion. A special admonition to the applicant that if there are conditions that are proposed, objections on constitutional or other grounds, they must be raised at this time with sufficient specificity to allow the City Commission to deal with the matter. Failure to do so will preclude an action for damages in Circuit Court. There were not ex parte contacts announced. There were no biases or disabilities to judge the issue on its merits.

Associate Planner Tony Konkol presented the staff report. This matter came before the Planning Commission on April 12, 2004, and it recommended approval with the following conditions:

- The runway protection zone shall be depicted or noted on any final plat as permitted by the County Surveyor. The runway protection zone shall also be addressed in the CC&R's. The Bonneville Power Administration easement shall be shown on the final plat for any subdivision and addressed in the CC&R's.

The applicant requested a zone change on two parcels from R-10 single-family to R-6 single-family. The applicant, Ms. Loss, owned one parcel and the other by the City of Oregon City currently proposed to be developed as Wesley Lynn Park and identified as tax lot 501. The two parcels total approximately 22.3 acres.

The subject site is on the WSW side of the City and is north and east of Leland Road. To the north of the site is the Silverfox subdivision that is zoned R-6. To the south and east of the site are properties outside of the City limits. The southeastern side is outside of the urban growth boundary (UGB). One of the properties is the proposed park site. The subject site is proposed to be developed as a subdivision, which is in for review concurrent with this zone change. The applicant has also requested a variance

to the cul-de-sac length and block length. This variance has been put on hold pending the outcome of the subdivision application. Some slides will be shown of the proposed subdivision layout; however the slides are out of date. Staff and the applicant have been working to realign the road, which has affected the lot layout.

The Comprehensive Plan for both properties is low-density residential so allows the R-6 designation. Both the R-10 and R-6 designations allow parks to be developed on that property. The County properties surrounding the site are roughly .5 acres. Mr. Konkol discussed the comments received including those from Ms. Reiner and her belief the lot sizes were not compatible with the surrounding area and that additional traffic would be a safety hazard.

The City has been working with the applicant on the street location. Due to the existing street locations, it is required that the road have a swerve that isolates a small piece from the remainder of the proposed park. The applicant has been working with the parks department to potentially buy that piece of property. The City is also working with the applicant to develop the road at the same time. He indicated the property line.

Mr. Konkol reviewed exhibit 4 (slide) that showed the existing runway zone, Arrow Acres Airstrip, and Leland Road. The runway protection zone provides a safe area for planes to take off and land. The Bonneville Power Administration (BPA) easement prevents development of houses in that area. The effect is expansion of those lots. The runway protection zone is approximately 5,000 feet long with a slope of 1 foot up for every 20 feet out. So after 5,000 feet out, the slope is about 250 feet high.

Commissioner Lemons asked about the area that seemed to have lot numbers.

Mr. Konkol explained there was a concurrent subdivision application, and this indicates the tax lots currently under discussion. There is an existing county subdivision outside the UGB on the east side, and those homes are already built.

Mr. Drentlaw said that subdivision was built some time ago and approved by the County. It is separate from this application.

Mayor Norris understood the buffer did not apply to those existing homes and is not considered.

Mr. Drentlaw explained all the City Commission is looking at is the area within the subdivision currently under review.

Commissioner Hewitt clarified the scope and take off for airplanes was originally started by ODOT about two years ago. There were no regulations prior to that time. The houses that were built earlier did not have any conflict with the existing airport until the new plan came into effect about nine months ago. The County adopted it for this area.

Mr. Konkol discussed availability of public facilities. Water and sewer were stubbed to the property on Frontier Parkway and Joyce Drive when the Silverfox subdivision was developed. The predominant housing type in the area is R-8 and R-10. The Silverfox subdivision is zoned R-6. There is also some planned use development with lot sizes as small as 5,000 square feet. The desire to have larger lots at the UGB has been stated at the Planning Commission level. There is a pre-approved County subdivision that is outside Oregon City's UGB. Lots are about .5 acres, and the septic systems will likely begin to fail in that area. It is unknown what DEQ might require the City to do for residences that are outside of the UGB in terms of an emergency hook-up to services. This is not the traditional break from urban density to rural. There is a subdivision right next to it, so typically there would not be small lots right next to the UGB. It was also important to note that with development of the park, there would be higher densities near a large recreational facility to maximize the use of that facility. Further, it is located within 1/3 mile of Meyers Road that is proposed for a future bus line providing connection to Clackamas Community College and a major TriMet hub. There is a creek located on the south side of Leland Road that is about 175 feet south of the subject site. It is not a fish-bearing stream, so the maximum buffer requirement would be 50 feet. Appropriate measures will be taken to control and release storm water from the site, and staff does not find any impact on the water resource itself.

Mr. Konkol went on to discuss transportation impacts. The applicant prepared a transportation impact study that was reviewed by David Evans & Associates. The zone change would allow an increase of approximately 2.9 units per acre and add about 85 more trips. This would not pose a significant impact to the study areas and intersections, which would operate at acceptable levels of service upon completion of the project. The additional housing units add to the needs for improvements identified in the Transportation System Plan (TSP) specifically at the intersection of Hwy. 213 and Meyers Road for capacity as well as the intersection of Meyers Road and Leland Road.

If the subdivision application was approved, there would most likely be a non-remonstrance agreement to be signed by the applicant for future intersection improvements on the transportation system. The community facilities are adequate, and the higher density would maximize use of those facilities including water, sewer, and recreation. The limited land available within the current City limits and UGB would also be maximized. The development would be in close proximity to a major park, a future transit street, and Clackamas Community College. The housing variety allows smaller lots than are available in the south and southwest sections of the City at alternative prices than what is currently seen.

According to Mr. Konkol, the Planning Commission approved the application 4:0 with the recommended condition of approval.

Commissioner Neeley referred to correspondence from the person concerned about zoning compatibility with the adjacent lots. Did notification extend beyond the City's UGB to those neighboring lots and did the comment come from one of those lots?

Mr. Konkol responded notification went to properties within 300 feet of the subject site, and the comment did come from one of those property owners.

Mayor Norris said the applicant would have 15 minutes for his presentation, 5 minutes for individual testimony, and 5 minutes for the applicant's rebuttal. With that, the Mayor opened the public testimony portion of the hearing.

David Cady, Centex Homes, 16520 SW Upper Boones Ferry Road, Suite 200, Portland, Oregon 97224 provided the applicant's presentation. He was joined by Tom Sisul, Sisul Engineering, the design engineer of record if the application is approved; Rick Givens, Planning Resources; Dana Krawczuk, Ball Janick; and Matt Hughart, Kittleson & Associates, who performed the traffic analysis.

Mr. Cady provided a map depicting the easements on the site. If the application is approved, the developer and parks department could work together to build the street and have a complete safety improvement. R-6 zoning surrounds the site and the park. The remainder of the site is bounded by County R-10. He discussed effective transitioning between those uses and maximizing the larger lots along the County R-10 zone. There is another portion of property that is not yet annexed to the City with a shadow plat of how it could be done in R-10. The lots are similar in nature. The applicant worked with staff to remove the variances originally requested to have consistent block lengths and minimize the cul-de-sac length as well as not connecting to Leland Road. Centex would provide a secondary fire access and pedestrian way to Leland Road to encourage future connectivity. The BPA line was removed but the easement is still in existence, so building would not occur in that area thereby creating a larger buffer. The fly zone overlay has an impact but is mostly contained within the BPA easement.

Mr. Givens stated the overall average lot size in the application is more consistent with an R-8 zone. The applicant is requesting the R-6 designation because there are some transitional issues including abutting to R-6 zone to the northeast, maximizing use of the park, and ensuring the zoning provided a building site for the oddly shaped lot by the park. The development is mostly R-8, but R-6 is being requested to allow for some smaller lots. He pointed out an area of storm water detention and emergency vehicle access on the map

Mr. Cady said the mixture of lot sizes offers a variety in housing and economic values. The larger lots will sustain larger houses that are more common with the County zoning.

Commissioner Hewitt understood it was really an R-8 development, but the applicant was asking for R-6.

Mr. Cady said the R-6 designation would support a housing variety and diversity. He discussed the difference in lot dimensions. R-6 has a minimum lot size of 60 feet wide by 100 feet deep. R-8 is 80 feet wide and 100 feet deep. R-8 zoning would restrict housing diversity and be problematic for the parcel within the park.

Commissioner Hewitt asked if the developer could meet the minimum lot density in an R-8 as well as in R-6. He understood the variety of housing would not be there, but the developer could meet the minimum lot numbers for the density ratio.

Mr. Cady said he had not looked at that calculation for R-8.

Ms. Dana Krawczuk, Ball Janik, 101 SW Main Street, Suite 1100, Portland, Oregon. The applicant was requesting R-6 zoning because it offers some flexibility to use the planned use development code as part of the subdivision. That would accommodate the park, the BPA easement, and the fly zone. The City Commission could be assured compatibility with the larger lots outside the UGB will be protected because of the BPA easement and the no fly zone. The lots will be larger by virtue of the fact houses cannot be built in those areas. The approval criteria should all be balanced: affordable housing or variety of housing should be balanced with compatibility. The applicant believes the R-6 zone provides an opportunity to meet those goals while an R-8 may not.

Commissioner Hewitt understood the applicant is applying for an R-6. He felt he was put in the position of having to like it or having to deny the application.

Ms. Krawczuk said if Commissioner Hewitt finds the R-6 zone does not meet the approval criteria, then he is obliged to vote against it. She felt the applicant worked with staff and the Planning Commission to come to a good result. She hoped the Commission would see the benefit of the R-6 zone and that it meets the approval criteria.

Commissioner Hewitt said the City Commission is here to deliberate on the zone change, so he is asking some tough questions.

Ms. Krawczuk added since the subdivision approval is not before the Commission, some specific conditions could be part of the zone change. By doing that, the Commission could be confident those components it does like will be brought forward with the subdivision application.

Commissioner Hewitt agreed the Commission could do that, but counsel recommends it not condition zone changes.

Ms. Sullivan advised it could be done.

Commissioner Hewitt clarified that counsel had suggested that conditioning zone changes could be problematic and that is it better not to do so.

Mr. Cady said the subdivision application is not preview to this. The applicant brought it to demonstrate the intent, and that he has been working with planning and parks staff. The R-6 designation is a big component, but all parties have put a lot of investment into how this subdivision would work.

Commissioner Hewitt said the reality is that this is only a snapshot. The lot sizes are irrelevant. The applicant is seeking R-6 zoning, and that is the decision before the City Commission. The Commission needs to look at the bigger picture and what it wants the outside edges of the UGB to look like.

Mr. Drentlaw commented that eventually the outside edges become the inside edges.

Ms. Krawczuk said with the BPA easement and fly zone the Commission could be assured that the R-6 lots would be larger than the typical R-6 lot. That helps with the transition to the area outside the UGB. This situation is unique because outside the UGB there is a somewhat urban level of development. Because of these unique factors, the applicant believes R-6 is appropriate.

Commissioner Neeley said this dialogue typically follows the presentation, so he felt the time clock should be ignored if there are other pieces of information the applicant wanted to bring forward.

Mayor Norris agreed and adjusted the time.

Ms. Krawczuk believed the key points had been covered and asked if there were questions for the traffic engineer.

Commissioner Neeley said when the topic of annexation came up, Leland Road was an issue. He felt the City Commission should hear from the traffic engineer.

Matt Hughart, Kittleson & Associates, 610 SE Alder, Suite 700, Portland, Oregon 97205. A comprehensive rezone analysis was done for this parcel by considering the comparative results of R-10 versus R-6 zoning and analyzing the incremental differences in the number of trips. The results concluded that at the study intersections the difference in number of trips was not enough to generate the need for specific mitigation above what would need to be done in an R-10 development. There was not a need at any of the intersections studied for any specific mitigation conclusive to the R-6 zone.

Commissioner Neeley said Leland Road does not really serve an urban need at this point.

Mr. Hughart explained when the process started, he consulted with David Evans & Associates, the City's traffic engineer, and came up with a list of intersections that would be impacted most by this particular rezone and eventual development of homes on that site. The intersections considered were mostly to the north, northeast, and northwest of the site. It was determined Leland was a rural road and does not take anyone to an area with urban services typical of a single-family subdivision. The amount of traffic forecasted for Leland Road was fairly minimal, and he did not feel there were specific impacts that would require mitigation of that facility.

Commissioner Bailey noted the staff report refers to development at the R-6 level would result in about 85 additional daily trips – additional to what?

Mr. Hughart replied an R-10 development generates about 310 trips per day based on single-family residence data. An R-6 development would generate approximately 85 additional trips beyond that 310.

Commissioner Hewitt commented the applicant did not define the term “specific mitigation.”

Mr. Hughart explained when a rezone analysis is done a comparison is made between the proposed zone and the existing zone. The R-10 would generate a certain number of trips, and a higher density would generate more trips because there are more homes. That incremental difference in the number of trips was compared at the study intersections. It was determined the additional 85 trips would not create a significant impact to those intersections that would require improvements beyond what is ultimately needed under the current zoning.

Commissioner Hewitt asked Hughart if the intersections of Leland, Meyers, and Clairmont were compared. He agreed that most of the traffic would not go out Leland to Hwy. 213 to the south. It would go out Leland to Meyers or Leland to Clairmont or Leland to Linn Avenue. Were those intersections evaluated? If 85 more trips are generated per day during peak hours, will that intersection be okay as it is today?

Mr. Hughart understood Clairmont was the fourth leg of the intersection of Leland and Meyers in the northeasterly fashion. That intersection was studied. By comparative analysis it was determined that long term at that intersection would be the same under R-6 and R-10. The TSP says this intersection will be signalized when the need arises. Whether or not this parcel is rezoned to R-6 or stays R-10, signalization will be needed at some point in time. The additional trips generated by an R-6 development are not enough to push that need closer.

Commissioner Hewitt wanted to alert the Commission that if it approves this, how many times will a developer come in and say the same thing as the City develops? This development may not generate the problem at that intersection that results in signalization. However, will there be a long-term mandate for this developer to contribute to improvements besides the system development charges (SDC)?

Someone will have to pay in the future. This is the reason he is not happy with going to the edge of the City and approving lots smaller than R-8.

Mr. Hughart said staff is looking for a non-remonstrance agreement from this development that would contribute monetarily to the ultimate improvement of that intersection based on its incremental level of impact.

Commissioner Lemons drives that area daily and has observed the impacts. The southeast part of the City is growing too fast, and the road needs are not being addressed. Are those roads at a level of service they should be at to meet current service needs? Traffic studies keep saying everything is fine, but he sees otherwise when driving it daily. He was concerned about impacts to current and future residents and could not buy into the fact this is not a problem.

There were no citizen comments.

The City Commission recessed at 8:49 p.m. and reconvened at 8:57 p.m.

Ms. Krawczuk addressed traffic and lot size comments. One point of clarification, the 85 additional trips generated by the zone change is daily with 5 trips in the p.m. peak hour.

Mr. Cady said Leland Road is in the TSP/CIP for the traffic impact fee, so the fees generated out of the subdivision do go toward funding that project identified long term. The non-remonstrance agreement toward a future local improvement district (LID) provides assurance. He referred to figure 6 of the traffic study and noted the total number of p.m. peak trips was 10 at that intersection. He reiterated he understood that R-8 was the magic number because the lots average 8,000 square feet in the subdivision. However, R-8 does not give the flexibility to offer the housing variety, does not benefit the remaining parcel for the parks department, and does not provide flexibility to work within the constraints of the site without using a different mechanism. For these reasons, the applicant advocated for an R-6 designation and committed to a design that would be somewhat concurrent with this decision. The applicant is further committed to partnering with the City and parks department to do public improvements that benefit both developments.

Commissioner Lemons asked if the applicant could not or chose not to apply for a planned use development (PUD).

Mr. Cady replied the applicant chose not to go through the PUD process.

Mr. Konkol said for clarification he gave the Commission the executive report but not the full report Cady referenced.

Ms. Krawczuk concluded that lot sizes were relevant with the Comprehensive Plan discussion of compatibility. It does not mean identical. There is R-6 land adjacent. It

is a unique site because of the existing use just outside the UGB. She understood the City Commission would consider several Comprehensive Plan amendments with some very dense areas just on the other side of the park, so this would be a type of transition. This is a unique situation where R-6 fits. Not every zone change proposal or annexation proposal is the same, and the City Commission has the discretion to look at each one. There is a partnership with the parks department and an assurance there will be larger lots adjacent to the UGB. R-6 effectively works like an R-8 on this property and makes a viable project for the applicant.

Mayor Norris closed the public hearing.

Commissioner Neeley understood that SDCs are collected on a per unit basis, and if more houses are built, more SDCs will be collected.

Mr. Drentlaw said that was correct.

Commissioner Hewitt asked if more SDCs are collected, does that equate to the additional services demanded by that lot? The City Commission has discussed this issue on numerous occasions, and everyone knows residential does not pay for itself in the long-term. The only thing the City gets out of a subdivision is the ability to collect transportation SDCs. The service demand over the long term for residential development does not pay for police, fire, and other services.

Commissioner Neeley said cities in Oregon function under the need to have a 20-year land supply that includes houses. Whether the Commission likes it or not, the City provides that increase in housing. If one is going to build X units will it do so on a small or large area? Ultimately which one of those has the least impact on lands that are supposed to be protected? Which of those two designs would be easiest to serve – housing spread over a large area or a lesser area? The Commission has discussed having a rural feeling to Oregon City boundaries. The fact is, the City is required to look at additional lands required every five years. Someone commented earlier that what is now the outer edge of the urban area will become the inner edge. In the future, the City will have large areas of R-8 and R-10 developments. Oregon City has that now, and it will only increase. One of the ultimate goals of the City's land use policies will eventually fall by the wayside. Agricultural and forestlands will be lost to urban sprawl. This will occur unless the City is willing to accept some greater densities. He lived in a desirable old Portland neighborhood, and most of those lots were 5,000 square feet. His issue is not so much density but how the subdivisions are designed. There can be very nice housing on 6,000 square foot lots in a nice neighborhood. The compatibility with the area outside the City is outside the Commission's control. The people who have .5-acre lots who do not like it can grow big hedges if they chose to, so they do not have to look at their neighbors. This is an urban area, and Neeley did not believe R-6 was high density.

Commissioner Bailey felt the group was struggling with the sprawl versus density issue. One of the things that impressed him was that staff and a private party worked

flexibly within the regulatory environment to develop solutions addressing a number of needs. Often government is accused of imposing strict conditions that cannot be varied. Too often private parties are too set on getting things their way. The site is within the City, the UGB, across the street from a major future park, and adjacent to an existing R-6 zone that will eventually be part of the urban area. This is an opportunity to demonstrate the City can work in a public/private partnership to get things done. For these reasons, Bailey stated his support for the proposal.

Mayor Norris agreed with the comments made by Commissioners Neeley and Bailey. The developer has worked in partnership and sought input from the neighbors. Centex worked with staff in a problem-solving manner, and the flexibility and variety of uses and housing types meet the needs of this particular area. Although the City will continue to wrestle with traffic on the south end, it is not a problem that will not be solved in the short term. The City will also continue to wrestle with issues of growth. From what she has heard, Mayor Norris believed this was a commendable type of development.

Commissioner Lemons responded to Commissioner Neeley's comments and the uses over a 5 – 6 year period because things change. Commissioner Bailey's comments were contradictory to what was discussed during annexation deliberations. He was still concerned that these projects are put in the southeast area with higher densities that impact traffic. He knows about traffic in that area based on what he deals with on a daily basis and what others tell him. He believes the roads need to be fixed before development goes in. He will support this project, but he is opposed to these types of developments in that area. The Commission needs to get its priorities straight and fix the roads. That is the failure. Annexations brought the Commission to this point. He is concerned about the current residents and those moving into the new development.

Commissioner Hewitt stated he would not support the application because he believed growth and urbanization needed to be looked at in a package. On numerous occasions the question has been asked, "What do we want our City to look like?" He does not want Oregon City to look like downtown Portland with compact homes on compact lots. He does not want Oregon City to look like small lots with nothing but a house on it. He wants Oregon City to look like an area commensurate with what is already there taking into account that people have kept the large lots. As shown on the slide, the majority of lots in the subject area are R-8 and R-10. There is one strip of R-6. He did not disagree with Neeley and does agree with comments on what the Commissioners want the City to look like. Does he want it to grow further south? Does he want annexations to cause this type of problem -- growth and density in the southern end of the City knowing full well that Meyers Road will be considered a failing intersection in 2 – 3 years if more annexations are allowed? Commissioner Bailey brought up the question of how the Commission deals with annexations. Neeley expressed concern about what we want our City to look like – how large – in which direction to grow? This area of the City has been prime for development because there are already some beautiful developments there now. That is the attraction. He does not see how this application preserves and enhances the natural

and developed character of Oregon City and its urban growth area as it stands today. He understood the City must look to the future. Even the area outside the UGB has large lots that will develop and annex into Oregon City. If those and others are zoned R-6, where does it stop? We want transition, and not grow beyond that line. His believed that development has been maximized to the southeast of Oregon City. Leland Road is a country road. He believes it is a poor decision to have R-6 in that area. Personally, he wanted to convince the Commission that R-6 is inappropriate because of the traffic. He would like to draw the line because Oregon City cannot serve that much City anymore.

Commissioner Hewitt said there are people who enjoy living on larger lots. Now, because there is a partnership with a park next door, R-6 zoning is being advocated. That does not turn his head. The applicant said there would be a bus line some time in the future. He questioned a bus line down a Podunk country road. The extra 85 trips per day from an R-6 development is important information for him. That intersection is an awkward 4-way stop. He discussed the annexation process. Hwy. 213 and Meyers will be impacted to the greatest extent along with Hwy. 213 and Beaver Creek Road. The Commission will approve this rezone, but what will happen with future annexations and future rezone requests?

Commissioner Lemons asked Mr. Konkol to indicate the zoning on the map.

Commissioner Lemons was concerned with density and agreed to disagree that this will be a problem.

Mayor Norris asked Ms. Kraushaar to discuss TSP improvements in that area.

Ms. Kraushaar said the Meyers/Clairmont/Leland intersection is being monitored for signalization and realignment that would be SDC projects based on growth. Meyers and Hwy. 213 already has a signalized intersection. Meyers will someday go through to Beaver Creek Road. The other intersection that could potentially be impacted is Linn/Leland/Central Point/Warner Parrott/Warner Milne, which is in the TSP as well. It was improved in the early 1990's and the TSP calls for a potential roundabout.

Commissioner Lemons commented that Hwy. 213 and Meyers is already failing.

Ms. Kraushaar agreed Hwy. 213 has a problem, but pointed out that the Meyers leg is in pretty good shape. Hwy. 213 does not have the capacity to serve the urban growth boundary. It narrows to two lanes, and the signal installed at Glen Oak Road to address safety concerns backs up traffic on Hwy. 213. That issue is not really related to the application before the City Commission. Long-range in the TSP is 5 – 20 years.

Commissioner Neeley said seeing a concept of the subdivision help his voting decision. There were some elements of the layout he liked, but he did have concerns about Leland Road frontage. He felt it is better to direct traffic to local streets, and collectors, and then go onto the major roads. He believed some of the problems on

South End and Central Point were the driveways. He would put forward a condition that there be no frontage on Leland Road.

Mr. Konkol said per the code the houses would be required to face Leland Road, but staff has worked with the applicant so there will not actually be driveway accesses onto Leland Road.

Commissioner Lemons asked Konkol to discuss the impact of 35 homes versus 27 homes. Is that 35 more cars that generate those trips?

Ms. Kraushaar said the ITS Manual is used when calculating trip generated. A single-family residence generates 10½ trips per day.

Commissioner Hewitt said the Commission is not evaluating the subdivision. Applicants have come before the group and presented grandiose subdivision plans to get a zone change. He does not want to use the design standards to push through a zone change. The premise is what do we want our city to look like? What is the predominant zoning? What are the predominant lot sizes in the area? He does not disagree the City will grow in the future, but a zone change is a big picture decision.

Commissioner Bailey moved for adoption of the proposed Ordinance 04-1004 for a zone change of properties from R-10 to R-6 as shown in agenda item 4.1.

City Attorney Sullivan suggested an amendment with a new section 2.A—"no vehicular access shall be permitted from the subject site to Leland Road."

Commissioner Bailey accepted the amendment.

Commissioner Neeley seconded the motion as amended.

Commissioner Bailey appreciated the discussion because all of the issues raised were very real. His approval was of a zone change and a subdivision and annexation is still a huge concern for him.

Commissioner Hewitt thanked Bailey for listening to his message.

Mr. Sullivan read the Ordinance for the first time with the amendment.

A roll call was taken, and the motion passed with Commissioners Bailey, Neeley, and Mayor Norris voting 'aye' and Commissioners Hewitt and Lemons voting 'no'. 3:2.

5.0 COMMISSION BUSINESS

5.1 Commission Report No. 04-082, Award a Contract for Renovations and Re-Roofing of Atkinson Park Restroom Building.

Community Services Director Dee Craig presented the staff report. The Atkinson Park Restroom Building has been closed for well over 4-1/2 years, and the department has been trying to save money in its normal budget for repairs. This year there is enough money, so the department obtained three written quotes. Staff recommended the contract be awarded to A&S Roofing Construction in the amount of \$14,656. The building will be re-roofed and refurbished to support park activities.

Commissioner Lemons asked how the department got enough money to do this.

Ms. Craig said at this time of the year most of the routine maintenance has been done, and there were no unforeseen expenses. The funds can be allocated in the current year's budget.

Commissioner Lemons was concerned the City says it is constantly out of money to do projects, yet the department was able to save \$15,000 out of maintenance to do this project.

Ms. Craig said volunteer efforts that have saved the City money.

Commissioner Lemons had a problem with the fact that the City talks about being out of money but finds money to do this type of project.

Ms. Craig explained the department tries to do one major renovation project annually, and several picnic shelters have been re-roofed to extend their useful lives.

Commissioner Bailey had no problem with this if there were efficiencies in other projects. He believed this was commendable and is within the operating budget.

Commissioner Hewitt said the Commission only had a photo of the restroom and asked Craig to describe the rest of the site.

Ms. Craig said this is not the only facility on site but is the only one undergoing repairs at this time. The Buena Vista Clubhouse is on that site, and it underwent repairs about 2-1/2 years ago. There is also a covered picnic shelter, a swing set, and a set of bars.

Commissioner Neeley thought the incentive for the department's being frugal and building in efficiencies was to be able to do more with the money it does have.

Mayor Norris thought this was good management and an excellent public project.

Commissioner Lemons explained it was not that he did not support this project, but he was surprised there was \$15,000 in a tight budget.

Commissioners Bailey/Hewitt m/s to Award the Contract for Renovations and Re-Roofing of Atkinson Park Restroom Building.

There was no public comment.

A roll call was taken, and the motion passed with Commissioners Bailey, Neeley, Hewitt, Lemons, and Mayor Norris voting ‘aye’. 5:0.

- 5.2 Commission Report No. 04-086, First Reading of Proposed Ordinance No. 03-1014, Adopting a New Comprehensive Plan, Comprehensive Map and Zoning Map; Amendments to the Zoning Code; and New Water and Sanitary Sewer Maser Plans as Ancillary Documents to the Oregon City Comprehensive Plan.

Mayor Norris said the City Commission would continue discussion of the zoning code and maps.

Mr. Drentlaw said there was a public hearing that was closed on April 21, 2004. The purpose of this meeting was to discuss some of the outstanding issues, changes based on earlier discussions, and removal of the action items. There were also two pages of suggested policy changes from staff based on City Commission discussion. Chapter 14 – Urbanization was rewritten based on suggestions from Commissioner Bailey. On page 4 of the handout, Goal 14.4 – Annexation of Lands to the City – resulted from a discussion about annexations and the need for a continuous perimeter boundary with existing city limits of 25%. Language was added to allow more flexibility. It reads, “The City may define contiguous to mean that area to be annexed is located in a manner that would allow efficient provision of services.” Mr. Konkol indicted on a map the Pease Road area that had initially been zoned R-3.5. The map showed the area to the south as being rezoned from R-10 to R-6 to provide a logical phasing of densities.

Commissioner Hewitt believed Commissioner Bailey’s thoughts regarding the 25% were watered down.

Commissioner Bailey thought it was a good idea and perpetuated it. He was concerned as he worked on it that 25% seemed like a relatively arbitrary number, and it might not address every situation. It was clear as a policy statement that the City wants an annexation to mostly abut the existing boundaries.

Commissioner Hewitt said if there were sewer and water and roads in the area, efficient service provision would be there. Why have the 25%? Some kind of line needs to be drawn that says some portion of the property must touch existing City boundaries. He thought there was too much wiggle room.

Commissioner Bailey agreed and suggested trying the 25%.

Mayor Norris believed it was the intent to make amendments in August or September.

Commissioner Neeley was also concerned about the 25%. The efficient provision of services ought to be the measure and not the percent of a perimeter.

Commissioner Hewitt asked what efficient provision of service means? He thought the 25% drew the line in the sand.

Commissioner Neeley thought if there were a 20-acre subdivision of which about 600 feet were contiguous, then services could probably be provided efficiently. That, however, would be less than 25%.

Commissioner Hewitt's point was that if the City were to really do something it should say one entire property line is contiguous to the City. The 25% would force those closer to the City to annex first.

Commissioner Bailey asked the city attorney about the issues. He responded that the policies on annexation and urbanization were not too extensive and may be about as detailed as the Commission wants to get. He asked the city attorney if the City Commission could adopt a set of specific annexation criteria with standards to measure service provision separate from the Comprehensive Plan.

Mr. Sullivan responded that there are annexation criteria on the books; however, the Commission has expressed discomfort with them. The Commission could revise those criteria. Policies are usually less specific and give direction to further implementing criteria. The more specific the Plan, the more difficult it is to be flexible.

Mr. Patterson added there is one other issue. Since the City Commission met on Monday, he has had several discussions about the FAR requirements as they particularly relate to the mixed-use zone at the old landfill. He would like to continue to look at that issue over the next week.

Commissioner Neeley encouraged the city manager to do so, and there were no objections.

Commissioner Hewitt suggested leaving that policy open and flexible.

Commissioner Bailey intended to work with staff in looking at the annexation criteria based on these policies. He would accept this flexibility to guide the future setting of standards.

Commissioner Neeley referred to Policy 14.4.1 and the language, "not including frontage along city-owned right-of-way." He asked if that was the intent and recommended further clarification.

Commissioner Hewitt suggested ending the paragraph with “city limits.” It says it would have to be contiguous, and that a roadway could not be used to do so. It would also include efficient provisions of services. It is flexible without adding any dimensions. He read starting with, “existing city limits not including a city right-of-way and would allow the efficient provision of services.”

Commissioner Bailey thought *wordsmithing* imperatives that were out of line was reasonable.

Commissioner Lemons asked if the Commission would address the mission statement and had concerns about the Comprehensive Plan addressing that.

Mr. Drentlaw noted the major principle statements in the introduction.

Commissioner Neeley referred to page 11-9 recreation facilities and provided some written edits for clarification.

Mr. Drentlaw made the City Commission aware of some proposed language changes to the master plan provisions in the code. He referred to page 113, criteria C.5 and the wording required by state statute related to housing.

Mr. Sullivan explained the only thing the City Commission would have to do is related to housing. There is a difficulty in the distinction between flexibility and certainty. The state legislature has said there has to be certainty for needed housing. It does not require certainty for other types of uses. He understood when there is one of these master plans the suggestion is that the proponents would like to see clear and objective conditions across the board. It is required for housing but not for commercial, industrial, or other uses. That was a policy decision for the City Commission to make.

Commissioner Hewitt asked if this was a concurrency statement.

Mr. Drentlaw did not believe so. If the City has approval standards, they must be clear and objective as they relate to housing. This is the City’s responsibility rather than the applicant’s.

Commissioner Bailey asked for an explanation of the difference between a master plan and a concept development plan.

Mr. Drentlaw said the Metro defines a concept plan that relates to urban growth areas. To confuse the matter more, there is a master plan provision that talks about a concept plan and a specific development plan, so there are actually two different types of concept plans. The one being discussed here is under a master plan provision. For example, there is a large site such as Red Soils with a single property owner with several phases of development anticipated. One thing that is advantageous in the planning arena is to know how the applicant intends to lay out the road system, where

the buildings will go, and where the parking is going to be. A concept plan does not get into the details, but rather lays out the general infrastructure and building locations. That is approved through a type 3 process, which means it goes before both the Planning Commission and the City Commission. Once the concept plan is approved, specific phases are approved by staff. It was written for Red Soils, Willamette Falls Hospital, and Clackamas Community College for an overall vision of site development. This is an elective procedure except for institutional uses under ten acres.

Commissioner Bailey understood the concept plan for Metro Urban Growth area purposes is not necessarily a concept development plan.

Mr. Sullivan added the clear and objective is limited to housing and leaves the flexibility for all other kinds of uses. That is the nature of a master plan process.

Commissioner Hewitt asked how this statement specifically identifies housing.

Mr. Sullivan said there was a suggestion for an amendment, which was not before the Commission at that time. He read the proposed language.

Commissioner Hewitt asked how phases other than housing were addressed.

Mr. Sullivan said those would be left the flexibility by changing C.5 so that the clear and objective is limited to housing and implicitly allowing flexibility to the rest.

Commissioner Neeley noted there were only two master plans listed as attachments but that there are more.

Mr. Drentlaw explained the ones being updated were the water and sanitary sewer master plans, not the others. That is why those two were being brought forward at this time as ancillary documents to the Comprehensive Plan.

Commissioner Bailey discussed making a list of all of the ancillary plans that exist for future reference.

Commissioner Hewitt suggested including the date adopted or date of last revision.

Commissioner Hewitt referred to pages 58 – 64 and the mixed-use downtown (MUD) designation. He recommended removing the word “primarily” from 17.34.010 because he believed it weakened the language and the Commission’s goals.

Commissioner Neeley thought there needed to be some inherent flexibility. He had no problem with the wording.

Commissioner Bailey understood Commissioner Hewitt’s concern and asked about service uses other than an office.

Commissioner Hewitt said postal services or offices are a service to the community, so he would not have a problem with that. Offices are limited to finance, real estate, insurance, etc. that are not retail services.

Commissioner Bailey discussed downtown Ashland with a high level of retail as well as a number of real estate offices. This type of service could be an advantage on the street level to literally help market the community.

Mr. Sullivan said the only time this comes up is when the City is trying to construct or interpret the Ordinance. This could come before the City Commission in the context of a conditional use on an appeal and referred to the conditional use section on page 60.

Commissioner Hewitt said the outright permitted uses on the ground floor are finance, insurance, real estate, and government.

Mr. Sullivan explained that one must take the use list as the first and primary basis. It is a tool for interpretation and does not by itself allow or deny uses.

Commissioner Hewitt thought the goals for the downtown area were to keep service and commercial retail uses on the ground level. Now it seemed the City was backing away from that and saying other uses would be allowed.

Mr. Drentlaw commented the historic downtown area limits residential to the second floor.

Commissioner Lemons understood Commissioner Hewitt was talking about mixed use downtown. That is what 17.34.010 deals with. He asked, "Does this also go into the Cove?"

Commissioner Hewitt understood the ramifications and potential modifications that would help the City grow. He commented on Commissioner Neeley's trip to Lodi, and the City Commission's thoughts about implementing similar standards. He felt the Commission was losing sight of the original goal by letting finance and government buildings back in. He does not disagree with Commissioner Bailey's comments on real estate offices, but the bigger concept is to force retail in the limited downtown area. He advocated for removing the word "primarily."

The group discussed splitting the area.

Commissioner Hewitt's other concern was the Dan Berge property. He referred to language regarding the R-2 zone on pages 37 and 61. On the top of page 61 there was reference to pre-existing industrial uses. He spoke with Mr. Konkol about this, and he thought the solution for Mr. Berge was to use similar language to the pre-existing industrial use and bring it back to 17.18 and give it appropriate numbering. It would

refer to “tax lot 700 located on Clackamas County tax assessor map 32E 16B 700 has special provisions for industrial use. This property may maintain and expand its industrial use on existing tax lot 700.” He was not comfortable with putting in anything that would allow a change in the use. It is a non-conforming use that goes away when the use goes away. 17.34 states, “is allowed as long as there is no greater impact on the area than the existing use.” Commissioner Hewitt did not believe that should be part of the new zoning ordinance. The intent was to accommodate the current use by pulling it away from a non-conforming use, allowing Mr. Berge to expand his existing business, but not changing that business from its original use.

Mr. Sullivan agreed he would bring that back to the City Commission.

Commissioner Hewitt thought the current use would have to be specified.

Mr. Drentlaw said the other option was to rezone it industrial.

Commissioner Hewitt was not in favor of that. He wanted to allow Berge to expand on that property but once that use goes away, that property reverts back to its original zone. It protects Berge as long as he stays on the property, but once he leaves, the use goes away. The industrial use for this owner only would be recognized.

Mr. Sullivan said the conditional use is not normally left to the owner but to the use of the property.

Commissioner Neeley referred to page 3 – streets and sidewalks generally and 12.04.031(1) and 12.04.032(1) having to do with liability for maintaining sidewalks.

Mr. Sullivan thought 12.04.031(1) was a common provision that says a person is responsible for the sidewalk in front of his house. That is not transferable. There is a separate process in which the public works director determines there is a crack that needs to be fixed but does not attach liability to the City if the director does not have the person power to correct it.

Commissioner Bailey said it reads, “...when the public works director determines....” It does not say “shall” so is not a mandate on the City.

Commissioner Neeley referred to page 5 – street tree planting and maintenance requirements. He discussed tree spacing and thought that even spacing was too restrictive. He would prefer a certain number of trees within a given space.

Mr. Drentlaw called attention to the next sentence that allowed an alternative plan if there were site constraints. He suggested adding, “...or other considerations.”

Commissioner Neeley had some editorial comments for staff to consider. He referred to pages 13 and 14 and asked if there were implications of a moratorium if the level of service (LOS) failed.

Mr. Drentlaw believed that could be used to deny applications.

Commissioner Bailey agreed with Drentlaw that these did provide specific standards for approving or denying an application.

Mr. Sullivan referred to 197.524(2) regarding delay of permits in sub (1) constituting a moratorium – “provisions of subsection 1 of this section do not apply to the delay or stopping of the issuance of permits, authorizations, or approvals because they are inconsistent with the local government’s Comprehensive Plan or land use regulations. He did not see a problem for the City Commission.

Commissioner Neeley referred to page 15, 16.12.238 – Flag Lots. There was an issue about the specific length of a lot in the code, and he wanted to make sure it had nothing to do with infill issues.

Mr. Konkol said the lot standard was reduced so the 100-foot lot length was not required. He believed the standard in R-10 for example was reduced from 100- to 85 feet.

Commissioner Neeley referred to page 16 regarding tree replacements. He wanted the community development director to be given authority to require contributions to a tree bank. If all the trees do not fit into a lot, the developer could be required to make a deposit in the tree bank.

Commissioner Neeley referred to page 18, section 16.16.050(B) regarding a joint access way and asked if one could ask for a variance. Staff responded there could be a variance requested.

Commissioner Neeley referred to pages 25 – 38 that discussed low and medium density housing. He felt the need, particularly in medium density housing, to build in the potential for a variance in back and front yard setbacks if it was served by an alley way.

Mr. Konkol said the alley is a right-of-way but it is still counted in lot size. He referred to 17.08.040(E)(2) on page 25 that says, “Attached and detached garages as being 20-foot minimum depth from public right-of-way where access is taken except for an alley. Garages on an alley shall be setback a minimum of five feet in residential areas.”

Commissioner Neeley’s issue was with the backyard setback. Will the property owner lose backyard in the process?

Mr. Konkol replied it would depend on the lot coverage. Maximum lot coverage is implemented in an R-8 zone. Someone could take their house and push it back 40 feet on a 100-foot lot. The house would stop at the rear yard setback but could have an

attached garage that could go to five feet or the property line. In that sense, the backyard would be used up.

Commissioner Neeley said if in fact someone wanted a larger backyard, could a variance be issued so the person could be expanded the backyard area if they had a garage on the alley?

Mr. Konkol said the side yard setback in an R-10 zone is 15 feet.

Commissioner Neeley said he was concerned about minimum density housing.

Mr. Konkol understood the side yard on an R-3.5 lot was 5 feet.

The group agreed Commissioner Neeley should work this out with staff.

Commissioner Hewitt asked how the City got away from maximum lot coverage in an R-10. He believed there should be some limitations because someone might want to build right up to the minimum setbacks.

Mr. Konkol replied that was addressed in R-6 and R-8 zones so that houses are appropriate for the lot sizes.

Commissioner Hewitt understood from that that people could go ahead and build in an R-6 as long as they do not go into the setbacks. What you get is a large house on a postage stamp lot. Does Oregon City allow flex lots?

Mr. Konkol responded 10%.

Commissioner Hewitt commented in that case someone could build a monstrosity on a small lot.

Mayor Norris believed that was probably not an issue today but could in the future.

Commissioner Bailey would entertain suggestions for additional setbacks in the R-10 zone.

Commissioner Hewitt suggested 35% maximum coverage and 40% with a detached building.

Mr. Konkol agreed he would prepare language to that effect.

Commissioner Neeley referred to page 42 – limited uses. He understood this was a single story and dwelling units in a neighborhood commercial district.

Mr. Konkol said the maximum building height is 2-1/2 stories.

Commissioner Neeley referred to page 43 – last sentence regarding historic buildings. He understood these were buildings on either a local or national register, and any modifications still go to the Historic Review Board.

Mr. Drentlaw said that was correct.

Commissioner Neeley said this last sentence reads, “The planning commission may delay action on such an application subject to consideration by the historic review board as provided in Chapter 17.40.” He suggested amending it to read, “the members of the historic review shall be notified of the action and may request a delay in the action or the planning commission of its own volition may delay action on such an application subject to consideration by the historic review board.” Board members would be notified of the application and may speak to the planning commission to request it as well.

Mr. Sullivan advised the City Commission of the 120-day rule and potential difficulty in meeting that time line if an application goes back and forth between two boards. The issue is staying within the 120-day aggregate.

Commissioner Neeley said that was true under the current language. He suggested that the historic review board have a review opportunity. It is still “may” not “must.”

Commissioner Neeley referred to pages 46 and 47, section 7.29.020 – permitted uses. He asked if there was a reason grocery, fruit and vegetables were not on the list of permitted uses. Those are in other mixed-use categories but not under MUC-1.

Mr. Drentlaw believed it was in 19.29.020(Q) but will call it out specifically.

Commissioner Neeley understood there were certain prohibited uses in both MUC-1 and -2, and **Konkol** said that was correct.

Commissioner Neeley said the other issues were primarily editorial, and he turned those over to staff.

Mr. Drentlaw said the complete and corrected documents including the maps, plan, and code language must be available to the public seven days before the City Commission has the first reading. Staff suggested at the next meeting to have the first and second readings of the Ordinance. The finished draft would have to be done by next Wednesday with all the changes.

Commissioner Bailey commented on the zoning map in the Rose Road area and asked if it was necessary to continue it as R-8.

Mr. Konkol said it is now R-6-MH with a proposal to go to R-8.

The group discussed the feasibility of a wetlands overlay. **Mr. Drentlaw** said the PUD was eliminated, and there are no credits for wetlands.

Mayor Norris asked if there was any code language that would allow other businesses to move into an abandoned big box. **Drentlaw** said he would look into that.

Commissioners Neeley/Hewitt m/s to consider the first reading of the Ordinance at the May 19, 2004 City Commission meeting.

A roll call was taken, and the motion passed with Commissioners Bailey, Neeley, Hewitt, Lemons, and Mayor Norris voting ‘aye’. 5:0.

- 5.3 Commission Report No. 04-090, Personal Services Agreement – Pavement Management Services – Agreement No. 04-207.

Mr. Patterson provided the staff report and requested that the City Commission authorize him to execute the personal services agreement with Pavement Management Services (PMS) to provide consulting services to update the City’s software. PMS would assess and provide an inventory of the current road conditions, input data, and maintain the data once improvements are made. The amount of the contract was \$14,700.

Commissioners Hewitt/Neeley m/s to authorize the city manager to execute a personal services agreement with Pavement Management Services.

A roll call was taken, and the motion passed with Commissioners Bailey, Neeley, Hewitt, Lemons, and Mayor Norris voting ‘aye’. 5:0.

6.0 COMMISSION/CITY MANAGER INFORMATION

6.1 City Manager’s Report

6.1.a Determine date of study session for June, which falls on Memorial Day.
The Commission agreed to schedule the study session meeting on June 7, 2004.

6.2 Commissioner Communications

6.2.a Mayoral Appointments
None.

6.2.b Reports of regional and intergovernmental committees
Commissioner Neeley reported on the Metropolitan Policy Advisory Board (MPAC) deliberations on industrial lands within an urban growth boundary (UGB) but not annexed into a city. Mayor Norris will testify before the Metro Council on May 6. The group discussed the status of Goal 5

Commissioner Bailey thanked Bruce Warner of ODOT for moving the McLoughlin bust.

7.0 RECESS TO EXECUTIVE SESSION

The City Commission recessed the regular meeting to go into executive session pursuant to ORS 192.660(2)(h) for consultation with legal counsel concerning legal rights and duties regarding litigation or litigation likely to be filed.

8.0 RECONVENE TO REGULAR SESSION

The regular session of the City Commission reconvened at

9.0 ADJOURNMENT

Mayor Norris adjourned the meeting at 11:08 p.m.

Respectfully Submitted,

Leilani Bronson-Crelly
City Recorder