West Linn City Council Meeting Minutes
March 19, 2007

Council Present:	Mayor Norman B. King, Council President Mike Gates; Councilor Scott A. Burgess, Councilor Jody Carson, and Councilor Michele S. Eberle
Councilor Absent:	None
Staff Present:	Chris Jordan, City Manager; Peter Spir, Associate Planner; Dennis Wright, Acting City Engineer; Bryan Brown, Planning Director; Ken Worcester, Director of Parks and Recreation; City Attorney Bill Monahan; and Shirley Richardson, Minute Taker

Call to Order / Pledge of Allegiance

Mayor King called the meeting to order at 6:36 p.m. and Council President Gates led the flag salute.

Proclamations, Recognitions and Presentations

John Collins presented a plaque to Michele Eberle for outstanding service to the South Fork Water Board.

Community Comments

Lynn Fox, P. O. Box 236, Marylhurst, President of Hidden Springs Neighborhood Association, stated that she was here tonight regarding AP 07-03 (Agenda Bill 07-03-07), which she believes is incomplete because e-mails that were sent to the City for inclusion in the record were not included upon review of the record. She read a letter to the Council regarding notice pursuant to CDC 99.038 (3) and CDC 99.080.

She stated the requirement for notice was not properly waived by the director, and she read a portion of CDC 99.035(C) pertaining thereto. She indicated with assistance from City staff today she could locate no such memorandum in the file as to this date.

She stated the Council refused to allow testimony at the *de novo* hearing on March 5, 2007, regarding a non-conforming use on the site. Because Council refused to hear testimony that this development is a non-conforming use, the March 5, 2007, hearing was not *de novo* and in violation of the City's own rules.

In addition, the applicant failed to pay the fee for the drainageway permit; that has not been contested; everyone acknowledges that this is a drainageway. She could find no payment for the permit in the application.

The proposed development is a unique opportunity to mitigate traffic problems, clean water issues, and safety concerns pursuant to the existing code. These decisions could impact quality of life and the property values of the existing residents of West Linn and deserve the full consideration and review of the Planning Commission. She requested that extensive and significant changes to this plan proposed by Council require the full review of the Planning Commission and that this application be remanded to the Planning Commission for re-application or reconsideration of the existing proposal.

Councilor Burgess asked if this was an application that would be considered later tonight. Mayor King stated that it is allowed for the public to testify on an item during community comments if testimony is not allowed during the hearing. The application being testified on was Agenda Item 07-03-07.

Ed Schwarz, 2206 Tannler Drive, stated that he is here tonight to speak on the proposed changes to the neighborhood associations. He is speaking tonight not as a group but as an interested citizen regarding the significant changes put forward to the neighborhood associations. These changes affect every aspect of the neighborhood associations. Some of the primary issues are the forums required for certain types of votes, the bylaws of the neighborhood associations, who can vote in neighborhood associations, the terms of the officers, the funding, etc. He was relieved that this issue was removed from the agenda this evening.

Mr. Schwarz stated that he feels some of the proposals go too far. You can't legislate a set of uniform rules and requirements for all the neighborhood associations. By their nature, neighborhood associations are different. They are set up in different neighborhoods in the City and represent different groups of people and different topographies and geographies of the City. Their needs and desires are going to be different. Trying to come up with a "one size fits all" solution to neighborhood associations is not a good approach.

When this proposal was first put out, he wondered where it came from. After talking with City staff, it was determined that citizen input was requesting changes to the neighborhood associations. He filed a public records request and received the file; however, he only found one communication from a citizen that had a negative comment about neighborhood associations. He is not sure this was citizen driven. He would like to know where the reasoning for these changes came from.

Mr. Schwarz asked that the process slow down. There was only an e-mail to the neighborhood association presidents with a draft proposal, and now there is a

second draft with significant changes. He would like to see this presented to the public for their input and for there to be a public forum.

Roberta Schwarz, 2206 Tannler Drive, stated that she appreciated the help from the 20 volunteers, 29 sponsors, and more than 60 people who purchased tickets and gave heart and soul to the fundraiser to purchase property for a park at the corner of Blankenship and Tannler. She brought pictures for the Council to see.

Ms. Schwarz stated that a third of the people who purchased tickets gave them to seniors or other people who wanted to come. Everyone who was on the waiting list that wanted to be there was able to come. It was a night of dancing. There were wonderful orchestras and the kids from West Linn High School were unbelievable. Ellen Whyte was amazing and a true professional. She thanked Jody Carson for coming and supporting this association function.

Councilor Eberle asked how many people attended the event and how much money was raised. Ms. Schwarz stated that 60 people attended the event. They raised $3,500, which will be put into a special account being managed by the treasurer. Public records are available regarding these funds.

Elizabeth Rocchia, 957 Willamette Falls Drive, stated that she is the treasurer of the Willamette Falls Neighborhood Association and for ten years has been a volunteer working in the flowerbeds. She is here tonight to request funds from Council. As a lead in to the 2008 Centennial celebration, the Willamette Neighborhood Association would like to update the flowerbeds on Willamette Falls Drive. Since 1997 volunteers from the neighborhood have done the weeding, pruning, mulching and cleanup once a month during the growing season. Three women from the Parks Department have provided garbage cans and much appreciated labor.

The time has come for professional intervention. Overgrown shrubs need to be knowledgeably pruned or removed. Dead shrubs need to be dug out. Many plants have outgrown their welcome and are beyond casual volunteer care. Mature shrubs need to be purchased and planted in bare spots and where others have died. The volunteer force is sporadic. Most people have their own gardens to look after. The sprinkler system is inadequate and ineffective. Drought tolerant plants need planting where the sprinklers fail to reach.

She indicated she is working on a landscaping plan with Carol Tuffo and feels that $5,000 could cover this effort. Thereafter, volunteers could continue to weed, plant annuals and spread compost. Willamette has become a destination point and is admired by all who visit. The flowerbeds should be a source of admiration, too.

The Willamette Neighborhood Association is asking for approval to spend up to $5,000 for this effort.

Councilor Burgess asked if there is a timeline on this project. Ms. Rocchia stated that they would like to have everything in place by the end of June.

Valerie Baker, 2270 Crestview Drive, stated that she wanted to talk about the proposed neighborhood association changes. An issue that comes up in discussions quite frequently is bylaws. There are certain components that need to be left to the neighborhood associations in regards to bylaws, and there are some components that might lend themselves to uniformity; i.e., the City determines the purpose of a neighborhood association and the neighborhood association determines their priorities and guidelines. She feels that the components should be fair, uniform, and equitable.

Ms. Baker suggested that part of the bylaws can be used as a conduit to get out the vote in terms of lists or e-mails. There should be something in the bylaws that the neighborhoods send out reminders and notices. A generic bylaw would be helpful and in those bylaws outline the areas that can be modified to meet individual neighborhood needs. She also suggested televising neighborhood meetings.

Alice Richmond, 3939 Parker Road, thanked all who voted. She votes every time it is needed. It is every citizen's duty and responsibility. She is appalled to learn that certain neighborhood association leaders have abstained from voting. The honor of voting should be cherished and uphold the legacy of the suffrage of men and women's right to vote. It is our responsibility as we partake in our government.

Bob Thomas, 2563 Pimlico Drive, voiced concern that this Council only allows three minutes for comments. Now the Council meetings begin at 6:30. He feels this is another way to stifle input because other people cannot get here in time for community comments. He stated that he saw a lot of material and calculations in the analysis of the police levy that was incorrect. When he talked to Mr. Atkins, he was told that information would be corrected in the previous ballot that went before the voters, which claimed there was an 8% increase in population between 2002 and 2007 when there was only a 3.2% increase.

The City staff is responsible for reviewing these documents and that should have been caught. He feels that the 75-and-a-half cents per thousand of assessed valuation are more than ample to keep the police force at the present service level up to 2012. It is untrue that 12 officers will be lost if this levy is not passed. This is a scare tactic put in to argue in favor of the ballot. There was a mis-statement in the *Tidings* that the City would be $2 million in debt by the time this present levy ended. What they really meant was by 2012. This was not

corrected and these are the kinds of things that influence people. He hopes this election will be a more honest and factual approach. It shouldn't have been put forward in its present state to begin with.

Consent Agenda

1.	Agenda Bill 07-03-02	Approve Council Minutes of February 12, 2007
2.	Agenda Bill 07-03-03	Approve Council Minutes of February 15, 2007
3.	Agenda Bill 07-03-04	Motion to Recommend Approval of Liquor License Application for Change of Ownership and Change of Trade Name for Limited On-Premises Sales and Off-Premises Sales [Johnny's Caffe & Pizzeria (formerly Bugatti's), 1885 Blankenship Road, West Linn]
4.	Agenda Bill 07-03-08	RESOLUTION No. 07-05 - Requesting Its State Legislators Oppose SB 45
5.	Agenda Bill 07-03-09	RESOLUTION No. 07-06 - Supporting Housing Opportunities

Council President Gates moved to approve the consent agenda consisting of the minutes of February 12, 2007, and February 15, 2007, as amended; the recommendation for approval of liquor license application for change of ownership and change of trade name for limited on-premises sales and off-premises sales (Johnny's Caffe & Pizzeria (formerly Bugatti's); Resolution No. 07-05 requesting opposition to SB45; and Resolution No. 07-06 supporting housing opportunities. Councilor Burgess seconded the motion.
Ayes: Burgess, Eberle, Gates, Carson, King
Nays: None
The motion to approve the consent agenda carried 5-0.

The amendments to the draft minutes were as follows:

February 12, 2007:

- [Page 1, second to last paragraph, second to last sentence]:
  Ellen Whyte~~Helen White~~, a jazz musician, and her trio will be there.

- [Page 3, under Business from the City Council, second paragraph]:

Council President Gates stated that all registered voters will receive phone calls to remind them to exercise their **right to** vote.

- [Page 9, second paragraph, third sentence]:
  She would like to see the signs **noticed** ~~permitted~~ as it allows people to know that a sign is going in and that they can ask questions or raise concerns.

- [Page 20, third paragraph, last sentence]:
  Take the Planning Commission recommendations and go beyond that, and decide when the other Goal 5 **inventories** will be adopted.

February 15, 2007:

- [Page 2, fifth paragraph, last bullet]:
  Southern off-ramp of I-205 ~~**and 8th Court**~~, a lane opposite the Willamette Marketplace site within the existing right-of-way

- [Page 12, fourth paragraph, last sentence]:
  With the first phase there will be **a decrease** ~~**an increase**~~ in the use of Tannler for left turns as people will go where the signal is.

- [Page 20, first paragraph, first word]:
  Kim ~~Ken~~ in his development wanted it to go straight through; there could be a road that goes through as an east/west connection.

Report from the City Manager

Chris Jordan reported that every week City staff prepares an update on City activities. This document is available on the City's website. He thought he would take this opportunity to discuss one of the issues that was included in that update. There was a complaint that one of the retaining walls in the Parker Crest Subdivision/Neighborhood is taller than what was approved by the Planning Commission. It was reviewed and found that the wall was taller and a request made that the engineer of record submit the change and the Planning Commission decide if this is a minor modification requiring the Planning Director's approval or if it is a major modification that would require the Planning Commission's approval. Preliminary indications are that it is a major modification. Another option is to lower the wall to the approved height. Planning staff today had a conversation with the engineer and contractor on the project and they are going to discuss it further with the City. The preliminary report is they plan to lower the height of the wall.

Business from the City Council

Council President Gates read a statement into the record regarding the 72% approval of those who voted for the police levy last week (See Attachment A to the minutes). He expressed frustration regarding what he felt was a coordinated effort by a particular group claiming to support a livable West Linn yet working to defeat the levy.

He referred to the voting records of some neighborhood association officers, those who come to this Council demanding a police officer at every neighborhood association meeting and then turn around and campaign to defeat the funds to do so. He indicated that some neighborhood association leaders recognized the importance of continuing the police funds and took a leadership role in trying to pass the levy. Specifically, the Willamette Neighborhood leaders spent long hours getting out the vote. Others should be doing the same.

He indicated the Council is tired of hearing complaints about neighborhood associations taken over by individuals who try to shout louder, intimidate more or fan higher flames of dissension to achieve a narrow goal.

He encouraged and said he would encourage the Council to back sensible, mature citizens to take back their neighborhood associations. For example, the residents deserve the option of replacing their elected neighborhood association officers midterm. Just as there is a recall process for Council, there should be available a recall for neighborhood officers. These changes should be incorporated into the final version of any changes adopted by Council regarding neighborhood associations.

Neighborhood associations usually strive to work with City staff and other neighborhoods on issues like emergency preparedness, beautification programs and public safety. For any neighborhood association leader to work against the best interests of the residents of their neighborhood by reducing police protection is unconscionable. No matter what the disagreement is with Council, it is never appropriate to place at risk the entire City over something as simple as a rivalry. He asked everyone to work to protect families and vote yes on May 15th for the police levy.

Councilor Eberle announced that on March 26th in Salem there will be a House Joint Resolution No. 14, which is being brought forth by Representative Dave Hunt to eliminate the double majority requirement for the May and November elections in every given year. She will be going down to testify on this as will one of West Linn's police officers.

Councilor Eberle moved to direct the City Manager to draft a resolution that the City supports House Joint Resolution 14. Councilor Burgess seconded the motion.

Council President Gates stated that this is a compromise to allow the citizens two opportunities a year to operate on a franchise basis and give the voters one more opportunity to speak. Using both the primary and general election makes sense because typically there is more than 50% participating in those votes anyway.

Councilor Burgess stated that he is in support of the motion. People have fought for the right to vote and he feels that people should exercise that right. People shouldn't countermand that by not voting.

Ayes: Eberle, Gates, Carson, Burgess, King
Nays: None
The motion to approve Resolution No. 07-07 supporting House Joint Resolution 14 carried 5-0.

Councilor Burgess discussed Senate Bill 400, which makes staffing levels and safety issues mandatory subjects of bargaining if they have a potential impact on the "on-the-job safety" and the workload of the employees. The League opposes this bill. This bill will affect this community and smaller communities around the state.

He discussed the ability and authority of the City to balance its budget while making decisions regarding competing needs and limited resources. He indicated the City is facing the demise of the levy, which funds 12 officers. The City does not want its budgetary decisions made by an arbitrator who may not even live in the state. Local government is different from special districts in that the City has the opportunity to balance all the needs of the citizens, as opposed to an elected body that deals with just one resource such as water, sewer, fire, etc. This takes those types of decisions on behalf of the public out of the City's authority.

Councilor Burgess moved to direct staff to draft a resolution (No. 07-08) in opposition to Senate Bill 400. Council President Gates seconded the motion.

Councilor Carson stated she felt it was important to support this resolution.

Councilor Burgess stated that he feels safety is a concern for safety personnel. The Council would not spend as much time as they have spent on supporting the police levy if they didn't want to make sure the Police Department was supported and that there is adequate funding for them to do their job in as safe a manner as possible, while protecting the citizens. This is not against public safety; it is an

issue of allocating resources by an elected body of citizens' funds, and not being a decision made by an out-of-state arbitrator that doesn't know the community.

Council President Gates stated that the numbers being used on the police levy are different from year to year as you go along. One of the reasons that Council cannot go in and take out officers is that the union can turn around and say that the rest of the officers are unsafe and they get a priority in the budget. The City is not dealing just with the numbers of officers, but they are dealing with contracts. The Council will make every effort to see that the numbers are accurate and show that it does go up from year to year.

Ayes: Gates, Carson, Burgess, Eberle, King
Nays: None
The motion to adopt Resolution No. 07-08 requesting State legislators oppose SB400 carried 5-0.

Mayor King announced that general Countywide meetings sponsored by the County will be held to start discussions on how Clackamas County should be handling its potential rapid growth. Discussions will include what should be protected, preferences where the growth should go, density, and transportation. This is an effort to get community-wide input on growth that is likely to come in the next 25 years.

Mayor King stated that a large exercise in emergency planning would be occurring in October. This will be a national exercise having to do with a nuclear event. Because it is taking place here, it will involve a lot of the citizens in the metropolitan area. They are expecting 10,000 people to participate in this event by the time it is completed.

Councilor Carson asked what process is needed to get allocation of funds for the Willamette Neighborhood Association. There is a significant need. They have done fundraising over the years to pay for plants. A lot of the planting materials that are currently in the beds are ones that were donated by local nurseries. There were fundraisers and City funds used to acquire these plants. The size of the project has gotten to the point where they don't have the ability to generate that kind of funding to make the changes that are needed at this point.

The Willamette Neighborhood Association was approached by Council President Gates and asked what it needed for the Centennial celebration of the Willamette area. This is a signature project in preparation for that event in 2008.

Councilor Eberle stated that, if the flowers are in this year's budget, it is within the authority of the City Manager to see if there are funds. If not, it is something that can be brought forward in the next budget cycle. She supports funding for the flowerbeds to look nicer for the Centennial.

Agenda Items

1. Agenda Bill 07-03-07 — Motion to Adopt a Final Decision in the Matter of an Appeal by Centurion Homes of the Planning Commission's Decision Denying a 21-lot PUD (SUB-06-08/ZC-06-07) Proposed by Centurion Homes at 1165 Rosemont Road

Chris Jordan reported that a final order has been prepared by staff from Council's tentative decision at the last meeting.

Mr. Monahan referred to Lynn Fox's community comments regarding this agenda bill. He indicated that Council has not received a copy of her letter submitted today because the record was closed two weeks ago. He has reviewed these issues and feels they are not pertinent to the application, and they were not raised in the record earlier.

Staff has discussed this with the applicant, who has a representative here this evening, to see if they felt there were any issues that were raised that needed to be addressed to have a more complete record, and they said no. He feels the Council is within their purview to make a determination. There is no reason to add this letter to the record. It was determined a closed record two weeks ago.

Mayor King expressed concern about objections that had to do with dates of things that occurred before the issue came before the Planning Commission. Mr. Monahan stated that an e-mail was received that outlined some of these issues. He was told that the Planning staff reviewed some of these issues. There was a comment about an e-mail that should be a part of the record. There has been a review done by staff (including IT staff) to determine whether or not the e-mail was received before the record was closed; it was not received. There was also reference to some notifications that were to be made to the neighborhood association. These issues were dealt with at the Planning Commission level. Staff is comfortable that proper notification was given to the neighborhood association and, in fact, they were given the opportunity to participate in this process. This application goes back quite some time.

There were other issues related to whether a waiver needed to be given. That is not necessary. There was also an issue about a drainageway permit and payment for a fee. Once an application goes forward, fees are assessed at the time of development. He feels that all the issues that have been raised in this letter, which is not a part of the record, are not issues for this land use decision.

Council President Gates moved to adopt the Final Decision as presented in the matter of an Appeal by Centurion Homes of the Planning Commission's

Decision Denying a 21-lot PUD (SUB-06-08/ZC-06-07) proposed by Centurion Homes at 1165 Rosemont Road. Councilor Burgess seconded the motion.
Ayes: Carson, Burgess, Gates, King
Nays: Eberle
The motion to adopt the final decision regarding Agenda Bill 07-03-07 carried 4-1.

2. Agenda Bill 07-01-03-A PUBLIC HEARING – Appeal of Planning Commission Denial of Tony Marnella, 550 Investments LLC, Application for 34-lot Subdivision at 1200 Tamarisk Drive (MISC-06-46)

Mayor King re-opened the public hearing, which was continued from February 26, 2007.

Councilor Burgess stated he did have an opportunity to visit the site twice and spent quite a bit of time there. In his first visit he encountered Mr. Grenier and spoke briefly to him. Mr. Grenier mentioned that he had no problem with the project, although he had a concern with where the road ends or cul-de-sacs. He commented that his property goes down to the same ravine, and he is interested in doing some nature-scaping restoration, as well, on his property.

Councilor Burgess informed Mr. Grenier that he could not speak about the specifics of the project. He does not feel that any comments made would effect his decision; however, he wanted the contact to be on the record.

Councilor Carson stated that she spent a fair amount of time walking and exploring the site and trying to figure out property lines. She did not speak to anyone during her visit. Council President Gates stated that he did not make any additional visits between meetings; however, he lived very close to the site and has walked the woods quite often with his children many years ago.

Mayor King asked the audience if there were any challenges to any Council member's impartiality to participate in this decision.

Mr. Mike Robinson, representing the applicant, asked Councilors Carson and Burgess if they gained any facts or have any observations based on their site visits that might be helpful to the participants of the hearing.

Councilor Burgess stated that he was trying to make sure when he was on Tract D and when he was on Mr. Grenier's property. Mr. Grenier pointed out where his property was and indicated that he had participated in the earlier hearing. His neighbor is building a house on the other side of the ravine and indicated that the

neighbor was concerned about what was going to happen to the road. Mr. Grenier indicated his interest was to work also for the restoration of the wetland where his property goes down to the ravine off of Woodbine.

There is another crossing of that ravine that wasn't discussed earlier that is below Tract D. Councilor Burgess stated that he asked Mr. Grenier about that crossing. Mr. Grenier stated that it was an undersized pipe and it was recently upsized.

Councilor Burgess stated that he walked the site yesterday with his wife. Mr. Grenier was out and said hi but did not stop to talk, understanding that he was not allowed to talk about the proposal.

Councilor Carson stated that her visit gave her a lot more insights and she will have more questions during the presentation.

Mayor King advised the audience that the Council has received an additional staff report available for review and can be commented on later in the hearing. Mr. Monahan stated that a two-page response has been received from the applicant, dated March 12, 2007, from Otak in response to the staff report. Copies of these items are available for anyone interested in seeing them.

Councilor Burgess stated that Mr. Grenier's property has access off of Woodbine and he was on that portion of the property trying to understand the old Woodbine from the existing Woodbine. There is a pavement that goes from his access, and they discussed where that access was and whether there was an access. Mr. Grenier indicated that this may be a leftover piece by the state and he might want to purchase that piece in the future.

No one in the audience challenged the impartiality of any Council member or the jurisdiction of the Council to hear this matter.

Peter Spir reviewed the staff report with the Council. The Tamarisk Subdivision is on a 15.3-acre site at the end of Tamarisk, an extension of Debok Street adjacent to I-205. There are a number of drainageways that have been alluded to that cut through the north half of the property. This is a 34-lot subdivision. A planned unit development is also called for. There is a Class II variance for a cul-de-sac length of over 400 feet and serving over 12 homes, and a natural drainageway and wetland permits are attached to the application.

The case was denied by the Planning Commission because the cul-de-sac was deemed too long and exceeded the allowable length; more trees could be saved; and a concern about perimeter setbacks. The applicant appealed and it was brought to Council on February 26th where a public hearing was convened. Public testimony was taken and, as a result, staff prepared a report responding to

items raised by the public and Council. Concerns were raised about noise and the impact of I-205 and its impact on the future residents of the subdivision. It was found that it would be appropriate for an acoustical engineer to do a study to find out what measures can be undertaken to bring noise levels down to acceptable levels (masonry walls, barriers, sound attenuation built into homes). There were discussions about significant trees; 9.7% of the flatter areas are being set aside for the protection of significant trees.

The Development Code indicates that, if there are roads that go through areas of significant trees, those trees can be removed for those roads and significant trees can be removed for necessary grading and access to lots. It was the conclusion of staff and City Arborist that removal of trees for those purposes was appropriate. The applicant could mitigate for the loss of those trees on a one-inch to one-inch basis by creation of a nursery stock on the northwest corner of the site. The City Arborist felt that this was a good move as the site is very heavily treed; however, there are very few significant trees.

There was testimony by Roberta Schwarz and he reviewed the hearing DVD and found that all of the items had already been addressed in the findings by the applicant. A number of the items identified were not approval criteria or submittal requirements but other code sections that did not have specific relevance to the application. There was a good point raised by Ms. Schwarz on the subject of traffic. The traffic study done by Dunn Engineering had examined the impacts of Tamarisk in light of the only project that was going on at that time. It was demonstrated in that report that they would be able to satisfy the City's requirements in regards to peak hour traffic and ADT requirements.

Trail design was another concern. Efforts were made to take a path across a wetland but that will depend on Council's view of the impacts. Mr. Spir indicated that staff is willing to pass on the trail if it is Council's concern that it cannot be mitigated; however, the applicant feels they can design an acceptable trail.

Mr. Maxwell testified that there might be erosion and slope failures at the rear of his property resulting from this proposal. The applicant's geotechnical engineers contacted him and those concerns were discussed. In addition, the buffer for the protection of significant trees will not allow grading behind Mr. Maxwell's home. The concerns raised about the erosion down into the drainageway are quieted by the fact that the applicant will put a fence 15 feet from the top of the bank to keep any grading or activity away from the drainageway. There are findings from the geotechnical report that no erosion will occur in that location.

The street and fill across the drainageway will require 160-feet-long by 120-feet-wide fill dumped into the drainageway. This would have a considerable impact. The solution proposed by staff is an interlocking prefabricated concrete bridge with vertical sides and a narrow road to minimize the width of the disturbed area.

The applicant's wetland specialist noted that this area is of marginal quality because it is already disturbed by the dirt road that connects the two halves of the project. They are confident they can do a qualitative and quantitative mitigation of the disturbed areas.

The storm detention treatment issue was responded to by the Engineering Departments, and they felt it was an issue that could be dealt with. The conditions of approval staff was asked to prepare were drafted. A memo from OTAK dated March 12, 2007, proposes revisions to the proposed conditions of approval.

Council President Gates referred to circle Page 5 and asked for clarification of the sewer line issue. Mr. Wright stated that it is possible to serve the property with sanitary sewer service. There are two options. One is a sanitary sewer lift station that would serve only this development. It would pump the sewage up to the nearest gravity point, gravity down, and join the City sewer system at that point. There are two sections of deficient line behind Virginia Street, 13th Street, (behind Albertson's); an 8-inch section and a 10-inch section that are proposed to be upgraded to a 12-inch line in the Sanitary Sewer Master Plan. These two projects add up to $700,000 of work based on the Sanitary Sewer Master Plan of which 31% is SDC eligible. The City has not budgeted to complete these projects at this time.

The other option is a lift station at the junction of Woodbine and Johnson Road. The purpose of that is to serve properties that are within the City limits that are under-developed and undeveloped in that area. There are two possible scenarios; one to construct a lift station, pump it up Johnson Road, join it into the other lift station that is there and have it further pumped up into the gravity system. The other scenario would be to construct a larger pump station, do away with the intermediate pump station, and pump it up and get into the system gravity at that point. The cost of this project would exceed $700,000 and would be 100% SDC eligible. There has been no site analysis performed because this was not planned. A sanitary sewer lift station may require purchase of property and the City may have to go through a condemnation process.

Mr. Wright stated that staff prefers to minimize the utility and maintenance costs associated with sanitary sewer lift stations. You add more and you get more recurring costs. As a temporary measure they could support a lift station to supply this development, but they would request that the applicant provide a line from where their sewer comes together to go down to the property boundary so that, when the lift station is constructed at Woodbine and Johnson Road, that their sewer could then be gravity driven down to the new pump station and the City could get rid of the temporary one. At this point considering cost and property, staff would recommend the temporary pump station to serve only the

development. This sewerage would come into the existing system on the north side of the freeway.

Councilor Burgess asked where the proposed sewer line would be located. Mr. Wright stated that there is a gravity feed from the end of Tamerisk into the City system. The proposal is to pump up to Tamarisk, not Woodbine and Johnson Road. This will be a temporary measure and the applicant would also construct a pipe when the pump station is built. The pipe would go to the property boundary and the pump station location would have to be determined.

Council President Gates stated that he is uncomfortable with having several options. Mayor King asked that Mr. Wright point out the proposed lines on the map, and Councilor Burgess asked to what degree the proposed lines affect phase I and phase II or both.

Mr. Wright asked that the applicant's engineer come up and help locate and detail the proposed sewer line connections.

Mike Peebles, OTAK, 17355 Boones Ferry Road, Lake Oswego, presented the proposed applicant's sewer system. He pointed out the sanitary sewer lines proposed. There is an existing gravity line at Tamarisk that drains down to the City. Their grades to the property come down to the drainage, and the low point on their site is at the drainage crossing. There is no way to get gravity sewer from existing lots to the Tamarisk Drive. The sewer system would serve phases I and II. There is no way get phase I to the gravity system in Tamarisk without a pump station.

One of the proposals is to take the pump station and pump it up to the gravity line in Tamarisk and then remedy the down stream capacity constraints in the public system.

The other option is to convey water through a gravity system from their low point and get it over to Johnson Road. They have looked at options for coming down to Tract D and boring underneath I-205. They would have to coordinate with ODOT to have access between the lanes to do two bores. There are properties that would create easement issues in crossing other properties in order to get to the Johnson Road right-of-way.

Another option would be to run a gravity line through Tract D, follow the water line alignment, go out to Woodbine, and gravity down to Johnson. When you gravity down and get underneath the wetland crossing, it is at elevation 120. When you go towards Woodbine, Tract D goes up again. The sewer line to keep it at a gravity sewer would be about 50-feet deep. Once you get to Woodbine, the elevation is about 130 again and can be a gravity system and go underneath

the Woodbine right-of-way, underneath the freeway in the Woodbine roadway, not boring under the freeway.

At the Johnson Creek Pump Station they would have to build that pump station and pump up to the next pump station at Ryan Court and Johnson or go ahead and build the pump station large enough to bypass Ryan Court and continue up to the City system. There are a lot of constraints between the wetland, between I-205 and the properties on the other side. Their proposal to service this property by a pump station up to the gravity at Tamarisk is their proposed alternative.

Councilor Burgess cited circled Pages 11-12, in terms of condition of approval A and B. The applicant just described something different than A and B. Mr. Wright stated that three alternatives were explained. This is Option B. Option A is the lift station on Johnson Road. Staff is not deciding with the applicant whether it would be better to bore under the freeway or go over to Woodbine.

Council President Gates asked which option the City wishes to pursue. Mr. Wright stated that the option staff recommends is Option B.

Councilor Burgess asked where the significant trees are located. Mr. Peebles stated that the significant trees are in the northwest corner of the property, Tract D next to I-205.

Councilor Burgess noted that Tract D will be dedicated to the City and staff will work with the applicant on a forestry program. He asked how there will be plantings if this area is already well treed.

Mr. Spir stated that trees will be thinned and then there would be the opportunity to come in with tree species that were deemed best by the City Arborist to develop into significant trees. These would be small trees that would eventually grow into larger ones. The arborist was excited about having a one and one-half acre site with a nice stand of significant trees.

There was brief discussion regarding an existing creek crossing below Tract D located on unincorporated Clackamas County property adjacent to the applicant's property, the steepness of trail grades, City-owned waterlines, and dead-ending of those waterlines.

Councilor Burgess asked about getting access to Tract D. Mr. Wright said he believed there was right-of-way. There was brief discussion regarding the culvert under I-205.

Councilor Carson asked if the plan was to construct according to Option B and then connect to the sewer line under Johnson in the future. Mr. Wright stated that the desire is to allow them to have a temporary pump station now to be able

to pump up into the gravity system on the north side of the freeway; but to provide the line for future connection via gravity down to Woodbine and Johnson Road. In the future, when the pump station that is in the Sanitary Sewer Master Plan is constructed, the temporary one they will construct can be decommissioned and all the sewerage from their subdivision could be gravity fed down to the new pump station.

A pipe will be put in by the applicant to edge of the subject property near Woodbine. There have been no discussions about hooking up the pipe at some future time or who would be responsible for hooking the pipe up. There has been no deposit or bond for future connection down to the pump station wherever it may be located; it has not been addressed.

[A recess was taken at 8:20 p.m. and the meeting reconvened at 8:35 p.m.]

Councilor Eberle stated that she was not at the first hearing so she is going to reserve the right to abstain from voting because it may impact her ability to make a decision tonight.

Applicant's Presentation

Mike Robinson stated that he is here tonight representing the applicant. He briefly discussed the procedure. He asked if Councilor Eberle would like them to address the issues on appeal or if she has watched the tape. Councilor Eberle stated that she watched the hearing on cable station.

Mr. Robinson noted that they would like to address questions about the sanitary sewer and storm drainage. They have additional information on the drainageway crossing (memo from Stacy Reed, dated March 15th). The most important information is found on page 2 under preferred design options.

In terms of the sanitary sewer condition of approval, #16, there are two conditions that are important to that. Condition #5 states that the sanitary sewer is to be constructed in phase I. The applicant is going to construct the sanitary sewer and have it accepted by the City before the plat is recorded, before sale of any lots, and before any home is built. Well into this process, the City will know that there will be a sanitary sewer system that not only works but meets all of the requirements.

They have met with staff and talked about how best to handle sanitary sewage conveyance given the number of options available to them. The way the condition is structured is to give the City Engineer the say on what happens when the line is extended. Either of the options suggested are technically feasible. Section 197.522(1) says that you can impose reasonable conditions of approval. The intent of the condition is to allow the City Engineer, if this is approved, to

meet with the applicant's engineer and figure out what system best works to serve not only the subdivision but the future needs of the City of West Linn and its citizens. They are not trying to make a technical decision tonight unless the Council knows what option they prefer. Condition #5 requires having everything to be done with phase I, and Condition #16 deferred technical design issues until a later stage. They are happy to accept a condition of approval regarding assurances.

Mr. Robinson stated that he talked to Brad Kilby, applicant's planner, about cutting of trees on the subject site. It is his sense that, if there is cutting on the property, they have not authorized trees to be removed. If there is cutting being done, they will take remedial action. Mr. Kilby feels that the cutting of trees is occurring with the construction of a house on the north side of the proposed cul-de-sac at the end of the extension of Tamarisk. It is not sanctioned or condoned by the applicant and they are not doing it.

Mike Peebles of OTAK stated that there is no easy solution to the sanitary sewer issue. The City's Master Plan accounts for development of this property and allows for a couple of options. The key is the timing for development of this property in conjunction with when the future Master Plan improvements will be made. The condition of providing a dry line (future gravity line) or if they put in a temporary pump station and put a line to Woodbine or the edge of the subject site for future connection, there is a lot of planning and analysis for where the Johnson Street pump station would go and what is the most cost effective way to construct it. They would hate to stub a line to a property line and have it dictate the future Master Plan sewer system that the City has. They are willing to work with the City and get into more detail about the timing. They feel the pump station on a temporary basis to service their property is the best option for them.

Mr. Robinson stated they agree with the updated staff recommended conditions of approval. There were concerns about the trees on Tract D. The applicant proposes to thin the trees out and actively manage them so that in 20 years there will be a significant stand of trees in addition to the two excellent stand of trees that are being preserved at the entrance to the subdivision. That was part of the mitigation for removal of some of the trees.

The issues on appeal were the trees, the side yard setbacks (which were resolved), the perimeter setbacks (which they will meet), and the extension of Tamarisk Drive. If there are questions about these issues, he asked that Council ask them before the record closes.

Noise was technically not a Planning Commission decision because it was not in the final written decision. It was clear that a couple of the Commissioners had a concern about it. Staff has proposed a condition on noise, which they agree with. It requires sound attenuation at I-205 and they will work with staff on an

appropriate design; and it requires sound attenuation through architectural features and they are comfortable with that aspect as well.

One of the principal discussions at the Planning Commission was whether Tamarisk Drive should be extended to the northern boundary of the site. They feel that it should be extended because it provides future connectivity. Tualatin Valley Fire and Rescue District has not opposed this extension. The streets with grades over 10% will be required to sprinkle the houses on those streets. The applicant understands and will volunteer to sprinkle houses on streets that are over 10%.

If Tamarisk is extended to the northern boundary, it allows for an opportunity for connection; not only for the subdivision residents, but it also provides a second way in and out for about 75 homes in a nearby subdivision.

The applicant is proposing to cross where an existing logging road already exists. They are trying to take an existing crossing and through design improve and enhance the drainageway consistent with requirements in Chapter 32 at the time the application was made. Their wetland biologist is recommending options D and E. Permanent impact in the wetland and water area is 649 square feet. This compares with the first proposal, which was 4,671 square feet of impact. They have tried to come up with a design that answers the questions and complies with the applicable approval criteria in Chapter 32 and have removed permanent impact of about 3,200 square feet between the two designs. They are comfortable with the proposed condition of approval that staff has recommended for the crossing.

He discussed the criteria for approval in Section 32.050.3; that the development should be conducted in a manner that will minimize adverse impact and natural drainageways. It doesn't say that you can't have any impact. What it calls for is the applicant to think about how to minimize impact. They have done their best to minimize impact. There has to be a crossing. There is already a crossing there. The question is whether they are doing what this Council thinks is necessary to satisfy CDC Chapter 32 to provide a crossing that minimizes impact, and they think they are.

Mike Peebles pointed out the drainage crossing on applicant's packet sheet A-123. This map was prepared as part of OTAK's down stream analysis of the drainageways. Through the Tamarisk site there are two drainageways. One is the north/south drainageway (proposed crossing), which is classified as a major open channel in the City's drainage master plan. The second drainageway is the east/west drainageway, which traverses through Tract D. Culverts on the site have been labeled on this map. As the drainage enters their property, both drainages converge down to culvert B-3, which is the 48-inch ODOT culvert that goes underneath I-205. The other existing culvert on the site (C-1) is a 16-inch

culvert that crosses the existing logging road. This is the one they are looking to replace and the culvert where their proposed drainage crossing will take place.

In response to comments about the drainage crossing, one of the key issues of the layout of the property was minimizing impact of the drainageway. They looked at crossing at different points. The location that was selected was due to the location of the existing logging road as well as where they can cross the drainageway perpendicular to the drainage.

Four options were evaluated to minimize the impact to the wetlands area. Option A is a bottomless culvert with the walls closer to the right-of-way. It created an arch-culvert that has a 38-foot span. It matched the two wetland connections on the east and west side of the culvert and a headwall at the right-of-way. Option B was a short bridge crossing with no wetland impact, which required hanging of utilities on the bridge. Option C was a triple-span bridge crossing that would be completely out of the wetlands. Option D is a smaller bottomless culvert with a 12-foot span, more than enough to convey the drainage. It was oriented along the existing drainage path and brought the head walls to the back of the sidewalk and curb. Option E is the same culvert with a changed head wall design, which pulled the head walls and kept them out of the wetlands but allowed some sloping area down for landscaping and buffering. The options were evaluated as to the wetland impacts with the environmental consultant, who provided the memo that detailed the minimized wetland impacts. They agree that options D and E are the preferred options for their project. They feel it is a good balance between wetland impact between maintaining the drainage as well as minimizing the impact to the drainageways, as they set up the proposed layout of the subdivision.

There will be a crossing for a water line and for a potential pedestrian trail. Those will be temporary impacts for construction purposes. They have looked at the hydrology and will work with the environmental consultant on how those will be done. A good time of year will be chosen when the flow is low to provide an open-trench construction for the water line. They will also have a footbridge crossing as part of the trail in order to minimize impacts to the wetlands.

Any wetland impacts will be mitigated by 1-1/2 to 1 ratio. They have identified a good area to do this where both wetlands converge. This provides good mitigation for those impacts.

Mike Robinson asked that the Council approve the application with the conditions of approval recommended by staff tonight. They will accept any other conditions that Council feels are necessary to make sure that approval criteria are satisfied.

Mayor King asked how the pump station that would pump up to Tamarisk is considered temporary if it is never connected to Johnson. Mr. Peebles stated

that it would be a temporary pump station. Upon decommissioning that pump station, there would have to be a gravity line that would flow from where that pump station is down to Woodbine or similar to the property boundary that could be picked up by future Master Plan sewer lines that are built as part of Johnson Street. Whether they build the line now, or whether they bond for it, a connection can be made for the future. They do not want to put the line in and be stuck there in terms of the Master Plan when there could be a temporary pump station and, as the Johnson Street sewer system is developed and the final plans are put together, there will be a way to connect with a gravity system down to that point.

Mayor King noted that the wetland has already been disturbed by the I-205 construction. He asked if these wetlands are being protected when they have already been disturbed. Mr. Peebles stated that the environmental consultant did a delineation of the wetlands. The intent is to minimize impacts to those wetlands. Upstream activities that have hurt those wetlands are possible, but they are trying to do their best to minimize the impacts and maintain the work in the drainage.

Councilor Burgess stated that during his site visit he observed quite a bit of disturbance of the wetlands, drainage area and creek outside of the subject property. He is concerned that there may be more damage to Basin B in the construction of the proposed footbridge. With regard to height, he asked if a deer could get into the culverts. Mr. Peebles discussed some of the dimensions.

Discussion followed on the details of the proposed street, trail and wetlands area and the impacts. Mr. Peebles stated that immediately after crossing the drainage (existing logging road) they follow that alignment. As you get up the hill a bit, there is a curved radius to get to the corner of the property. Once you cross the drainage and follow the existing logging road, you have to turn and head east up to make the connection to the roadway. They tried to balance Tract C and Tract D to keep it in the middle.

Councilor Burgess asked what the bank down to creek would look like after phase I. Mr. Peebles stated that they will maintain the existing grade. They are not diving down to the creek, but they are staying 30 feet above the drainage. There will be 30-foot fill used for the culvert crossing.

Council President Gates asked, if there were a major event in this area, the most stable option would be option E. Mr. Peebles stated that option E is more stable with the wing walls and head walls. Both can be engineered and designed to withstand the design loads. Option E provides more stability and latitude with the walls.

Councilor Carson stated that it appears, when you walk up and turn to go up the ridge, there is a circle driveway cut out. This is where she saw trees cut. It was stated that they have not authorized anyone to cut trees.

Mr. Robinson cited a portion of the staff report on circled page 5, "The proposed road is an improvement to an existing fill road that currently crosses the down stream portion of southern tributary. The enhancement plan in Appendix F will re-establish any adversely impacted areas of transition from the development of the access road..." They are trying to enhance the wetlands and not just provide an appropriate crossing that meets the requirements of Chapter 32. At the end of this project, they are hoping to have a better quality wetland than is presently found there.

The drainage areas that have to be dealt with out of Chapter 32 are those found in the storm water management plan. To the extent they can do something that also lends itself to the fauna such as a bottomless culvert at sufficient height that will result in an enhanced drainageway in that area, they will do so.

If Council is concerned about the ped path and the water line crossing going south into tract D, there could be additional language added to Condition #1 that would require the City Engineer and the applicant's wetland biologist to review the basin crossing to the pedestrian path so that it will minimize the wetland stream impact and provide an enhancement plan for that area. The applicant would not be adverse to additional language in that condition that would require additional work that the City Engineer approves to make sure there is the right crossing and right enhancement of wetlands.

Councilor Burgess asked the applicant to comment on the approval of just phase I. Mr. Robinson stated that they didn't want to do only phase I. Since the beginning of the application, they proposed the extension to provide connectivity. Staff indicated that is consistent with the City's policy, and a variance to the cul-de-sac wasn't required. As to the drainageway crossing, they met the approval criteria for the crossing of the drainageway and that it met Chapter 32. In terms of providing for the second phase, extending Tamarisk gives the ability for connectivity, and crossing in the location proposed has less fill and is a degraded area of the wetland and they want to utilize the logging road to get up there.

If this were not a PUD, the other option would be to come back with a plan with lots off Woodbine. They have never wanted to do that. It is more practical to take Tract D, enhance it through active tree management to give the City an attractive area that is visible from Woodbine and I-205, and to dedicate it to the public. That is why they did a PUD. They are not asking for an increase in density, nor changing the zone. They want to take the lots and put them in the flattest, most successful portions of the site where they were extending Tamarisk consistent with the City policy, rather than to try to force lots up from Woodbine.

The right thing to do is to have a subdivision that respects the City's approval criteria. They have come back with alternative crossings on the drainageway that reduced the permanent impact by almost 4,000 square feet.

The question is not whether it will be extended. The question is whether to extend it enough to get the benefits of connectivity if and when that occurs in the future.

Councilor Burgess concluded with comments regarding whether it was desirable to cross the drainageway twice and move forward at this time with providing an access to Woodbine. Mr. Robinson responded, in terms of the house being built, it was applied for after the Planning Commission hearing had begun. Those property owners who are building the house corresponded with the Planning Commission, stating, "It was just a matter of time until property to the north was included in the City." Whether the house goes away in the future is speculation. The important thing is to have the option for a future connection so an opportunity is not lost. He discussed some previous ideas for developing the area and those tradeoffs. The plan they decided on minimized impact and provided for connectivity, and placed the lots appropriately on the site.

Testimony in Favor

Alice Richmond, 3939 Parker Road, stated that she feels that the extension of this cul-de-sac is necessary. This applicant is proposing a lot of enhancements including land that is being used to preserve trees, erosion concerns, and special areas for significant trees. This area is an eyesore now and this applicant is proposing land use that will be beautiful. She does not agree with a phase I and phase II. She would like to see it all done at once.

Testimony in Opposition

Katie Daniel, 1090 SW Woodbine Road, states that she is building a house just north of the culvert. They are concerned about fill. There will be 8 to 12 feet of fill right on their property line. She is interested in knowing how that fill will be retained and dealt with. She is also concerned about the crossing of the wetland. Their fill is 19 feet. She asked the Council to imagine what 39 feet will look like. Their fill will have erosion control over it and it will be planted and blend in more with the landscape when done.

Ms. Daniel stated that she thought this was going to be an affordable housing development. With all the creativities that are being used to construct these homes and all the different costs going into the development, she doesn't see how the homes will be affordable.

The West Linn code calls out for a buffer between the planned development and adjacent properties. West Linn doesn't have any rural zoning inside the City limits. It is very clear that this is different type of zoning, different type of property and different type of use. It is zoned rural farm five acres minimum parcels.

Council President Gates asked where she got the impression that these would be affordable housing. Ms. Daniel stated that it was brought up in the first hearings with the Planning Commission. Council President Gates stated that it would have been the case had there been the original allowable 40 lots.

Council President Gates asked how much of a buffer was she referring to in her testimony. Ms. Daniel stated that West Linn code references a 40-foot buffer to the riparian area. If the slope is greater than 20%, it goes to the top of the slope until it is less than 20% and then exceeds that point up to 25 to 50 feet out depending on the distance from the median of the waterway. The homes that are being built around the riparian area are very close to the tops of the slope; there will have to be mitigation.

Mayor King asked Ms. Daniel to point out on the site map her residence and property lines and the lots that she is concerned about regarding fill. Ms. Daniel pointed out her residence and the lots that she is concerned about.

Councilor Burgess stated that he is concerned about the culvert size under Ms. Daniel's driveway. He doesn't feel the size required by the County for the culvert was adequate. The previous owner had a permit to place thousands of yards of fill in that water way and most of the plant life is invasive. The County would like them to take out the invasive plants and replace them with native species.

Councilor Burgess referred to the current plan and commented regarding the re-graded property, noting there is not a significant fill. Ms. Daniel indicated the prior plan could have been changed.

Councilor Carson asked if Ms. Daniel is building the home that is blocking the future road. Ms. Daniel stated that they are building this home to stay. It is an estate property and a beautiful piece of land and they are cleaning it up and turning it into a beautiful forest. They are not going to move.

Council President Gates moved to table the hearing until after agenda item #4 has been addressed. Councilor Burgess seconded the motion.
Ayes: Eberle, Gates, Carson, Burgess, King
Nays: None
The motion carried 5-0.

[See Page 28 for continuation of the above matter.]

4. Agenda Bill 07-03-06 — Motion to Authorize the City Manager to Enter Into an Intergovernmental Agreement with Metro and Acknowledging "Attachment A" Represents the City's Current Priorities for Projects in the Greenspaces Bond Measure Local Share Component

Ken Worcester reviewed the staff report with the Council. In November 2006 voters approved a new METRO Greenspaces Bond Measure. West Linn will receive a local share component. The City will receive $872,000 in local share dollars. The intergovernmental agreement has been submitted for review along with a modified Attachment A (project list), which is being recommended, starting with the Mary S. Young Park restrooms, future property acquisitions that will be moved into the list, and the Rosemont Road Trail.

Mr. Worcester discussed briefly some financial advantages of the projects. It gives the City the opportunity to leverage other monies that are available for those projects right now. There was a $97,000 grant from the Water Conservation Fund to go to the restrooms, and there is partnership with Lake Oswego, the Three Rivers Land Conservancy, and Clackamas County for the Rosemont Trail.

Staff is recommending that the City Manager be authorized to enter into this IGA to move forward with this project.

Councilor Carson stated that she liked the projects listed and felt it is a good approach by leveraging grant and community funds to maximize the amount of funds being received.

Councilor Burgess asked if there would be confusion because of a previous resolution and these funds. Mr. Worcester stated that METRO is entering into a refinement process. The department is participating in that program and working with the cities of Lake Oswego and Tualatin, as well as the Land Conservancy, to do a comprehensive property evaluation along the Tualatin and upstream from the Willamette and other areas.

Councilor Burgess asked if Council needed to provide a resolution to reaffirm the other projects. Mr. Worcester stated that, as they move forward with the recommendation for the refinement plan, a resolution might be needed. One of the reasons that they are putting the property acquisition on the list now is that there is the potential of cities coming together to combine their local share moneys towards acquisition, which would leverage more money out of the METRO regional share for other acquisitions.

Councilor Burgess asked for clarification of the property acquisition portion of Attachment A. Mr. Worcester stated that the recommendation is to put the rest of the local share money into a pot to see if acquisition is feasible. The refinement process should identify target areas of property to acquire. The goal is, if there is an opportunity for the cities to contribute part of their local share money, that it might add some style points as they ask METRO to perhaps look into the Stafford Basin and other areas around West Linn, Lake Oswego, and Tualatin for properties worthy of acquisition that are regionally significant.

Councilor Eberle asked if there is any order of priority in the projects. Mr. Worcester stated that the restroom project is the first project they want to move forward with. There is a grant and the project needs to be completed by December 31, 2007. This needs to proceed. Staff is working with other cities on a refinement process on acquisition. They are working to start final planning and grading for the trail. Other projects will be getting underway by this time next year.

Councilor Eberle clarified that under the property acquisition the location is unspecified within or outside current urban growth boundary. When looking outside the current urban growth boundary, those are the areas that will be looked at for buffering or making sure that more natural areas are preserved. Mr. Worcester stated that there are areas outside the urban growth boundary that are significant resource areas with benefits to our local citizens and of regional significance. If there is an opportunity to leverage some of the local share money and provide a buffer that is a bonus. Right now staff is looking at the bigger picture.

Councilor Eberle asked if there are plans to build a park in Stafford Basin. Mr. Worcester stated that the intent has not yet been defined. When you look at the spirit of the Greenspaces money, a real active use park would probably not be something that this would fund. Right now the focus would be more for resource preservation and passive use areas with Greenspaces money.

Mayor King noted that the proposed restroom improvements do not fit the Greenspaces intent. Mr. Worcester stated that the local share money is designed to provide money for actual projects that will support both current and future parks. If you look at acquiring property, the goal is to use the funds that are left ($5,000) to leverage a significantly larger sum. If a partnership leverages this amount into millions of dollars it will be Council's choice to agree with the protection area.

Councilor Burgess noted that some of the restrictions have been taken off of the local share. He understands the reasoning to hold out carrots to attract more of the regional share. West Linn, however, just took a step in protecting the riparian areas and drainageways in the City. He asked if West Linn is missing the

opportunity of really restoring natural areas in the City; however, Metro may not spend any of their funds in this City.

Mr. Worcester stated that this project list does not exclude the City from their restoration goals; however, it does allow them to move forward with pressing projects. As the City redefines the costs and scope of the local reforestation project contiguous to helping and finding out where Metro is going with this refinement process, he will be back to discuss the rest of the project list at a later date. Staff is still in the process of developing a plan for the reforestation program.

Councilor Burgess stated that there was discussion of having a riparian expert to work with staff in terms of the reforestation program. Could these funds be used for staff? Mr. Worcester said no. It probably could be stretched to hire seasonal staff to help with a specific project. There are other funds, such as the Nature in Neighborhoods Program and some other grants that are still available for local improvements.

Council President Gates moved to authorize the City Manager to enter into an intergovernmental agreement with Metro and acknowledging "Attachment A" represents the City's current priorities for projects in the Greenspaces Bond Measure Local Share Component per Agenda Bill 07-03-06. Councilor Carson seconded the motion.

Councilor Burgess stated concern that measures have been taken to protect riparian areas and drainageways from development; yet he doesn't see what is being protected. He doesn't see a program rising for local areas and wonders if the City is missing an opportunity here to jump-start a local program. He is concerned that the City is not focusing on West Linn areas as well, especially with these funds.

Mayor King stated that he was opposed to having the Rosemont Trail in this agreement because it is outside of the City limits and is not directly related to recreation in the City. He does not feel that it fits the criteria for this money. The City is short of money for acquisitions, improving its parks, and developing programs for improvement of the open spaces. He disagrees with this priority to spend money outside of the City when they are short of money for projects inside of the City on a lot of current recreation projects.

Council President Gates asked when the funds are available to the City and what happens to the Rosemont Trail if the ballot measure fails. What are the options relative to these funds? Mr. Worcester stated that there is the option to modify the list and go back to Metro for a public discussion of the revisions. The Rosemont Trail construction is not targeted until spring 2008.

Council President Gates stated that he feels the Rosemont Trail is necessary. He sees people trying to run and walk through that area. Most of the people using the Rosemont Trail are West Linn citizens. There are a couple of portions of the trail that the bikers can use to get off the road. He feels it is a safety issue here that is critical. He will be voting in favor of this issue.

Councilor Burgess stated that he has no problem with the restrooms. It is an opportunity to pay for a project that the City cannot do right now. A subdivision was just approved to hook up to the Rosemont Trail. It is part of the regional trail system and West Linn citizens use it even though it is outside the City. It is a reasonable place for people up on the hill to run. Hopefully, it will connect to natural areas around Wilson Creek, etc.

It may be appropriate to get an advanced financing agreement because it is in the right-of-way and, if that property does develop in the future, the City can recoup some of the costs. He hopes that, if something becomes available to the City, the Council will have the opportunity to make a decision of whether they would use the funds for that or not. Without a program that the City can turn around, he would like staff to start looking at ways to improve riparian and open spaces. He will be voting in favor of this motion.

Vote on the pending motion:
Ayes: Gates, Carson, Burgess, Eberle
Nays: King
The motion carried 4-1.

Council President Gates moved to extend the meeting to 11:00 p.m. Councilor Carson seconded the motion.
Ayes: Carson, Burgess, Eberle, Gates, King
Nays: None
The motion carried 5-0.

Agenda Bill 07-01-03-A (Continued)	PUBLIC HEARING – Appeal of Planning Commission Denial of Tony Marnella, 550 Investments LLC, Application for 34-lot Subdivision at 1200 Tamarisk Drive (MISC-06-46)

Rebuttal

Mike Robinson, on behalf of the applicant, stated that they are prepared to take a continuance. He appreciates the fact that Councilors Burgess and Carson went out to the site. They heard a lot of new information tonight. Some of this information is confusing and this is the first time the Council has heard the presentation on the drainage issues. They are asking for a continuance and they will extend the clock another 30 days from April 11th to allow both sides to

understand the facts that have come to light. He would like to have the approval or denial be the right decision based on the approval criteria and based on facts that everyone understands.

It makes him nervous not to have known where Mr. Grenier's property was until midway through the hearing, and it makes him nervous to hear about tree cutting. He is not criticizing anyone. He wants to make sure that everyone understands the same facts. If Council is prepared to act tonight, that's fine, but they will accept a continuance if Council desires.

Mr. Robinson stated that they appreciate any of the neighbors' concerns about the impact their project has to their properties. They have talked with Mr. Maxwell and resolved his erosion control concerns. He offers the same thing to Ms. Daniel, to look at what is going on adjacent to their property. As he looks at the grading map on page A-133, they are below Ms. Daniel's property. They are not going to put a retaining wall there. The only fill proposed is going south from lot 34 to 33 and on down and going away from their property.

Secondly, in terms of the buffer, in the staff report summary from the February 26th meeting one of the appeal issues raised was whether or not they had to meet a transition zone or provide a perimeter setback. They agreed with staff that a 20-foot rear setback is required around the perimeter of the subdivision. That is what they propose to do. Adjacent to Ms. Daniel's property, the lots that back up to her property would get a 20-foot structural setback. He briefly discussed zoning, setbacks, the approval criteria in the RRFF-5 zone (Clackamas County) that has a 30-foot rear setback. There is nothing in their August 16th letter regarding a 40-foot setback. The applicant is willing to meet the approval criteria that the Planning Commission cited for denial of 20 feet. There is a 20-foot setback going north to their property line and a 30-foot setback resulting in a 50-foot spread.

The Daniels asked the Planning Commission to require an impact mitigation buffer along the north property line that measures no less than 25 feet in width on lots 33, 34, and 35. The West Linn code requires 20 feet. They also asked the Planning Commission to require additional tree planting in the mitigation buffer to reduce the disturbance and disruption of the new development. The applicant is agreeable to working with a conservation easement for some portion of those 20 feet to plant trees if they are concerned about the view. These are single-family homes and the Daniels have a single family home. The Planning Commission didn't find incompatibility and they don't see one. They are open to reasonable conditions of approval that relate to impacts on their property.

The buffer zones that Mrs. Daniel talks about are imposed by the Water Environment Services agency of Clackamas County. The Daniels are in the

County and subject to County standards, and this project is in the City and subject to City standards.

While they would like to achieve a goal of affordable housing, it is not a representation that they have made to Council, the Planning Commission, and staff. The more requirements imposed, the more costs imposed. They are comfortable that they can build the lots and take care of the costs based on their proposal. Nothing they have shown is unreasonable for them to do. If there is an opportunity for them to meet with Ms. Daniels and discuss the impacts to her property, they are happy to do that.

In regards to the extension of Tamarisk Drive, they would like to identify the criteria that are the source of the problem. Chapter 32 doesn't call for avoiding all impacts in the drainageway, it calls for minimizing them. Some options have been given to minimize and significantly reduce the impacts. If there are other things they can do, they are open to guidance and suggestions. They have worked consistently with staff to find out what needs to be done to meet the approval criteria and they are trying to get it right.

Had they been told by staff from the pre-application meeting on that the extension of Tamarisk was inconsistent with City practices, or inconsistent with the criteria in Chapter 85 or the local street connectivity map and Transportation System Plan, perhaps they would not have reached this stage. All of these things were found to be affirmative. They are not asking for anything the City hasn't approved in the past.

They are trying to do the right kind of crossing of the drainageway and making sure the wetlands are enhanced. If the Council has additional conditions to impose to approve this appeal, they can accept those. He feels they meet the approval criteria in Chapter 32 and, if there are other criteria, let them know and, if a continuance is in order, they will address that.

Brad Kilby stated that the City does have the buffer transition requirement from wetlands and streams on steep slopes. They have met that to the letter of the law. It is backed up by a topographic survey. The transition zones have been designed to meet those requirements.

Mr. Robinson stated that he hopes Council approves this application with reasonable conditions of approval.

Mayor King asked if the turn-around at the end of Tamarisk was a part of the proposal. Mr. Robinson said yes; the turn-around is included.

There was brief discussion about whether the applicant has had an opportunity to speak with Ms. Daniel or Mr. Burke since October 12th.

Mr. Robinson stated that the phone line works both ways. When they left the last Planning Commission hearing prior to the rendering of the decision, the issue being discussed was the transition area; different from the perimeter setback. Staff had told the Planning Commission they satisfied that requirement. The discussion was whether you had to transition from a non-PUD to a PUD. The Planning Commission said no; you haven't met the perimeter setback. Now that they are before Council, it was clear that the standards had to be satisfied and they conceded it. He indicated he wasn't sure what there was to discuss with Ms. Daniel. Council President Gates stated that it appears the land is fairly flat and the grades are not the issue, but a consensus needs to be reached on that point between Ms. Daniel and the applicant.

Mr. Kilby referred to Section 24.140 in the code, which talks about transitions and limitations on density transfers; that "Single family PUD next to single family non-PUD does not require a transition." Similar type housing does not require a transition; it is not incompatible.

Councilor Burgess stated that the slides went quickly. He has the March 15th alternative design options A, B, C, D and E and there is no similar comparison on all of them. He is not clear about Option A. Some have impact figures, some have width of culvert, some have rock walls, slopes, etc. The issue of hanging pipes from the bridge was not raised by staff. He does not have enough information from staff in terms of these alternatives. He asked whether Condition #8 is like Option A.

Mr. Robinson asked the Council to continue this. They want to get this right. He wants to make sure Council has all the information. They can create some graphics and address some of Councilor Burgess' questions regarding comparisons of various options.

Council President Gates asked if a list of questions could be prepared from Council to staff, and further testimony only be open as to those questions. Any information provided to Council would be provided to the public to respond to those issues.

Mr. Monahan stated that a step-by-step process could be established where lists are created independently, submitted to staff, and staff compiles a complete list. Staff submits it to the applicant, giving the applicant a certain period of time to respond. That information then would come back to the City Council for discussion at a hearing and restrict comments to the questions and comments from the applicant. If the applicant provides a written response to the questions, there be a sufficient period of time before the hearing for the public to have a chance to review the comments, prepare their questions, and present them to City Council. This could be limited to written comments.

Mr. Jordan suggested continuing the hearing to April 23rd to allow time to answer questions and still make findings and an order prior to the extended date of May 11th.

Mayor King asked if it is assumed that there will be no new information. Mr. Monahan stated that the applicant would be providing new information; namely, details that will better define the information that was presented in graphical form tonight. There wasn't a lot of information on the graphical presentation to fully understand the certain issues.

Council President Gates moved to continue the hearing for Agenda Bill 07-03-07 to April 23, 2007. Council independently will submit a list of questions to staff by Friday, March 23rd, 5:00 p.m., which will be submitted to the applicant for a written response by April 2nd. Councilor Burgess seconded the motion.

Discussion followed on the process for this continuance. It was decided that the list of questions would be submitted to staff by March 23rd; the questions would be submitted to the applicant and their response will be received by April 2nd. The public will have the questions and response available for review before the April 23rd meeting. At the April 23rd meeting, there will be applicant, proponent, opponent, neutral and rebuttal; public comment will be limited to the new information submitted in the response by the applicant.

Ayes: Burgess, Eberle, Gates, Carson, King
Nays: None
The motion carried 5-0.

Mr. Robinson noted on the record that they are extending the clock from April 11th to May 11th.

Mayor King stated there was an item brought up in community comments regarding additional money for improvements on Willamette Drive. This is an issue for the City Manager to address based on what is left in the Parks Budget.

Chris Jordan stated that he will wait until May or so; the request is for funds to be available in June. Staff will take a look at the budget in June to see if there are adequate appropriations available and, if there is, they will give them all the assistance they can.

Councilor Burgess stated that there are a lot of good projects in the City that need to be maintained. He would like to see more participation by commercial operations.

Mr. Jordan stated that staff will take a look at all of the improvements for medians and other locations for medians and start a program that will adequately maintain the medians, improve medians, and put new medians in locations where they should be placed.

Councilor Carson clarified that the neighborhood association has worked hard to get a lot of plant materials donated. The goal this time is to replace plants with a focus on perennials and hardy shrubs (things that do not need to be replaced) that are more in line with beds that can be maintained easily. Hopefully, in the future neighborhoods can do similar kinds of things; planting materials that don't need a lot of water and less maintenance.

Mayor King stated that there are other neighborhoods that don't have existing improvements. Staff will have to take that into consideration in the request. It should fit into whatever priorities that are in place.

Councilor Burgess stated that he was concerned about such a quick response to a request and that they do not have a program to prioritize these requests.

Adjournment

The meeting adjourned at 10:52 p.m.

The City Council is heartened by the 72% approval of those who voted for the Police levy last week, and will continue to lead the effort when the measure is on the ballot in May. Those who chose to exercise their franchise overwhelming recognized the worth of a safe community, a vibrant community.

Among those who did not vote were some who were so busy the measure never came onto their radar. Others didn't vote because they assumed the measure would pass anyway, not realizing the effect of the double-majority requirement. Some just lost track of the calendar. As usual a few names of the dead, divorced/ separated and recently moved were inadvertently kept on the rolls. There were supporters who gave up hope because of the thermometer type displays and never sent in their ballots. I can understand any and all of these situations.

What I do not understand is the coordinated effort of a particular group claiming to support a "livable" West Linn working to defeat the levy. In doing so this same group is dedicated to dismantling the police force, closing the library for days at a time, and reducing West Linn resident's ability to use our parks. How does that make West Linn more livable?

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As hypocritical as that group has been, I am equally dismayed over the non-performance of some of our neighborhood association officers, those who come to this Council demanding a police officer at every NA meeting and then turn around and campaign to defeat the funds to get it done.

Some neighborhood association leaders recognized the importance of continuing the police funds, and took a leadership role in trying to pass the levy. The Willamette Neighborhood leaders spent long hours getting out the vote. You would normally expect other neighborhood leaders to be doing the same.

The City Council is tired of hearing complaints about Neighborhood Associations taken over by individuals who try to shout louder, intimidate more or fan higher flames of dissension to achieve a narrow goal. It is time for the more sensible and mature citizens to take back their neighborhood associations. I will encourage this City Council to back you with every legal thing we can. For example, the residents deserve the option of replacing their elected neighborhood officers mid-term, which should be incorporated into any final version of changes adopted by this Council.

Neighborhood associations in West Linn usually strive to work with the City staff and other neighborhoods on issues like emergency preparedness, beautification programs and the most vital issue of public safety. For any neighborhood association leader to work against the best interests of the residents of their neighborhood by reducing police protection is unconscionable.

One last comment - I don't care how much someone has a personality conflict with a Council member or disagrees with the policies of the entire Council, it is never appropriate to place the entire City at risk over a rivalry.

I ask everyone, friend and foe alike, to work to protect our families. On May 15th, be sure to vote, and I would ask you to vote yes for the police levy.

Mike Gates

1471 Burns St
West Linn

Jordan, Chris

From: King, Norm
Sent: Monday, March 19, 2007 3:06 PM
To: Jordan, Chris; Brown, Bryan
Subject: FW: 1195 Rosemont Rd.

Here you are. I would guess that it is too late to get into the record, as the hearing has closed and was not held open for comments/testimony.

From: Donna Baker [mailto:donbak97068@yahoo.com]
Sent: Mon 3/19/2007 10:05 AM
To: City Council
Cc: wlhsna@msn.com
Subject: 1195 Rosemont Rd.

I am resending this to make sure it gets into the record for the council meeting regarding 1165 Rosemont. Please assure me that this has been done.

Thank you.
Donna L. Baker
Treas. HSNA

City Council

Ccouncil

Ccouncil@ci.west

Date: Mon, 5 Mar 2007 15:54:25 -0800 (PST)
From: "Donna Baker" <donbak97068@yahoo.com>
Subject: 1165 Rosemont Rd.
To: ccouncil@ci.west-linn.or.us
CC: wlhsna@msn.com

In regard to 1165 Rosemont Rd. property.

I am asking for this to be remanded back to the Planning Commission or for it to be denied....

Thanks,
Donna L. Baker
1925 Aztec Ct.
West Linn, Oregon
503/657-9837

Chris
I didnt find it in the Council mailbox. So Unless there is another mailbox, I dont think we ~~[illegible]~~ received it.
Steve

Bored stiff? Loosen up...
Download and play hundreds of games for free on Yahoo! Games.
http://games.yahoo.c

We won't tell. Get more on shows you hate to love

Bryan,
here is
our response (Tom & Gordon)

Mayor Norm King & City Council
City of West Linn
22500 Salamo Road
West Linn, Oregon 97068

07 MAR 19 PM 2:48
CITY OF WEST LINN

Honorable Mayor King & Councilmembers:

The record regarding Ap-07-03 is incomplete for the following reasons:

Tom says all emails received prior to hearing were given to Council.

1.) E-mails sent to the city for inclusion in the record prior to 5PM March were not included.

2.) Pursuant to CDC 99.038 (3) and CDC 99.080 — She did not bring this up at the public hearing - too late!

Notice to Neighborhood Association shall be sent by certified mail, return receipt requested. The return receipt was sent by the applicant on August 20, 2007 to notice the meeting held by the applicant on August 3, 2007. By submitting notice after the meeting was held, instead of at least twenty days prior to the meeting, the applicant failed to meet the code regarding notice requirements for a complete application.

Pursuant to CDC 99.080 proper notice was not given to the Neighborhood Association. The applicant submitted their affidavit of mailing notice on August 22, 2006. The next regular HSNA meeting when the applicant presented the proposed plan to the Neighborhood Association was September 19, 2007 which is less than 20 (twenty) days from the date of mailing to the date of meeting required by CDC 99.038(3). The applicant's failure to comply with the City's code regarding neighborhood association notice did not allow adequate time for citizen notification and participation regarding this application.

3.) The requirement for notice was not properly waived by the Director. CDC 99.035(C) states:

same as #2

"Where a requirement is waived, the Director shall:
1.) Prepare a memorandum to the record and to the applicant citing the grant of authority, and the specific requirements waived and the reasons.

With assistance from staff I can locate no such memorandum in the file as of this date.

4.) Council refused to allows testimony at the denovo hearing on March 5, 2007 regarding a nonconforming use. — Wrong. Council allowed such testimony. Council did not respond but that's not the same thing

5.) Because Council refused to hear testimony that this development is a nonconforming use, the March 5, 2007 meeting was not a denovo hearing in violation of the city's councils own rules.

6.) Applicant has failed to pay the fee for the drainageway permit. — There is no drainageway. Therefore, no permit required

The proposed development is a unique opportunity to mitigate traffic problems, clean water issues and safety concerns pursuant to the existing code. These decisions could impact quality of life and the property values of existing residents of West Linn and deserve the full consideration and review of the Planning Commission. I respectfully request that the extensive and significant changes to this plan proposed by the Council, require the full review of the Planning Commission. Please remand this application to the Planning Commission for reapplication or reconsideration of the existing proposal.

Sincerely,

Lynn Fox, President
Hidden Springs Neighborhood Association
PO Box 236
Marylhurst, Oregon 97036 +

Mayor Norm King & City Council
City of West Linn
22500 Salamo Road
West Linn, Oregon 97068

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PO Box 236
Marylhurst, Oregon 97036 +

Memo for: West Linn City Council, John Atkins
Re: Willamette Falls Drive Flower beds
From: Elizabeth Rocchia, Willamette Neighborhood Assn
Date: March 19, 2007

As a lead in to the 2008 Centennial Celebration, The Willamette Neighborhood Association would like to update the flower beds on Willamette Falls Drive.

Since 1997 when landscape designer Carol Tuffo resurrected the beds, volunteers from the neighborhood have done the weeding, pruning, mulching and cleanup once a month during the growing season. Three women from the WL Parks Department have provided garbage cans and much appreciated labor.

Since Carol Tuffo moved to Eugene two years ago, we have struggled as best we could. The time has come for professional intervention. Overgrown shrubs need to be knowledgeably pruned or removed. Dead shrubs need to be dug out. Many plants have outgrown their welcome and are beyond casual volunteer care.

Mature shrubs need to be purchased and planted in bare spots and where others have died.

Our volunteer force is sporatic. Most people have their own gardens to look after.

The sprinkler system is inadequate and ineffective. We need to install drought tolerant plants where the sprinklers fail to reach.

I have spoken with Carol Tuffo who drove up last week and walked the street with me. She is coming up with a plan and a plant list. her fee is $35 an hour. Also I have spoken with two landscaping firms about doing the heavy work. I will get bids on labor, on debris removal and on plant acquisition when I get a plant list.

It is my hunch that $5,000 could cover this effort. Thereafter volunteers could continue to weed, plant annuals and spread compost. Willamette has become a destination point and is admired by all who visit. We would like the flower beds to be a source of admiration too

The Willamette Neighborhood Association is asking for approval to spend up to $5,000 for this effort. We hope you will agree it is money well spent.

March 14, 2007

Elizabeth Rocchia, Treasurer
Willamette Neighborhood Association
West Linn, OR 97068

Elizabeth,

I am attaching an invoice for the site analysis of the Willamette Falls Drive planters that includes the cost estimate for my final report on the planters. Once approved, I can have this final report to you by Monday, 3-19-07.

The planters, as you know, have been a labor of love for the community of Willamette and are enjoyed by community members, local businesses and their patrons, as well as visitors to this area. The planters are now 8 to 10 years old and are in need of renovation. This will take professional skill and good horticultural knowledge.

Some of the existing shrubs and trees need to be removed and there is a need for overall spring pruning and cleanup. It is my recommendation that a professional landscape company or team be involved in that cleanup. This is to insure that the monthly maintenance by the volunteers can continue. Willamette continues to be a engaging destination and it is important that the plantings be attractively maintained.

As I was finishing my site analysis, I approached the company that was maintaining the property of DJ Decking; they are Big Sky Landscaping, Inc. They do a very through job to keep his site looking attractive all year. I asked if he would be interested in giving the City an estimate to do a spring cleanup and I have included his business contact information.

Don Krein, Maintenance Account Manager $2832 = 48 hrs
Big Sky Landscaping, Inc. 3 men @ 8 hrs
Office: 503-257-9275 for 2 days
Cell: 503-841-4951

A second landscape referral is a West Linn company:

Jim Ball, Owner (Mike Christensen)
Ball Landscaping
Office: 503-655-4299

I hope that the community of Willamette can continue this project as it is important to the residents, businesses and community at large. Thanks for thinking of me.

Best Regards,

Carol Tuffs

March 19-2007

to all W.L. residents. Good evening!

Thank you all who voted.
As a responsible good citizen, I vote every time it's needed. — why? —
it is our duty to do so.
it is our responsibility as we partake in our goverment.
more than a few did not vote. — So, I am appalled to learn that at our recent poll, certain N.A. leaders have abstained from voting; thus rebuking the exercise on our democratic assigment given to us duly, displaying a serious unamerican way of behavior.
In many ~~democracy~~ democratic nations such attitude would have dire consequences to pay.
to vote is the right to suffrage.
to vote is the respect for our constitutions' ground works.
This free honor of voting is to be cherished while upholding the legacy of the suffrage and suffragette movements that surged from their courageous tenacity to achieve all men and women's right to vote.
It is not only a privilege, but a solemn obligation to vote no matter one's inclinations.
not voting is a facism statement, unworthy of one's ethibit.
my friends vote - that's to be an American —

Alice Richmond —
3939 Parker Rd —

The City Council is heartened by the 72% approval of those who voted for the Police levy last week, and will continue to lead the effort when the measure is on the ballot in May. Those who chose to exercise their franchise overwhelming recognized the worth of a safe community, a vibrant community.

Among those who did not vote were some who were so busy the measure never came onto their radar. Others didn't vote because they assumed the measure would pass anyway, not realizing the effect of the double-majority requirement. Some just lost track of the calendar. As usual a few names of the dead, divorced/ separated and recently moved were inadvertently kept on the rolls. There were supporters who gave up hope because of the thermometer type displays and never sent in their ballots. I can understand any and all of these situations.

What I do not understand is the coordinated effort of a particular group claiming to support a "livable" West Linn working to defeat the levy. In doing so this same group is dedicated to dismantling the police force, closing the library for days at a time, and reducing West Linn resident's ability to use our parks. How does that make West Linn more livable?

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As hypocritical as that group has been, I am equally dismayed over the non-performance of some of our neighborhood association officers, those who come to this Council demanding a police officer at every NA meeting and then turn around and campaign to defeat the funds to get it done.

Some neighborhood association leaders recognized the importance of continuing the police funds, and took a leadership role in trying to pass the levy. The Willamette Neighborhood leaders spent long hours getting out the vote. You would normally expect other neighborhood leaders to be doing the same.

The City Council is tired of hearing complaints about Neighborhood Associations taken over by individuals who try to shout louder, intimidate more or fan higher flames of dissension to achieve a narrow goal. It is time for the more sensible and mature citizens to take back their neighborhood associations. I will encourage this City Council to back you with every legal thing we can. For example, the residents deserve the option of replacing their elected neighborhood officers mid-term, which should be incorporated into any final version of changes adopted by this Council.

Neighborhood associations in West Linn usually strive to work with the City staff and other neighborhoods on issues like emergency preparedness, beautification programs and the most vital issue of public safety. For any neighborhood association leader to work against the best interests of the residents of their neighborhood by reducing police protection is unconscionable.

One last comment - I don't care how much someone has a personality conflict with a Council member or disagrees with the policies of the entire Council, it is never appropriate to place the entire City at risk over a rivalry.

I ask everyone, friend and foe alike, to work to protect our families. On May 15th, be sure to vote, and I would ask you to vote yes for the police levy.

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1471 Burns St
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1471 Burns St
West Linn

12

CITY OF WEST LINN
CITY COUNCIL MEETING

TESTIMONY FORM

Date: 3/19/, 2007

Council Rules require anyone who wishes to address the Council to complete this form. At the beginning of each regular meeting, the Council shall designate a time for Community Comment, which shall be reserved for citizens to address the Council on matters related to City government and properly the object of Council consideration. Time is limited to three minutes for each speaker, and a maximum of 30 minutes at each meeting. The Council may choose to change the allowed time based on agenda length. Please place this form in the tray entitled "Testimony Forms" prior to the beginning of the meeting.

With regard to particular agenda items, a separate form must be turned in to the Council for each item prior to the item being called. [Note: After the meeting has started, please give your form(s) to a member of City staff who will pass it to the Council President.] The Mayor will determine which items on the agenda will receive public testimony. Please limit your remarks on a particular agenda item to three minutes, unless the Council decides prior to that item to allocate more or less time. Testimony shall be relevant to the topic of the agenda item and not redundant.

Please print clearly

Name: Katie Daniel

Address: 1090 SW Woodbine Rd

Telephone: _____

____ I wish to speak during Community Comments.

✓ I wish to speak on Agenda Bill 07- 01 - 03 A
(any non-consent items)

____ In Support

____ Neutral

✓ In Opposition

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1

CITY OF WEST LINN
CITY COUNCIL MEETING

TESTIMONY FORM

Date: March 19 2007, 2007

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Please print clearly

Name: Lynn Fox

Address: PO BOX 236, Manchester

Telephone: 503 655-6347

✓ I wish to speak during Community Comments.

____ I wish to speak on Agenda Bill 07- _____ - _____
(any non-consent items)

_____ In Support

_____ Neutral

_____ In Opposition

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6

CITY OF WEST LINN
CITY COUNCIL MEETING

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Please print clearly

Name: Ed Schwarz

Address: 2206 Tannler Dr.

Telephone: (503) 723-5815

X I wish to speak during Community Comments.

____ I wish to speak on Agenda Bill 07- _____ - _____
(any non-consent items)

_____ In Support

_____ Neutral

_____ In Opposition

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7

CITY OF WEST LINN
CITY COUNCIL MEETING

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Please print clearly

Name: Roberta Schwarz

Address: 2206 Taylor Dr

Telephone: (503) 723 5015

✓ I wish to speak during Community Comments.

____ I wish to speak on Agenda Bill 07- _____ - _____
(any non-consent items)

_____ In Support

_____ Neutral

_____ In Opposition

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2

CITY OF WEST LINN
CITY COUNCIL MEETING

TESTIMONY FORM

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Please print clearly

Name: ELIZABETH ROCCHIA

Address: 957 NIAGARA FALLS DR

Telephone: 503 657 5666

X I wish to speak during Community Comments.

____ I wish to speak on Agenda Bill 07- _____ - _____
(any non-consent items)

_____ In Support

_____ Neutral

_____ In Opposition

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8

CITY OF WEST LINN
CITY COUNCIL MEETING

TESTIMONY FORM

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Please print clearly

Name: VALERIE BAKER

Address: 2270 CRESTVIEW DR.

Telephone: 503 723 5479

X I wish to speak during Community Comments.

____ I wish to speak on Agenda Bill 07- _____ - _____
(any non-consent items)

_____ In Support

_____ Neutral

_____ In Opposition

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City of West Linn
02-12-2007

9

CITY OF WEST LINN
CITY COUNCIL MEETING

TESTIMONY FORM

Date: march 19, 2007

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Please print clearly

Name: Alice Richmond

Address: 3939 Parker Rd.

Telephone: 503 557 9158

X I wish to speak during Community Comments.

____ I wish to speak on Agenda Bill 07- _____ - _____
(any non-consent items)

_____ In Support

_____ Neutral

_____ In Opposition

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City of West Linn
02-12-2007

11

CITY OF WEST LINN
CITY COUNCIL MEETING

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Please print clearly

Name: Bob Thomas

Address: 2563 Pimlico Drive

Telephone: West Linn, OR 97068

X I wish to speak during Community Comments.

____ I wish to speak on Agenda Bill 07- _____ - _____
(any non-consent items)

_____ In Support

_____ Neutral

_____ In Opposition

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3

CITY OF WEST LINN
CITY COUNCIL MEETING

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Please print clearly

Name: Brad Kilby

Address: 17355 SW Boones Ferry Road, Lake Oswego, OR 97035

Telephone: (503) 699-2495

____ I wish to speak during Community Comments.

✓ I wish to speak on Agenda Bill 07- 01 - 03-A
(any non-consent items)

✓ In Support

____ Neutral

____ In Opposition

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CITY OF WEST LINN
CITY COUNCIL MEETING

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Please print clearly

Name: MICHAEL ROBINSON

Address: 1120 NW COUCH St, TENTH FLOOR PORTLAND, OR. 97209.4128

Telephone: 503.727.2264

____ I wish to speak during Community Comments.

X I wish to speak on Agenda Bill 07- 01 - 03-A
(any non-consent items)

X In Support

____ Neutral

____ In Opposition

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5

CITY OF WEST LINN
CITY COUNCIL MEETING

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Please print clearly

Name: Mike Peebles

Address: 17355 SW Boones Ferry Rd
Lake Oswego OR 97035

Telephone: 503 635 3618

____ I wish to speak during Community Comments.

X I wish to speak on Agenda Bill 07- 01 - 03 - A
(any non-consent items)

X In Support w/ applicant

____ Neutral

____ In Opposition

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10

CITY OF WEST LINN
CITY COUNCIL MEETING

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Please print clearly

Name: Alice Richmond

Address: 3939 Parker Rd

Telephone: 503 557 9158

____ I wish to speak during Community Comments.

✓ I wish to speak on Agenda Bill 07- 01 - 03 A
(any non-consent items)

✓ In Support of the Subdivision. 34 lots

____ Neutral

____ In Opposition

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City of West Linn
02-12-2007

Memo for: West Linn City Council, John Atkins
Re: Willamette Falls Drive Flower beds
From: Elizabeth Rocchia, Willamette Neighborhood Assn
Date: March 19, 2007

As a lead in to the 2008 Centennial Celebration, The Willamette Neighborhood Association would like to update the flower beds on Willamette Falls Drive.

Since 1997 when landscape designer Carol Tuffo resurrected the beds, volunteers from the neighborhood have done the weeding, pruning, mulching and cleanup once a month during the growing season. Three women from the WL Parks Department have provided garbage cans and much appreciated labor.

Since Carol Tuffo moved to Eugene two years ago, we have struggled as best we could. The time has come for professional intervention. Overgrown shrubs need to be knowledgeably pruned or removed. Dead shrubs need to be dug out. Many plants have outgrown their welcome and are beyond casual volunteer care.

Mature shrubs need to be purchased and planted in bare spots and where others have died.

Our volunteer force is sporatic. Most people have their own gardens to look after.

The sprinkler system is inadequate and ineffective. We need to install drought tolerant plants where the sprinklers fail to reach.

I have spoken with Carol Tuffo who drove up last week and walked the street with me. She is coming up with a plan and a plant list. her fee is $35 an hour. Also I have spoken with two landscaping firms about doing the heavy work. I will get bids on labor, on debris removal and on plant acquisition when I get a plant list.

It is my hunch that $5,000 could cover this effort. Thereafter volunteers could continue to weed, plant annuals and spread compost. Willamette has become a destination point and is admired by all who visit. We would like the flower beds to be a source of admiration too

The Willamette Neighborhood Association is asking for approval to spend up to $5,000 for this effort. We hope you will agree it is money well spent.

March 14, 2007

Elizabeth Rocchia, Treasurer
Willamette Neighborhood Association
West Linn, OR 97068

Elizabeth,

I am attaching an invoice for the site analysis of the Willamette Falls Drive planters that includes the cost estimate for my final report on the planters. Once approved, I can have this final report to you by Monday, 3-19-07.

The planters, as you know, have been a labor of love for the community of Willamette and are enjoyed by community members, local businesses and their patrons, as well as visitors to this area. The planters are now 8 to 10 years old and are in need of renovation. This will take professional skill and good horticultural knowledge.

Some of the existing shrubs and trees need to be removed and there is a need for overall spring pruning and cleanup. It is my recommendation that a professional landscape company or team be involved in that cleanup. This is to insure that the monthly maintenance by the volunteers can continue. Willamette continues to be a engaging destination and it is important that the plantings be attractively maintained.

As I was finishing my site analysis, I approached the company that was maintaining the property of DJ Decking; they are Big Sky Landscaping, Inc. They do a very through job to keep his site looking attractive all year. I asked if he would be interested in giving the City an estimate to do a spring cleanup and I have included his business contact information.

Don Krein, Maintenance Account Manager $2832 = 48 hrs
Big Sky Landscaping, Inc. 3 men @ 8 hrs
Office: 503-257-9275 for 2 days
Cell: 503-841-4951

A second landscape referral is a West Linn company:

Jim Ball, Owner (Mike Christensen)
Ball Landscaping
Office: 503-655-4299

I hope that the community of Willamette can continue this project as it is important to the residents, businesses and community at large. Thanks for thinking of me.

Best Regards,

Carol Tuffs

WEST LINN CITY COUNCIL PUBLIC MEETING AGENDA

(The order of business is subject to change at Council discretion)

March 19, 2007 - Revised

West Linn City Hall - Council Chambers - 22500 Salamo Road

6:00 p.m. **Agenda Work Session (Rosemont Room)** The regular meeting will be preceded by a one-half hour work session wherein the agenda items will be discussed on an informational basis.

6:30 p.m. **Regular Session**

- Call to Order / Pledge of Allegiance
- Proclamations, Recognitions and Presentations
- Community Comments -- **[30 Minutes]** The Council President will call for statements from citizens regarding issues related to City government, properly the subject of Council consideration, and not issues on this agenda. Persons wishing to speak shall be allowed to do so only after completing forms provided in the foyer in advance of Community Comments. All remarks should be addressed to Council as a body. **Council will not engage in discussion with those making comments. The time limit for each participant will be determined by the Mayor.**
- Consent Agenda -- Items appearing below are routine and will not be allotted individual hearing time. The items may be passed upon by Council in one blanket motion. Any Council member may remove an item for discussion or questions by requesting such action prior to consideration.

	1. Agenda Bill 07-03-02	Approve Council Minutes of February 12, 2007
	2. Agenda Bill 07-03-03	Approve Council Minutes of February 15, 2007
	3. Agenda Bill 07-03-04	Motion to Recommend Approval of Liquor License Application for Change of Ownership and Change of Trade Name for Limited On-Premises Sales and Off-Premises Sales [Johnny's Caffe & Pizzeria (formerly Bugatti's), 1885 Blankenship Road, West Linn]
***Addition**	4. Agenda Bill 07-03-08	RESOLUTION - Requesting Its State Legislators Oppose SB 45
***Addition**	5. Agenda Bill 07-03-09	RESOLUTION - Supporting Housing Opportunities

- Report from the City Manager
- Business from the City Council

- Business Meeting -- For items marked with an asterisk (*), the City Council expects to receive public testimony. All other items are expected to be for Council discussion and decision only. Persons wishing to speak on agenda items shall be allowed to do so only after completing forms provided in the foyer and turning them in to the Council prior to the item being called for discussion. A separate speaker slip must be turned in for each item. Time limit – 3 minutes for each participant, unless the Mayor decides prior to the item to allocate more or less time.

***Addition**	1. Agenda Bill 07-03-07	Motion to Adopt a Final Decision in the Matter of an Appeal by Centurion Homes of the Planning Commission's Decision Denying a 21-lot PUD (SUB-06-08/ZC-06-07) Proposed by Centurion Homes at 1165 Rosemont Road
***PUBLIC HEARING**	2. Agenda Bill 07-01-03-A (Continued from 1-08-07 and 2-26-07)	PUBLIC HEARING - Appeal of Planning Commission Denial of Tony Marnella, 550 Investments LLC, Application for 34-lot Subdivision at 1200 Tamarisk Drive (MISC-06-46)
~~***PUBLIC HEARING**~~ **Delete**	~~3. Agenda Bill 07-03-05~~	~~ORDINANCE - Amending the West Linn Municipal Code Revising Neighborhood Association Requirements~~
	4. Agenda Bill 07-03-06	Motion to Authorize the City Manager to Enter into an Intergovernmental Agreement with Metro and Acknowledging "Attachment A" Represents the City's Current Priorities for Projects in the Greenspaces Bond Measure Local Share Component

- Executive Session pursuant to ORS 192.660, if needed
- Adjournment

For special assistance under the Americans with Disabilities Act, please call City Hall 48 hours prior to meeting date, 657-0331 or TDD 656-4518.

file

WEST LINN CITY COUNCIL PUBLIC MEETING AGENDA

(The order of business is subject to change at Council discretion)

March 19, 2007

West Linn City Hall - Council Chambers - 22500 Salamo Road

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  2. Agenda Bill 07-03-03 — Approve Council Minutes of February 15, 2007
  3. Agenda Bill 07-03-04 — Motion to Recommend Approval of Liquor License Application for Change of Ownership and Change of Trade Name for Limited On-Premises Sales and Off-Premises Sales [Johnny's Caffe & Pizzeria (formerly Bugatti's), 1885 Blankenship Road, West Linn]
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- Business from the City Council
- Business Meeting -- For items marked with an asterisk (*), the City Council expects to receive public testimony. All other items are expected to be for Council discussion and decision only. Persons wishing to speak on agenda items shall be allowed to do so only after completing forms provided in the foyer and turning them in to the Council prior to the item being called for discussion. A separate speaker slip must be turned in for each item. Time limit – 3 minutes for each participant, unless the Mayor decides prior to the item to allocate more or less time.

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- Executive Session pursuant to ORS 192.660, if needed
- Adjournment

file

AGENDA BILL
07-03-02

For Council: March 19, 2007

Department: Administration

Subject: Approval of the City Council Meeting Minutes of February 12, 2007

City Manager's Initials: CA

Attachments: Yes - Minutes

Budget Impact:

Expenditures Required: 0	**Amount Budgeted:** 0	**Appropriation Needed:** 0

Summary:

Draft minutes of the February 12, 2007, City Council meeting have been prepared for your approval.

Recommended Action:

Motion to approve minutes.

Council Action Taken:
Approved:
Denied:
Continued:

West Linn City Council Meeting Minutes
February 12, 2007

DRAFT

Council Present:	Mayor Norman B. King, Council President Mike Gates, Councilor Scott A. Burgess, Councilor Jody Carson, and Councilor Michele S. Eberle
Council Absent:	None
Staff Present:	Chris Jordan, City Manager; Bryan Brown, Planning Director; Terry Timeus, Police Chief; Gordon Howard, Senior Planner; City Attorney Bill Monahan; and Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance

Mayor King called the meeting to order at 7:06 p.m. and Council President Gates led the flag salute.

Proclamations, Recognitions and Presentations - None

Community Comments

Ed Schwarz, 2206 Tannler Drive, stated that he was here tonight to update the Council on the recent activities of the Tanner Basin Neighborhood Association. The Association has completed their neighborhood plan. It was voted on at the last meeting and passed unanimously. They look forward to the Council's review, acceptance and approval. At their next meeting will be a presentation by a professor from the University of Portland, Dr. Taakalu, Department of Civil Engineering, who will be speaking on highway, local roads and street safety for non-engineers. All are invited to attend on March 7th at 7:00 p.m. here in Council Chambers.

Mr. Schwarz announced that the Tanner Basin Neighborhood Association will be fundraising for a park in the neighborhood, as they are the only neighborhood that does not have a park. They are working towards finding land in the neighborhood association. These raised funds will help buy land for a park in the neighborhood. This fundraiser will be held on Friday, March 2nd at the Adult Center on Rosemont Road at 6:00 p.m. Tickets are $50 each and there will be dinner, music and dancing. Helen White, a jazz musician, and her trio will be there. He acknowledged the sponsors and thanked them for their help and donations.

Lynn Fox, P.O. Box 236, Marylhurst, OR 97206 stated that she is the president of the Hidden Springs Neighborhood Association. She is concerned that there are issues on the consent agenda and they have not been adequately discussed.

There are items that need more time to be addressed and they will not receive that time if they are on the consent agenda. This has been a problem in the past and it seems to be creeping back. Item 07-02-03 is a new liquor license, not a renewal; and item 07-02-02 is renewals and one of these did not have the supporting data available that was said to be there. She asked that agenda bills 07-02-02 and 07-02-03 be removed from the consent agenda.

Bob Thomas, 2563 Pimlico Drive, asked if there will be public testimony on agenda item 07-02-04. Mayor King stated that there will be no testimony on that item.

Mr. Thomas stated that, when Council was hearing the Latter Day Saints Church proposal, the Church's attorney approached him later and said all of his testimony had been addressed at the Planning Commission hearing. This is untrue; his testimony was entirely different at the Council hearing. His concern was that sound measurements had not been properly made to compare what would be the difference between now and when the church is constructed to see if the proposed berm will make a difference in ambient noise (keeping church noise within the church area). Neither the applicant nor the City Engineer had submitted proper computer model studies to assess the fire flow capabilities at the hydrant he proposed should have been the flow hydrant instead of the pressure hydrant.

Mr. Thomas suggested a computer model study showing the amount of fire flow for two hours that is permitted with sprinklers. That study is needed and the applicant had no proof that fire flow requirements could be met. He felt that he should have been called back up by Council to rebut. There should be a way for public to rebut.

Alice Richmond, 3939 Parker Road, said she knows at least 120 households that are not citizens of the United States. They have green cards and do not vote. It takes 51% of the population for a vote to pass. She asked if the count is 51% from the water bills or 51% of registered voters. She asked that all registered voters take advantage of their rights and vote.

Consent Agenda

1.	Agenda Bill 07-02-01	Approve Council Minutes of January 8, 2007
2.	Agenda Bill 07-02-02	Motion to Recommend Approval to OLCC of Liquor License Application Renewals

3. Agenda Bill 07-02-03 — Motion to Recommend Approval to OLCC of a Liquor License Application for a New Outlet (Scott Welle dba Beers From Oregon, LLC, 3489 Vista Ridge Drive, West Linn)

Council President Gates moved to approve the consent agenda consisting of the minutes of January 8, 2007; a recommendation for approval of liquor license application renewals and a recommendation for approval of a liquor license application for Beers From Oregon, LLC. Councilor Burgess seconded the motion.
Ayes: Burgess, Eberle, Gates, Carson, King
Nays: None
The motion to approve the consent agenda carried 5-0.

Report from the City Manager

Chris Jordan reported that there has been some discussion in the newspaper regarding the City's new auditor. On February 20, 2007, there will be discussion at the Council's work session by the City's Finance Director, Andy Parks, regarding the process the City used to select, review, reference check, etc., for the new auditor.

Business from the City Council

Councilor Burgess reminded the voters that there is a special election March 13th on the police levy. On February 21st there will be a town hall meeting to get information on the levy. He encouraged all to vote.

Council President Gates stated that all registered voters will receive phone calls to remind them to exercise their vote.

Council President Gates moved to adopt the 2007-2008 Council Priorities as indicated in the February 7th version with the following revisions:

- **Imagine West Linn, change: "to ~~create a new~~ the vision**
- **Under Communication Strategy, Committees, change "that" to "the"**
- **Under Sustainability Goal 5, adding an "s" on "ordinance"**
- **Under 10th Street Corridor correct "109th Street" to "10th Street"**
- **Additional goal, "Work with TVF&R to review locations and methods for reducing fire fuel loads"**

Councilor Carson seconded the motion.
Ayes: Eberle, Gates, Carson, Burgess, King
Nays: None
The motion to adopt the 2007-2008 Council priorities carried 5-0.

Councilor Eberle announced a new Clackamas Town Center restaurant that just opened up called the Claim Jumper. This weekend they will be selling chocolate cake and all proceeds will go to Clackamas Women's Services. On Thursday, April 26th there will be a "Tip a Cop" program where the sheriff and other officers come and work along with their wait staff. The funds from this program will be going to Special Olympics. This is a new restaurant that is vested in working with the community, and she urged the audience to come out and support them.

Councilor Burgess stated that there is a set of Council Goals posted on the wall. He indicated that what was voted on tonight was the priorities of those goals.

Council President Gates stated that the priorities will be available for review on the City's website. The goals are strong and will require a lot of work by City staff. Councilor Carson stated that these goals are for two years, which is a change from the one-year goals done in the past. It takes more than one year to accomplish some goals.

Agenda Items

1.	Agenda Bill 07-02-04	RESOLUTION No. 07-04 - Calling an Election for May 15, 2007 to Submit to the Voters a Local Option Levy for Police Services at the Rate of 84.57 cents per $1,000 of Assessed Property Value for Each Year for Five Years Beginning July 1, 2007

Chief Timeus made a presentation of statistics on the Police Department services. In 2006 the West Linn Police Department responded to 18,559 calls for service ranging from traffic stops to investigating complex felony cases. West Linn averages 51 contacts every 24-hour period. That is 687 contacts per officer per year for 27 sworn officers.

In 2006 West Linn Police responded to 3,007 priority 1 & 2 calls (crimes in progress or crimes that have just occurred). Based on current staffing levels, this equates to 177 required responses per patrol officer in 2006. It takes two officers to respond to crimes in progress. Priority 3 & 4 calls are non-emergency calls for service. These are typically cold thefts, animal complaints, ordinance violations and traffic enforcement. In 2006 there were responses to 14,047 priority 3 & 4 calls.

A graph was shown on child abuse referrals from the Department of Human Services in 1998-2005. In 2006 child abuse statistics included 108 referrals from the Department of Human Services, a 24% increase overall from 2005. Of that increase there was a 27% increase in physical abuse; a 41% increase in sexual

abuse; and an 11% increase in neglect. All reports of suspected child abuse must be investigated immediately if a threat of harm exists.

The West Linn Police Department is authorized 30 sworn officers and three community services officers. Currently there are four vacancies and two officers in training. Recruitment cannot take place until secure funding is obtained. They will continue to strive to provide the best possible level of service. Usually there are three officers available to take all calls in the City (one supervisor and two patrol officers). A reduction in staffing will impact our response times, especially for non-emergency calls.

Mayor King stated that it appears that the increase in crimes does not particularly involve traffic officers. Traffic officers are required on the road at all times. The largest increase in crimes involves the detectives the most. Chief Timeus states that some crimes involve going outside West Linn for services (hospitals, children's services, etc.) and they can't short a patrol officer to do this. Identity theft is another issue where the crime may be in West Linn but the investigation takes the officer out of the City, and patrol officers cannot leave the City to do that. Some non-emergency incidents (identity theft, domestic violence, etc.) have to sit awhile.

Councilor Burgess asked if a stolen wallet is grouped in with identity theft crimes. Chief Timeus said yes.

Councilor Burgess asked Chief Timeus to comment on the recent article in the *Tidings*. Chief Timeus stated that the article was focused on the assumption that the West Linn Police Department targets teenagers. The Police Department is the caregiver of kids when they are not with their parents or in school, and their goal is to keep kids safe. Of the 51 contacts for a 24-hour period, at least one of these contacts is a juvenile.

Councilor Carson moved to adopt Resolution No. 07-04 calling an election for May 15, 2007 to submit to the voters a local option levy for Police Services at the rate of 84.57 cents per $1,000 of assessed property value for each year for five years beginning July 1, 2007 per Agenda Bill 07-02-04. Councilor Burgess seconded the motion.

Council President Gates explained that this resolution is necessary to meet March election deadlines. If the participation level is not high enough to pass the levy in the March election, it will go before the voters again in May. Filing of ballot measures must be done well in advance of the election date.

Ayes: Gates, Carson, Burgess, Eberle, King
Nays: None
The motion carried 5-0.

2. Agenda Bill 07-02-05 ORDINANCE No. 1546 Modifying Section 2.901 Regarding Real Property Acquisition and Adding New Section 2.904 Regarding Transfer of Interest

Chris Jordan stated that currently, when a land use project is approved, most of the time it results in new easements for public utilities. The City often has to vacate existing easements to allow the new development to happen, and the developer gives new easements around the periphery of the property. All of these new easements come to the City Manager for review and approval. This ordinance would allow the City Manager to designate an appropriate person on staff to review and approve these easements on behalf of the City.

Vacations of existing easements in exchange for new easements have been processed by the City Council for approval. Staff is asking Council to consider providing that responsibility to the City Manager for review and approval of the vacation of easements under these circumstances. The policy decision of the land use application is completed. The actual vacation of the easements is an administrative step that implements the policy decision that has taken place. This ordinance would designate the City Manager as the individual to approve these vacations.

Council President Gates read the ordinance for the first time by title only and moved to adopt Ordinance No. 1546 modifying Section 2.901 regarding real property acquisition and adding new Section 2.904 regarding transfer of interest per Agenda Bill 07-02-05. Councilor Burgess seconded the motion.

Council President Gates explained that Council recognizes that this is an administrative element and doesn't require Council review. He feels that City staff can handle it.

Ayes: Carson, Burgess, Eberle, Gates, King
Nays: None
The motion to adopt Ordinance No. 1546 upon first reading carried 5-0.

Councilor Burgess read the ordinance for the second time by title only and moved to adopt Ordinance No. 1546 modifying Section 2.901 regarding real property acquisition and adding new Section 2.904 regarding transfer of interest per Agenda Bill 07-02-05. Councilor Carson seconded the motion.
Ayes: Burgess, Eberle, Gates, Carson, King
Nays: None
The motion to adopt Ordinance No. 1546 upon second reading carried 5-0.

4. Agenda Bill 07-01-15 (Continued from 1-22-07) — ORDINANCE - Amending Multiple Chapters of the West Linn Community Development Code (CDC)

Mayor King opened the public hearing at 7:16 p.m. regarding proposed housekeeping amendments to the CDC.

Mayor King explained the hearing format. He asked if there were any conflicts of interest or *ex parte* contacts to declare. There were none. No one in the audience challenged the impartiality of any Council member or the jurisdiction of the City Council to hear this matter.

Mayor King asked if there is any additional correspondence since the packet. Mr. Brown stated that there was none.

Mr. Brown reviewed the staff report with the Council. The proposal for amending several sections of the Community Development Code (CDC) is part of a regulatory code improvement package. It is common practice that with a document of this size it becomes over time necessary to update. Rather than taking each item as a separate hearing, it is addressed in a package of revisions. There are 16 proposed changes:

1. Clarifying the design review standards for housing -- new residential design standards in Chapter 43 at the building permit stage of the process.
2. No joint parking where hours of operation overlap.
3. Distance from parking lot to use -- changed to specifically state that distance from the parking spaces should be measured to one of the main entry points of the building.
4. Inadequate parking -- language to indicate one visitor parking space for every three units.
5. Design review for parks -- eliminate parks design review from CDC Chapter 55 since CDC Chapter 58 now handles it.
6. Incorrect code sections -- CDC 56.090 incorrectly references code sections.
7. Public notice for sign permits -- None of the notices have resulted in any change to any sign other than what was proposed; staff felt that the notification process was not efficient. Sign regulations, size, type, location, etc., is very clear in the code. Staff is recommending doing away with sign permit notifications.
8. Pre-application conference for a sign permit -- Staff feels this can be handled at the counter without the $350 expense for a pre-application conference. Staff does not feel they are losing any aspect of compliance or public input by the lack of a pre-application conference.

9. Signs for home occupation permits -- This eliminates special sign size for home occupations and puts them in the same category as other permanent residential signs in Chapter 52.300
10. No pre-application conference for home occupations -- staff proposes eliminating conferences for home occupations.
11. Length of driveway -- staff wants at least 20 feet from back of sidewalk to the face of the garage door so the large vehicles of today won't have their rear bumper blocking the public sidewalk.
12. Notice of final plat -- staff recommends rescinding this requirement since no public benefits flow from it.
13. Tualatin River Protection, Natural Drainageway, Class I Variance, Wetland and Riparian Area, and Willamette River Greenway decision-making authority -- restore the Planning Director as the decision-making authority. With the Planning Commission's agenda getting busier all the time, the need to move these permits back to the Planning Director is both appropriate and timely.
14. Performance Bonds -- this amendment would bring the Municipal Code and CDC documents into consistency about cash deposits, bonds or other financial guarantees.
15. Eliminate reference to only persons with standing having right to participate in appeal hearing, which will also be *de novo* -- this revision eliminates the reference in the code to only allowing persons with standing having the right to speak. Appeal hearings are to be *de novo* or new with full consideration of old and new issues. The code still includes language that only persons or groups with standing may initiate an appeal.
16. Creating new CDC Chapter 59 just for Willamette Neighborhood Mixed Use Transitional Zone -- placement of this zone at end of Historic District Chapter 25 is confusing. There are no changes to the text except numerical and chapter and section changes.

Staff recommends that the City Council adopt this ordinance amending multiple chapters as recommended by the Planning Commission.

Councilor Burgess had several questions for staff:

- Is a permit required to have a home occupation in West Linn, and is there a permit process for moving into a house? Mr. Brown said yes; there is a permit process for home occupations; however, there is no permit needed to move into a house.
- Could there be a distinction between home occupations and residences? In other words, there could be a sign that affects home occupations without getting into the issue of allowing two square foot signs as permanent signs in residential areas. Mr. Monahan stated that, if you allow a permit sign in residential zones for home occupations, there must also be the same size sign available for other purposes. The content that

would identify the home occupation is the issue; it has to be content neutral. The language in the code appears to be put in to allow for the opportunity to have permanent signs for home occupations. In many jurisdictions signs related to home occupations are not allowed. Many times home occupations are approved with the requirement that there be no outward appearance that a home occupation is in the neighborhood. Apparently, a prior council made a determination to allow permanent signs for home occupations.

- Is this recommendation the same for the ordinance adopting a local wetlands inventory and a riparian corridor inventory? Mr. Brown stated that this ordinance and the following ordinance are not related in terms of turning it back to a Planning Director's decision. The majority of drainageway issues will always be at public hearings before the Planning Commission.
- Can Willamette be dropped from the mixed-use zone? Mr. Brown stated that he feels that the word "Willamette" could be left off; however, he would recommend leaving the name associated for now and evaluate it at a later time. This does not exclude the fact that there can be others but they may be unique.

Councilor Carson voiced concern that in the past there have been a lot of comments and issues related to signs. By eliminating both the notice and the pre-application conference, it limits the opportunity for neighborhoods to comment on signs with which they have a concern. She would like to see the signs permitted as it allows people to know that a sign is going in and that they can ask questions or raise concerns. She asked if there is another mechanism to let people know that a sign permit is being reviewed.

Councilor Carson stated that, if there is to be consistency in terms of residential signs allowed and home occupation signs, she feels that the residential sign should be smaller rather than to increase the size of the home occupation sign. She asked if this should be taken out of this decision and brought back at a later time.

Councilor Carson voiced concern about having the wetland riparian area removed in lieu of the next item on inventories and asked if the language should be changed to water resource areas. Mr. Brown stated that the name could be changed to water resource areas. This may not be the only chapters that have reference to this current terminology. They will have to look through the rest of the CDC. They would not have to re-notice for the sign change in that the notice was not that specific, just that there would be changes in the sign section of the code.

Councilor Eberle asked about business licenses being tied to the ability to have a sign. Mr. Monahan stated that it isn't how you get to the ability to have a sign;

rather, the content of the sign indicates what the dimensions of the sign are that you are allowed to have. The fact that there is a license doesn't make a difference.

Councilor Eberle asked if there is a threshold for home occupations as to when a pre-application is needed for an application, or are all home occupations required to go through the pre-application process. Mr. Brown stated that all the business permits require a pre-application conference. There are two types of businesses; type two permits a greater area of the home to be utilized for the business use, a greater amount of traffic deliveries to and from the home, and number of employees. The public hearing helps to determine the suitability of the business in the home. What is being proposed is eliminating the pre-application conference from both types of businesses.

Councilor Eberle noted that the code addresses 200 feet from an entryway as opposed to a main entryway. She feels that the language should be changed to main entryway. Mr. Brown stated that the intent was to make sure that it was 200 feet to the main entry.

Testimony in Support - None

Testimony in Opposition - None

Neutral Testimony

Lynn Fox, P.O. Box 236, Marylhurst, Oregon, stated that she is the president of the Hidden Springs Neighborhood Association. She previously sent a letter addressing many concerns that had been presented by residents of Hidden Springs regarding these code amendments. She indicated that Councilor Gates has a sign in his yard and asked if it represented a conflict of interest. Councilor Gates stated that his sign is in compliance.

Ms. Fox stated that these revisions will result in many changes including changes in notification, increases in the size of the sign, and reducing the setback from 100 feet to five feet. If this will allow everyone with a home-based business to have a sign, there would be a proliferation of signs in the City that would devalue property and affect the quality of life. Citizens will be very unhappy if that happens.

In their community they have problems with people who have businesses in their home that have not paid for permits. The City seems to be at a loss as to how to enforce the code and how to deal with these particular individuals. Instead of weakening the process, it should be strengthening it. The City should have the ability to enforce its laws. She asked that before there is a decision on this matter that there be more public dialogue on this issue.

Teri Cummings, 2190 Valley Court, stated that she sees four things that will be changed: bigger signs from 6" x 12" to 2' x 2'; closer to the street; less notification and less oversight. When you put them all together there will be adverse impacts. She asked that it be considered carefully. Most people today use MapQuest and there is no need for a sign and you don't need to advertise to your neighbors. There could be the sense that the residential area has become commercialized. If the signs are kept small, it may be okay to eliminate the permitting.

Ms. Cummings stated that several years ago there was a situation that was very disturbing for the neighbors. There was a business constructing heating ducts out of their garage-type unit. It was very controversial. Type 2 businesses need to have public input.

The main issue regarding the Tualatin River protection is about the distinction between administrative and discretionary issues. When something is discretionary, a decision must be made in public. Whether a proposal is conforming or non-conforming is a value decision. There has been debate about the natural drainageways. She suggested that this portion of the changes be taken out of this decision and brought back as a separate issue.

Alice Richmond, 3939 Parker Road, stated that she knows that some people have a home business that does not have a license. When she makes staff aware of these situations, she is told that staff does not have the resources to go after these violations. If the cost of the permit is the issue, people will continue their home business whether there is a sign or not. She voiced concern that these revisions are being made and there is no staff to enforce the code.

Brian Eastman, 1827 Silvan Way, stated that he agrees with the Planning Commission recommendation that the cases that are administrative are well suited for Planning Director decision. He feels that the language could be strengthened for water resource permits to make sure that the decisions are for stand-alone water resource permits. He suggested a provision where the Planning Director can determine if the proposal is discretionary and then forward it on to the Planning Commission for review.

Additional Staff Comments

Mr. Brown stated that, when staff becomes aware of a business operating without a license, they follow up with enforcement.

The idea of eliminating signage completely from the residential zone districts dealing with home occupations is a big issue, and something that he does not feel is appropriate with this housekeeping package. This will affect a tremendous

amount of people in the community that run home-based businesses. There has not been enough widespread effort to make sure the citizens have been educated on signage.

In regards to the concerns raised about tightening up the language on stand alone or administrative actions, the code specifically addresses the fact that at any time, when the Planning Director is making a decision, he can forward the proposal on to the Planning Commission.

Councilor Gates stated that there about 900 business permits in town. Of 11,000 houses at least a tenth have home-based businesses. About 45% of the homes have someone working in the home with telecommunication businesses. He asked staff how many home-based businesses are in the community. Mr. Brown stated that he did not have that figure, but there are more home-based businesses than many other communities. These statistics have never been analyzed.

Mayor King closed the public testimony portion of the hearing and opened the meeting to discussion among the Council members.

Mayor King explained that Council has changed the hearing format to allot a specific time for each agenda item. If that item is not completed within that time, the item is continued.

Council President Gates moved to continue Agenda Bill 07-01-15 to February 26, 2007. Councilor Burgess seconded the motion.
Ayes: Gates, Carson, Burgess, King
Nays: Eberle
The motion carried 4-1.

[A recess was called at 8:23 p.m. and the meeting reconvened at 8:37 p.m.]

5.	Agenda Bill 07-02-07	ORDINANCE No. 1545 - Adopting a Local Wetlands Inventory, a Riparian Corridor Inventory, and Amendments to the West Linn Community Development Code, Chapters 2, 30, 32 and 99

Mayor King opened the public hearing on a proposal to adopt a new local wetlands inventory, a riparian corridor inventory, and to amend the City Code to protect wetlands, drainageways and riparian corridors in West Linn as required by Metro's Functional Plan.

Mr. Monahan explained the purpose and procedure of the hearing. Mayor King explained the hearing format. He asked if there were any *ex parte* contacts or conflicts of interest to declare.

Councilor Burgess recused himself from this hearing because he owns property that may be affected by this proposal. Council President Gates also recused himself from this hearing as he has property in that area that will be affected by this proposal. They both thanked the community for all the work that has gone into these deliberations so far.

No one in the audience challenged the impartiality of any Council member or the jurisdiction of the City Council to hear this matter.

Staff Report

Mr. Howard reported that this matter consists of the adoption of two inventories to the West Linn Comprehensive Plan. One is an inventory for wetlands within the City prepared in 2003 and approved by the Division of State Lands in 2005. The second inventory is for riparian corridors prepared for the City by the Winterbrook Planning firm in 2003.

The third area proposed are amendments to the Community Development Code (CDC) regarding the regulation of drainageways, riparian corridors and wetlands to combine all the regulations and rules into one chapter of the CDC and implementing the inventories and protection measures for those inventories of significant wetlands and riparian corridors, as well as implementing storm drainage requirements suggested by the West Linn Surface Water Quality Plan.

Staff recommends that the City Council adopt the proposed ordinance approving the amendments to the West Linn Community Development Code recommended by the Planning Commission.

A packet of 11 additional letters were provided to the Council this evening. In addition, there were two letters; one from the Oregon League of Conservation Voters Clackamas County Steering Committee, dated February 12, 2007, in support of the Planning Commission recommendation, and a short e-mail from JoEllen Hagerty dated February 12, 2007, in support.

A staff memorandum was submitted based on discussion at the Council work session suggesting minor changes:

- Amendment to the riparian inventory regarding Gans Creek that has a 50-foot setback on either side rather than a 100-foot setback; the rest of the inventory is correctly stated.
- Definition of "bankful stage" is added. There is an improper definition of "top of bank," Chapter Two, Table 32-1 that should read "top of ravine."

- Additional language addressing the issue of small internal property artificial drainage ditches that were not on the Storm Drainage Master Plan that may have been created by property owners.
- Trails language ambiguity corrections.
- Issues of consistency of the Water Resource Area Permit and language that the decision maker is the Planning Director/Planning Commission.
- Clarification of revegetation in hardship situations.

Other issues discussed at the work session deal with policy issues that will be resolved based on testimony and the staff report.

Notice was sent to 3,000 property owners; all that were 200 feet from a drainageway of any kind.

The proposal would have the following results for riparian corridors:

- Minimum setback of 100 feet on each side of the drainage channel and 200 feet if the slopes involved are over 25%, or sufficient distance away from the drainageway. This is in compliance with Metro's standard in their model code.
- For drainageways that are not significant riparian corridors, the minimum setback will be 50 feet instead of 100 feet for steep lands under 25%.
- Piped or culvert drainageways are required to be opened up for a land division or design review situation, not for other situations. The setbacks will be determined on project-by-project basis.

The Surface Water Management Plan dictates that open channels and open land around drainage channels allow filtration of some water as it will make for better water quality in the waters of West Linn and the Willamette and Tualatin Rivers. If the land is steeper, more area is needed for the water filtration; that is why the setbacks are greater for steeper lands.

Preservation of native flora and fauna along watercourses is a regional goal set by Metro. These corridors provide the best opportunity for ribbons and connections of areas of native flora and fauna.

This proposal responds to two mandates from Metro. Title 3 of the Regional Functional Plan dealing with water quality protection relates to the 50- to 200-foot setbacks that are required for storm drainage issues. The second area is Title 13, Nature in Neighborhoods Program, which relates to the preservation of native habitat, flora and fauna. It requires setbacks of 100 to 200 feet along significant riparian corridors.

This proposal is in partial compliance with Title 13 as the issues along the Willamette and Tualatin Rivers still need to be reviewed. There are still two years to finish the work.

The Planning Commission is proposing an additional setback beyond the minimum set by the Metro standards in terms of structural setback of 7-1/2 to 15 feet from the edge of the naturally vegetative corridor area. There should be a developed yard area between the structure and the natural area for residential activity.

The topic of opening up of piped drainageways is not discussed in the Metro standards. This is a program that the Planning Commission feels is good policy and suggested by the Surface Water Management Plan.

Staff looked closely at exemptions and differences for existing residences. By increasing the setbacks, it creates many existing homes in the setback areas. The proposed language would allow rebuilding existing homes should they be struck with disaster, expansion of existing homes in the direction away from or to the side of the drainageway, and would allow the maintenance and replacement of accessory structures in yards.

The proposal has significant changes in hardship situations. Lots that were created and would be impossible to build on with an economically reasonable use if the code were put forward in its full extent would allow reasonable economic use of the property and up to 5,000 square feet of cleared area on an existing lot of record that was created prior to the adoption of this ordinance.

There is language giving consideration to a request for a variance in an unusual situation under Chapter 75.

Mayor King stated that he received a two-page letter dated February 12, 2007, from Jennifer Denekas and asked that staff make a copy available to all the councilors so that it can be entered into the record.

Councilor Eberle asked if there are other areas that are in excess of what Metro is requiring. Mr. Howard stated that West Linn has more drainageway areas on the West Linn maps than Metro has. Staff was told by Metro, if they have a better inventory than theirs, it should be used. Some of the proposals in terms of uses are not addressed in Metro standards.

Councilor Eberle asked if all the areas of 50- to 200-foot setbacks are in line with Metro requirements. Mr. Howard stated that Metro requires greater setbacks and defines the top of the bank as being wherever the slope becomes less than 25%. West Linn sets the top of the ravine as where there is a break of at least 15% and then it is less than 25%.

Councilor Carson asked how long after a structure is taken down does the homeowner have to replace it. Mr. Howard stated that the timeframe for such

uses to be re-established is one year in the code. Councilor Carson stated that there needs to be clarification on how long the homeowner has to replace a home or accessory unit.

Mayor King asked if there is a one-to-one relationship between these inventories and the Surface Water Master Plan inventories. Mr. Howard indicated the Surface Water Master Plan deals with water quality, and a separate inventory was done for significant riparian areas (drainageways). When the code is dealing with the issue of water quality, the proper reference is to the map in the Surface Water Master Plan; when the issue has to deal with riparian corridors, the proper reference is the Inventory Map of Significant Riparian Corridors.

Mayor King asked, if a stream or drainageway are in both, which setback is used. Mr. Howard stated that the list of riparian corridors is a subset of the drainageways. The minimum setback would be 100 feet and would go up to 200 feet if it were greater than a 25% slope. If it was just a drainageway and not a riparian corridor, then the minimum setback is 50 feet and it can go up to 200 feet if the slope is over 25%.

Mayor King asked if the 30-foot minimum requirement is a part of Metro standards. Mr. Howard stated that the 50-foot setback is out of Metro standards, although Metro does allow a reduction to 25 feet in that situation where a geotechnical report is submitted saying that the slope is stable. The West Linn Planning Commission did not believe it to be an appropriate standard and recommended just a straight 50-foot setback. The structural setback is also not required by Metro. The 30-foot minimum is in the Metro standard.

Testimony in Favor

Greg Morse, 18335 Nixon Avenue, stated that staff has done a very good job on this proposal and he hopes that Council accepts this recommendation. His advocacy over the years has been getting Goal 5 done. The bonus is that it includes adopting two of the Goal 5 inventories, completion of Title 3, and well on the way to getting done with Title 13.

The first three pages of the packet were reminders about how riparian corridors were determined. It is based on Division of State Lands (DSL) criteria and Metro criteria. There are copies of Metro's Title 3 ordinance included in the packet. He feels that the exceptions for individual landowners are fair (four pages of exceptions).

In the packet is a copy of the Title 13 code that indicates that this proposal does not affect West Linn's density requirements. He asked that Council adopt this proposal.

Councilor Eberle thanked Mr. Morse for his persistence and support. She asked Mr. Morse to comment on the penalties issue he raised in an e-mail sent out on February 4th regarding three items of concern. Mr. Morse stated that this issue was raised during the last Planning Commission meeting. Commissioner Babbitt suggested that a way to strengthen the penalty section was to include language that says public nuisance. There was discussion at that time, including with the City Attorney, about whether to include that language. He feels the City needs enforcement tools available.

Meredith Shield, 320 S.W. Stark, Portland, Oregon, stated that she is from the Oregon League of Conservation Voters (OLCV). She is the Clackamas County Field Organizer representing 400 members in the West Linn area. Speaking on behalf of the all-volunteer steering committee, they support the adoption of the Planning Commission recommendations for improved stream and wetland protection in West Linn. These recommendations are critical to provide minimum protections for clean water and wildlife and public health as West Linn continues to grow. They support the approach recommended by staff and the Planning Commission that will protect and restore the most important environmentally sensitive areas along streams and wetlands, regardless of their current condition. Everyone has the responsibility to protect and restore natural resources. Those developing land across streams and wetlands have a special responsibility.

OLCV and the members of their Clackamas County Steering Committee strongly support the Council in adopting the proposed code changes and moving forward with additional policies and programs to protect upland habitat as soon as possible.

Roberta Schwarz, 2206 Tannler Drive, stated that she is proud of the participants and advocates of this project. She thanked Greg Morse, Karie Oakes, Teri Cummings, Brian Eastman, and the Audubon Society for their dedication and help. She hopes that the Council accepts the recommendation of the Planning Commission. This is a win/win situation.

Jim Labbe, 5151 NW Cornell Road, Portland 97210 stated that he is here tonight representing the Audubon Society of Portland in support of the Council in adopting the recommendation of staff and the Planning Commission to revise Chapter 32. They also support recommendations by others to make this a starting point to look at policies to protect and restore natural resources within West Linn's watersheds and addressing the upland piece, Tualatin and Willamette Rivers.

He has worked in other jurisdictions around the region and West Linn has outstanding citizens with expertise on these issues. He encouraged Council to tap these citizens to address broader programs (monitoring, restoration, etc.).

There are reasons why the "one size fits all" makes sense when talking about protecting core environmental functions along streams and wetlands and using that as a foundation again to build and protect other areas with other tools. He disagrees somewhat and thinks there are areas where Metro's program exceeds this program; however, it will achieve some things that Metro's program does not. This proposal will protect the core functions across all streams and wetlands, protecting continuity in the ecosystems across the landscape, and has the advantage to protect the highest value areas for restoration. This program has the advantage of being more equitable to landowners. There is no punishment for those who have better quality resources. The program equally requires areas that are the greatest to be restored, restoring the functions and the continuity of those functions across the landscape.

Mr. Labbe encouraged the Council to adopt the Planning Commission's recommendation and view this as a foundation for broader efforts to a range of tools. He would be more than happy to participate in that process.

Mayor King asked if Mr. Labbe's concern about "one size fits all" is in reference to setbacks. Mr. Labbe stated that, instead of setbacks, he would rather see a riparian transition area defined as a standard width versus Metro's mapped functions and values variable width based on the presence of vegetation and the quality of the resource ranging from 50 to 200 feet from all streams and wetlands. There are a lot of Metro map areas that fall outside the standard riparian transition area minimum that West Linn would propose to adopt; however, there are areas that are within that grade that could be restored that were not in Metro's inventory. There are things that this proposal will achieve that Metro's wouldn't have, and there are areas that are left out that Metro included. That's why it is important to develop other tools, acquisitions, incentives, transfer development rights, etc., to address other high-value resources that are beyond the riparian transition areas that would be adopted under this proposal.

Isaac Cohen, 21082 SW Meadow Way, Tualatin, asked the Council to consider the youth in making their decision. He asked that, when the decision is made tonight, that it be made not just for the situations of tomorrow, but 10-20 years from now when the youth of today will inherit the world that is being created.

Teri Cummings, 2190 Valley Court, stated that she has heard comments that 30% of the population is affected. The figure 30% was noticed and she asked that Council consider that more will be affected once consideration is given to exceptions, hardships, and variances, which is yet to be determined (1-2%). She suggested that a survey be done on properties that have been on top of or too close to water -- probably more than 2-3%. She does know that 100% of the community is affected if and when there is poor water quality.

Her understanding of the 200-foot issue is 200 feet in a ravine. If the ravine continues up at a 25% or greater slope, you stop at 200 feet. You do not go off into another drainageway. The setback has to do with the practical matter of needing to have some sense of what is the human activity area. The pipe issue has to do with the importance of providing continuity of the drainageway. Riparian corridors need as much continuity as possible for the sake of functions of water quality.

Ms. Cummings stated that it is important to have a minimum. She suggested a 15-foot minimum away from the stream to open the stream and restore the functions.

Brian Eastman, 1827 Sylvan Way, stated that he, too, is concerned about the reference to the Lake Oswego CDC with regard to mitigation and the addition of a structural setback in addition to setting aside a transition zone; that is a physiological distinction between the protected space and human activity space. The Planning Commission has forwarded to Council a well-crafted provision to CDC, Chapter 32. This language achieves compliance with Metro Title 3 and sets the groundwork for achieving the goals of Metro Title 13. West Linn is setting in place protections for the rapidly dwindling natural resources. He applauds the actions thus far in that direction. He urged Council to embark upon similar protections for upland habitat areas, as well as the Willamette and Tualatin River greenways as additional parts of Goal 5. He asked Council to consider and plan for non-regulatory components at a comprehensive level (homeowner education, public awareness campaigns, tax or SDC credits) to promote good stewardship and development practices that will protect these resources.

Dale Blanchard, 19683 Sun Circle, stated that he testified before the Planning Commission. A lot of the young people came out to the meetings and did a better job of defining the value of these areas better than he could. This is about the future. Once it is gone you never get it back. He encouraged the Council to adopt the Goal 5 inventories and this code.

Karie Oakes, 1125 Marylhurst Drive, stated that she has been working with staff and other citizens on making recommendations to these revisions. Circled page 127 is a figure showing Metro's local plan analysis with the average minimum riparian buffer widths for different functions. The 200-foot setback hits most of them. There will be needs that the wildlife, microclimates, and other functions are not protected for. She asked the Council to consider the structural setback not as a transition area but as a riparian transition zone that will help protect the riparian setback. If you build right up to this, there is no way a homeowner can maintain their home or have any function as a yard.

She supports the recommendation to open the natural drainage ways. There are lands that had a natural function and they have been built over. If these types of lands come in for development, the streams need to be restored. Is a 15-foot setback fair to other landowners who have to go at least 50 feet? She encouraged that this setback be increased. Landowners can be rewarded for opening natural drainageways with incentives.

Ms. Oakes asked the Council for one minute to complete her testimony. Mayor King granted her one minute.

Ms. Oakes cautioned the Council not to weaken the 50-foot setback by allowing a geotechnical report to bring that back to 25 feet. It will not be fair to homeowners and people who will not take that expense. You can buy any type of report you want. She urged the Council to look at riparian corridors to see if there are corridors that are close enough to push a homeowner into another watershed; there are not corridors that close. The primary goal is to protect West Linn's natural resources to the fullest extent possible. She urged the Council to adopt a comprehensive plan. This proposal is a piece of that. Take the Planning Commission recommendations and go beyond that, and decide when the other Goal 5 inventory will be adopted.

Testimony in Opposition

James Engdahl, 3484 Fairview Way, stated that he agrees with everything that has been said. He has lived in West Linn for 20 years. Prior to that he lived in Lake Oswego and before that Colorado. He bought a wonderful lot. It is the same lot today as it was 50 years ago. There is a drainageway on his property. He submitted a series of pictures he had taken of his property and surrounding properties. He took a series of pictures this morning showing the drainage hole across the street from his residence; puddles of water after .4 inch of rain (top of the stream); property where the stream exists at the bottom of his property; flow after three inches of rain in 48 hours; a typical summer mud puddle; and a series of diagrams that show the impact year after year of what has happened to his property.

Mayor King asked what damage has occurred to this property. Mr. Engdahl stated that this property was on the market for six months. He took it off the market. People who were interested went to the Planning Department and were informed of the set of rules that are associated with this property. This has cost him months and dollars. The property when purchased was 72,000 square feet and zoned R-10; a number of lots could have been put on this site. There have been a lot of tight regulations imposed.

Ann Miller, 1009 9th Street, stated that she is here tonight because of the way it personally affects her. Ms. Cummings stated that people who are affected are

noticed. She wanted the Council to know that the notice was very general, "Some decisions concerning your property will be heard." She received her notice in October. There was some delay because meetings were postponed and then there was the busy holiday season. She had trouble tracking when the next meeting would be. There has been little or no publicity and the maps posted on the wall now are not maps that could be accessed by her until right before the hearing. Notification issues need to be further discussed and considered.

Ms. Miller stated that she is a 20-year resident of West Linn. She has lived on this property and considers herself the steward of the land. She has planted trees. She gardens organically and has never used fertilizers or done anything to that property that she thought would damage the watershed. She enjoyed living on this site. The change of her interest in the land came when her husband died unexpectedly and she could no longer afford to live there. She had two choices. She could sell the land to developers or take on the project herself and work full time as a councilor for teenagers. She chose the later because she wanted to preserve the integrity of the land.

There have been many obstacles that resulted in many delays. It took her three years to plat and record her property for development. These proposed revisions will result in her having to do the process all over again or result in her losing one large lot because of some of the protection issues. She has had a hydrologist, engineers, and other experts review the plans she made. She fought with staff about improvements they were asking her to make that would have damaged the watershed more than what is being asked now.

Ms. Miller stated that she is appealing as one of the property owners referred to in #5 of the January 25th memo from the West Linn Planning Commission. She would like consideration for people like her who will suffer economic hardship as a result of this; to be considered individually. She appreciates the time the Commission put in, and it listened to the fact that there are people who will be hurt by this.

Cindy Kauffman, 3993 Mapleton Drive, stated that she lives on a riparian corridor. She has been a citizen of West Linn for 23 years. She is okay with the environmental issues. She is a good steward of the creek and a good landowner. She doesn't think that the whole City has good landowners because there is a lot of pollution on top of the hill that affects the water quality that comes down to her property. With these new setbacks (she has two-thirds of an acre) her whole property will be restricted. She will probably sell her home in the future and, when people come to see the site, they will see a nice park setting, organic garden, creek, nice woods, and a nice older house and they will think it is great. Eventually they will find out that there are restrictions on this property. If these new revisions affect people in her neighborhood -- and it is questionable what the percentage calculations will be -- this will affect the homeowners' values. The

decision tonight will affect people's major investment and no one has been able to tell her how this will affect their property values.

Frank Zorich, 1343 9th Street, stated that he is in agreement with adopting protection for the natural resources. He feels, however, that there needs to be more review on enforcement. He suggested possibly hiring someone full-time to go around and do enforcement. He submitted aerial photos and a plat map. He did a minor partition a few years back and now there are homes down there. In the interim he put utilities in for sewer and water. Now he wants to go back and re-partition a large lot. He asked if sewer is included under the new revisions. In his situation it makes an economic impact and it doesn't take all the liability off the lot. It reduces the building envelope on this lot from 50 x 50 to a 50 x 20. He could move utilities and move retaining walls and structured stuff up the hill to accommodate the next plat. However, this will not help protect the natural resource because of the utilities that were placed near the bottom of the setback. He feels that there should be some sort of exemption made for people who have previously put in utilities, grading, paid for survey, plating, recording, wetland biologist, and various consultants.

Neutral Testimony

Alma Coston, 5798 Hood, stated that she lives next to Maddox Woods and she testified during the Planning Commission hearings. She appreciates all that has been done to draft this code. There are a few things that concern her. She is opposed to the "one size fits all" scenario. There have been at least three testimonies from people who have unique situations. She would be willing to work on a work group that would review these types of small unique situations. Another concern is the required dedications and easements to allow for development. She is worried about the liability the City is taking on by requiring easements where people feel the right to use private property. And who pays for the injury is someone is hurt and an accident occurs? Last week six boys were in the natural area smoking. It could have endangered everyone's lives.

The City has tried to develop a common sense, reasonable protection zone. She has been protecting for 45 years on her property. There are ways to deal with the unique situations and things that create community, rather than antagonism. The notice was not that inviting. She could have thrown it away and not noticed it at all.

Alice Richmond, 3939 Parker Road, stated that she agrees with Mr. Engdahl, Ms. Kauffman and Ms. Coston. She would have said the same thing. She has lived here in West Linn for 48 years. She came to live here because she loved the natural environment and geography. She had a problem with seepage when she lived on Midhill Drive. Water will flow no matter how you try to control it. She is concerned that Metro is telling property owners what they can and cannot do.

She does not feel that she has abused her land. The problem starts from the Engineering Department. She asked that the Council consider all the concerns raised tonight.

Staff's Final Comments

Mr. Howard addressed some of the issues that were raised tonight:

- Public nuisance language was discussed at the Planning Commission. The City Attorney indicated that it was acceptable to add but it was lost in the shuffle. Mr. Monahan stated that the Municipal Code has a list of nuisances and it should be added there. If Council is going to consider adding this information, it should be added to the Municipal Code.
- The Planning Commission determined that the 15-foot minimum setback for an opened up stream should be reviewed on an individual basis without any artificial constraints of a minimum.
- In regards to the bonding language for Lake Oswego, the Planning Commission had discussion about property owners being required to assure that vegetation lasted for at least three years (Section 32.080E). The Commission came up with better generic language than Lake Oswego's language.
- Mr. Engdahl points out a good example of the impacts of the proposal; however, the code does have provisions to allow clustering of residential development on lots that have constraints (drainageways) through the planned unit development process. That is an option for properties like his. There are quite a few in the City that would be constrained by additional setbacks.

Mayor King asked if the proposal applies to lots that are created in the future. Mr. Howard stated that there are provisions for lots that are entirely affected by the proposed code amendments. Mr. Engdahl pointed out that of his 72,000 square feet about 32,000 square feet would require setbacks from the wetlands. Of the 40,000 square feet remaining, the code does not necessarily require Mr. Engdahl to divide that into minimum 10,000 square-foot lots by the R-10 zone. It does allow planned unit development or clustering of development. It does not reduce the density on a proposed lot. It will affect the type of development that will occur on the lot. The future owner would have the option of having fewer lots of a larger size, or under "planned unit developments" allowed clustering and having smaller lots on the remaining developable area.

- In terms of other lots, Ms. Miller's lot is over an acre and entirely a wetland. This is an area where the strict application of the code would take away all economic value and would permit up to 5,000 square feet of cleared area for a home and a yard. This is a lot less than may be desirable for an acre. The 5,000 square feet is set forth in the Metro

standard for a maximum cleared area on a lot that has a major impact on the entire area.

- The Planning Commission responded to Ms. Kauffman's testimony and directed changes to the code to make it clear that there would be an allowance to replace foot bridges, accessory structures, etc., on existing lots even if they were within the drainageway area. Property values are a variable thing. All zoning rules or land use regulations affect property values in some way. Someone purchasing that property may value having a natural area in the back. It is hard to quantify that on a City-wide basis.
- Mr. Zorich's situation provides an example why there is a final outlet (Chapter 75) for exceptional, extraordinary circumstances. A situation that would deny use of a property as has happened on adjacent properties would be a factor when looking at a situation like he described.
- The notice that was sent out met the State statute requirements under Measure 56. It is hard when sending out 3,000 notices to do an individual description of impacts on a particular property. They received over 100 calls regarding the notice. Though some people did not notice, some did and asked questions regarding information that was important to them.
- The 30-foot minimum language is not in Metro language (Table 32-1). It is a holdover from the existing code so there would be a 30-foot minimum in that situation.
- Codes for non-conforming structures specify that, if they are destroyed, rebuilding has to begin within one year and completed within two years. If Council wants different standards for such structures that might be damaged or destroyed in the natural drainageway area, it can be specified in this section of the code.

Councilor Carson asked about the impact for changing the language in 32.100 to include public nuisance as opposed to the current language. Mr. Howard stated that public nuisance language would give the City an additional avenue for enforcement.

Mayor King closed the public testimony portion of the hearing and opened it to discussion among the Council members.

Councilor Carson stated that she appreciates and supports all the work that has gone into this proposal. It has been a long time coming and something that needed to be done. Most of her concerns are fairly minor.

Mayor King stated that a lot of issues revolve around setbacks. There have been some minor suggestions like the comments on the enforcement language. He asked if there are other alternatives rather than a violation of nuisance. Mr. Monahan stated that the language presently proposed is making violations a Class A infraction and each day of the occurrence is a new infraction; this is very much like a nuisance provision.

Mayor King asked if there would be a 200-foot transition area next to lots that have 15 to 30 feet from the resource. Mr. Howard indicated that there are provisions for a situation where there was one remaining lot in a subdivision where the setbacks would make the lot un-developable; you get into the hardship situation where up to 5,000 square feet could be developed. The existing homes do extend further towards the drainageway than the new home is allowed to. The provisions of the code would minimize that by allowing the vacant lot a reasonable home to be placed upon it through the variance procedure. There are hardship provisions proposed in 32.090 of this code that would allow through the natural drainageway permit process consideration of allowing a reasonable amount of development on lots like that.

Mayor King stated that he felt that the language about bridges was very generous. Mr. Howard explained that the language addressed existing homes, not vacant lots. He indicated the Planning Commission changed the language in response to testimony from residents.

Mayor King asked if a resident that is close to subdividing his or her property could get in an application for development and avoid this new ordinance. Mr. Howard stated that, if someone submits an application prior to the effective date of the ordinance, the application would be under the old rules.

Mr. Monahan stated that the Council has the authority to set an effective date that is more than 30 days in the future. There is no enforcement date from Metro that must be complied with. There is no absolute date that the regulations have to be in effect.

Councilor Carson asked if there are any drainage swales that are not next to roadways. Should "roadway swales" be removed from the language? She asked if the fact that people can apply for a variance is a methodology to address the concerns of individual property owners who want to develop their lot. Mr. Howard stated that Item #3 in the staff memo adds language regarding drainage ditches that are interior to the property and not on the Storm Drainage Master Plan. Some of the roadside ditches shown on the Storm Drainage Master Plan are not a situation where full setbacks are required.

Councilor Eberle asked if the variance procedure and hardship procedure provides enough flexibility for relief of property owners who want to develop. The riparian corridors and water resources bring value to the community, to the earth and to livability. There is a struggle with the rights of property owners versus what's good for all.

Councilor Eberle asked if there is a process in the Surface Water Management Plan that, if someone contests what has been provided as a riparian corridor,

stream or drainage, that it could be contested and revisited. Mr. Howard stated that there was a case where the Storm Drainage Master Plan showed a minor open channel on a property and, after several staff members reviewed it, it was never found. There was an error on the storm drainage map. They couldn't require a storm drainage setback because they couldn't find the storm drain. He is not familiar enough with the Surface Water Management Plan to know if there is a formal procedure for that.

There was brief discussion regarding hazard situations, including removing vegetation, routine maintenance, fires and falling trees.

Mayor King noted that, if the transition area goes right up to the house, the fire hazard is very close. For example, 15 feet is not very much. He asked if the City needs to allow for a permit to clear vegetation. Mr. Howard stated that, if in the opinion of the Fire Marshal there is a strong hazard from the vegetation to the home that was right up to the edge of the natural area, the provision for maintenance would allow clearing or thinning of such an area to prevent a fire hazard.

Councilor Eberle moved to extend the meeting to 11:00 p.m. Councilor Carson seconded the motion.
Ayes: Carson, Eberle, King
Nays: None
The motion carried 3-0.

Councilor Eberle read the proposed ordinance for the first time by title only and moved to approve Ordinance No. 1545 adopting a Local Wetlands Inventory, a Riparian Corridor Inventory, and amendments to the West Linn Community Development Code, Chapters 2, 30, 32 and 99 per Agenda Bill 07-02-07 with the following revisions:

- **Additional letters and three-page memo dated February 8th from Gordon Howard, Senior Planner.**
- **Not include the amendment to riparian inventory regarding Gans Creek that has a 50-foot setback on either side rather than 100-foot setback .**
- **Definition of "bankful stage" is added.**
- **"Top of bank," Chapter 2, Table 32-1 should read "top of ravine."**
- **Add language to 32.020(C)**
- **Change 32.050(H) "walkways" to "trails, walkways and bike paths"**
- **Adding in language in 32.100 regarding public nuisance**
- **Change 32.090(C) to a minor proposal**
- **Issues of consistency with the Water Resource Area Permit and language that the decision maker is the Planning Commission.**

Councilor Carson seconded the motion.

Mayor King asked why the language is changing to "top of ravine," and is it a ravine if it is one side of the hill and not the other. Mr. Howard stated that there is already a "top of bank" in Chapter 2, which is inconsistent with this concept. If you use "'top of ravine," there is no confusion. There could be an asymmetrical situation; and there could be a ravine with a required 200-foot setback on one side, and a top of ravine situation with only a 150-foot setback on one side. You look at each side individually.

Councilor Eberle commended the Planning Department, Planning Commission, staff and all who worked on this project for such a long time. It was a big disappointment for her personally not to get this done during her first term. She is very pleased this has been brought forward and can be used for Goal 5 inventories but also be able to make some movement for Title 3 and Title 13.

She hears the concerns from the property owners that this will affect. She hopes through the variance and hardship process specific problems are worked out. This is good for our community, good for our earth, and it will be nice to see the flora and fauna to which the City is committed.

Councilor Carson, too, thanked those who worked on this process. She understands that this will cause hardship on some people. There will be people who did not realize what impact this will have on their properties. She is glad to see that hardship provisions are included for those who are affected. She is happy to see this go forward.

Mayor King stated that he is glad to see this go forward and thanked everyone who contributed their ideas and suggestions on both sides of the issue. This process started the last year of the Thorn administration. He asked Council to work out additional language to give more protection to property owners before the issue is passed. He feels that some people are being stranded.

Councilor Carson noted that people can look into a PUD for property that wasn't already divided. They have several avenues: replacing an existing structure; having a 5,000 square-foot lot; the PUD approach; and the variance approach. She cannot think of any mechanisms that would provide an additional protection than those four in some combination would do. These address the majority of situations. Staff has done a good job in trying to address this issue. There are going to be some folks that will be impacted, but there is no language that can be crafted to solve every particular situation better than these avenues.

Mayor King voiced concern about people who may rush to develop. There may be development that the City may not want (apartments or row houses in the R-10 zone) to get the number of houses they would ordinarily get. He is concerned that people's opportunity to use their property and to develop their property is being taken away.

Councilor Eberle noted that, if there were something crafted subsequent to passing this tonight and if there were something else that could be brought back, modifications can be made if warranted. She can't think of anything that would be better than the variance or hardship process.

The pending motion was voted on as follows:
Ayes: Carson, Eberle, King
Nays: None
The motion carried 3-0.

Councilor Eberle read the ordinance for the second time by title only and moved to adopt Ordinance No. 1545 adopting a Local Wetlands Inventory, a Riparian Corridor Inventory, and amendments to the West Linn Community Development Code, Chapters 2, 30, 32 and 99 per Agenda Bill 07-02-07 with the revisions heretofore mentioned. Council Carson seconded the motion.
Ayes: Eberle, Carson, King
Nays: None
The motion to adopt Ordinance No. 1545 carried 3-0.

Adjournment

The meeting adjourned at 10:52 p.m.

AGENDA BILL
07-03-03

For Council: March 19, 2007

Department: Administration

Subject: Approval of the City Council Meeting Minutes of February 15, 2007

City Manager's Initials: eg

Attachments: Yes - Minutes

Budget Impact:

Expenditures Required: 0	**Amount Budgeted:** 0	**Appropriation Needed:** 0

Summary:

Draft minutes of the February 15, 2007, City Council meeting have been prepared for your approval.

Recommended Action:

Motion to approve minutes.

Council Action Taken:
Approved:
Denied:
Continued:

DRAFT

West Linn City Council Meeting Minutes
Special Meeting
February 15, 2007

Council Present:	Mayor Norman B. King, Council President Mike Gates; Councilor Scott A. Burgess, Councilor Jody Carson, and Councilor Michele S. Eberle
Council Absent:	None
Staff Present:	Chris Jordan, City Manager; Bryan Brown, Planning Director; Gordon Howard, Senior Planner; John Atkins, Community Services Coordinator; City Attorney Bill Monahan; and Shirley Richardson, Minute Taker

Call to Order / Pledge of Allegiance

Mayor King called the meeting to order at 7:05 p.m. He called to order the public hearing to review the Planning Commission's approval of "Tannler West," a proposed office development on the northwest corner of Blankenship Road and Tannler Lane. The Tanner Basin Neighborhood Association is appealing the decision of File No. AP-07-01. Bill Monahan explained the hearing's purpose. The approval criteria for the proposed office development are in Community Development Code Chapter 55, Design Review. Chapter 99 has the standards for the application process and the appeal hearing process. Mayor King reviewed the hearing procedure.

Mayor King asked if any member of the Council has visited the site. Councilors Gates, Carson, Eberle, and Burgess stated that they visited the site many times. Mayor King stated that he has driven by the site but has not been on the property.

Mayor King asked if there were any conflicts of interest or *ex parte* contacts to declare. Councilor Burgess stated that he has worked with this developer in the past and they built the building where he works, but he does not feel this will interfere with his ability to vote on this issue. Council President Gates stated that he served on the 10th Street Task Force and there is information in the packet that was made available at a meeting he attended. He does not feel this will impact his decision on this issue. Councilor Carson stated that she, too, served on the 10th Street Task Force and received the same information. She does not feel this will affect her decision.

No one in the audience challenged the impartiality of any Council member or the jurisdiction of the City Council to hear this matter.

Gordon Howard reported that the application was approved on December 21, 2006, by the Planning Commission and appealed by the Tanner Basin Neighborhood Association. This is a three-building office complex, 298,000 square feet with all buildings about the same size. Included is a four-level parking structure.

In addition to the staff report tonight, a letter was received from the Oregon Department of Transportation (ODOT) explaining their support of the revised conditions of approval regarding the traffic mitigation. Copies have been made available to the Council, applicant, appellant and extra copies made available to the public.

Aerial photos were shown of the site and surrounding area. The proposed site plan and zoning map were displayed.

The major issues involve traffic; a significant amount of traffic would be put onto the streets in the area. The project will include:

- A signal light at the intersection of Blankenship Road and the new combined access driveway from this site and the existing office development to the west
- No signal light at the intersection of Tannler and Blankenship
- A left-turn channeled lane on Tannler
- On Tannler there will be two entrances into the project site and two exits, right turn only

Other proposals include:

- Lane widening to allow two lanes turning right from Blankenship onto 10th Street
- Creation of additional turning capacity on Salamo Road going onto 10th Street
- Leaving room for two left-turn lanes from 10th Street to Blankenship in the future
- A new channeled lane on the off-ramp and 250 feet of additional pavement for two lanes
- Additional queuing ability turning left from Salamo onto 10th Street where the existing left-turn lane would be lengthened
- Under the freeway 10th Street will be widened to a total of five lanes, two lanes in each direction plus a center turn lane
- Southern off-ramp of I-205 and 8th Court, a lane opposite the Willamette Marketplace site within the existing right-of-way

Major issues in traffic are the 10th Street Corridor, adequate traffic mitigation, preclusion of comprehensive solution, impact on undeveloped properties, and additional ODOT mitigation.

The major issues of site design are the proposal is the largest commercial development ever proposed in the City; the building fronting Blankenship is in conformance with City design guidelines; the parking structure is placed between buildings thus less visible; and this project will be combined with an existing office park to the west in terms of parking, drive aisles, and management in the future.

The Planning Commission also discussed storm detention and they approved underground detention. The alternative aboveground storm detention was a poor design aesthetically, and it was felt that a single commercial property owner would be better able to maintain a private storm facility in the future.

In terms of open space, about half the site (northern portion) would be preserved as open space. Tree conservation easements would be placed over a significant portion of the area (mostly White Oaks). There was an issue with the trail along the northern boundary of the property that was resolved by the Planning Commission to reserve the trail in its existing location. The buffer created by the open space ranges from 200 to 600 feet in a horizontal plan view, and the vertical distance is 40 to 80 feet below the existing residential development above it.

Staff recommendation is to uphold the Planning Commission decision and approve the project with the conditions of approval with one exception having to do with Condition #9. That condition would include changed additional language as follows: "and the recommendations of the Oregon Department of Transportation (ODOT) contained in their letters of November 21, 2006"; and "and as modified or amended by the recommendations of Carl Springer and ODOT." This condition of approval has been agreed to by ODOT, staff, the applicant, and Carl Springer, City traffic consultant.

Mayor King asked if there was any correspondence on this matter other than those items in the packet. Mr. Howard said no.

Councilor Burgess asked if the existing pedestrian pathway goes all the way across the property and if the improvement goes all the way across the property. Mr. Howard stated that the applicant's proposal is to improve the portion of the trail that is on his property. There is a portion of the trail on the old right-of-way of Greene Street, which was not vacated because the owner would not give consent. This portion of the trail will not be improved but will remain. The Planning Commission concluded that there is no rough proportionality for a requirement to relocate or improve that trail.

Councilor Burgess asked what the level of service for Tannler is. Mr. Howard stated that he believed the existing level of service was F; the applicant will have

more information. Even with the possible light at Tannler, at p.m. peak hour because of the queuing, the level of service would still be F.

Councilor Burgess asked if the improvements along the sidewalk were going to include planter strips. Mr. Howard stated that he would check through the document to see if planter strips are included.

Council President Gates asked for clarification of the level of service F on Tannler. Mr. Howard stated that a left-turn from Tannler onto Blankenship is the level of service F. Blankenship would not be a problem.

Councilor Carson noted concern about using the driveway of nearby apartments. She asked if this will be a problem. Mr. Howard stated that there are two accesses to the Summerlinn complex. He does not see them as being used as access to the north.

Councilor Burgess asked if there is reasoning for leaving a portion of the site as open space. Mr. Howard stated that there was no other reasoning other than the applicant's choice to meet the code in regards to an appropriate buffer and protect the trees as required by the code.

Appellant Presentation

Ed Schwarz, 2206 Tannler Drive, stated that he is here tonight representing the Tanner Basin Neighborhood Association, who filed the appeal. He has submitted a document that details the concerns of the neighborhood regarding issues that have come up since the Planning Commission hearing.

The Tanner Basin Neighborhood Association completed their plan that sets forth goals and policies that affect development in their area. Some of the goals affect the development proposed:

- Improving traffic flow
- Well planned sustainable growth
- Adequate infrastructure in place before development occurs
- All of the infrastructure does not degrade beyond the level of service C

Mr. Schwarz stated that it would have been worthwhile for the applicant to work with them on the plan and look at the goals for this area.

Traffic is the largest concern with this development. The Association had a local Metro area municipal transportation engineer review their conclusions about traffic; specifically whether or not the application mitigates the additional traffic being put onto Tannler from this development as is required by the code. His conclusion was that this development does nothing to mitigate this additional

traffic. This is additional evidence that the application does not comply with the Community Development Code (CDC).

Slides were shown summarizing the concerns. This is the largest commercial development ever planned for West Linn. This comes at a time when the City is dealing with a lot of traffic issues. This proposal is impacting the area of West Linn that has the most focus on traffic.

The application is in violation in many ways:

- Violation of CDC 55.100(I)(1), which requires new development to fully mitigate for any additional traffic that it causes. Traffic will go onto Tannler Drive from the exit out of the development, and nothing is done to mitigate that traffic. The proposal is for a 250-foot left-turn lane at the bottom of Tannler. This is storage or a place to queue 15 or more cars at the bottom while people wait to turn left on Blankenship. He hadn't considered Councilor Gate's alternative of cutting through the development. It may be a preferred alternative to people who see 15 cars at the bottom of the street. Several residents of the neighborhood noted that people will see the backup, come down in the right lane to Blankenship, and make a left at the light into the entrance of Albertson's. They will cut through the Albertson's parking lot, zip up by the Great Clips, and go back out onto the road while the people on Tannler are still waiting to turn left.
- The lot line adjustment is not in compliance. The code allows for a minor lot line adjustment. The proposal will allow for an adjustment of three-quarters of an acre. There are other alternatives rather than calling it a lot line adjustment. It can be done properly through the County. This is in violation of CDC 85.210(A)(3), which only allows the tweaking of lot lines.
- The noise study was not adequate. A formal noise study was not done. A noise expert was hired by the Association. He found that there are some issues that weren't addressed by the noise study. There will be garbage trucks frequently picking up at this site. This will add extra noise that wasn't accounted for in the applicant's study. He did not feel the noise study was adequate; it does not meet CDC 55.100(D).
- Drainageway and slope issues were not fully reviewed for alternatives. The code requires that the applicant look at all alternatives to show the retaining walls are the best solution. There was nothing in their information that indicates alternatives to this much cut and fill on this slope. The Association is concerned about possible slides.
- Proposed phased development is not allowed under the code. The applicant is requesting to do the off-site mitigation in two pieces; one before the first building is occupied and the second piece before the other two buildings are occupied. If this were a staged development, they could ask for that. They are asking for design review of all structures right now.

They want approval to build all three buildings. If this is the case, they should be required to do all the off-site mitigation before occupancy.

- The applicant was allowed deferred conditions of approval that should have been included in the application

There are three other conditions of approval that they feel should be included. Do they have the legal authority to use the driveway access for the land next door? There have been no plans submitted for replacement of trees and where they will be located. Why is the street lighting plan being asked for after the fact? These issues should have been addressed in the application so the public would have a chance to review them and comment on them.

- Building A is too large. This is a 55-foot tall building which is the maximum the code allows. It will sit on top of a 24-foot tiered retaining wall. There will be a 79-foot structure (seven stories) very near Blankenship Road and the sidewalk.
- Closed versus open catch basin -- The open catch basin can be done and is easier to monitor and maintain. The Neighborhood is asking that there be an open catch basin. A picture was shown of an open catch basin in Lake Oswego.

Traffic is the biggest concern. Tree protection is very important. The other issues are important; the drainage and slope issues, the noise study not being adequate, the lot line adjustment problems. The fact that the applicant is not mitigating the traffic they are putting on Tannler is not good. The application needs to be denied and sent back and ask them to fully mitigate the traffic being put on the streets.

Mr. Schwarz asked for a continuance of the meeting and that the record be kept open for 21 days per ORS 197.763.

Councilor Gates noted that, in regards to the testimony about moving Building A back from the street, the application was adjusted to move the buildings 63 feet towards the street after comments from the neighborhood. Mr. Schwarz stated that the application was adjusted to move the upper buildings down the hill. He is not sure the lower building was moved at all.

Councilor Gates asked, if the building were approved, the neighborhood would rather see more retail than office? Wouldn't this generate more traffic? Mr. Schwarz stated that he did not know how much traffic would be generated by retail.

Councilor Gates asked Mr. Schwarz his definition of mitigation -- what already exists or not causing more than what exists? Mr. Schwarz stated that his

definition would be the added traffic being put on street that they have to mitigate for; they do not have to take care of existing traffic.

Councilor Gates noted that the current assigned level at the intersection is F. It was testified that the neighborhood would like to see a C. How is it the responsibility of the applicant to go to a C or merely not make it any worse than it is? Mr. Schwarz stated that the neighborhood association plan sets a goal of level of service C for the streets and intersections within Tanner Basin. But what the neighborhood is asking of this applicant is not to make it a C, but not make it worse than the F that it is.

Councilor Burgess asked if the concern regarding mitigation is focused on Tanner Basin. The applicant is doing quite a bit of mitigation on Blankenship, 10th Street, etc. Mr. Schwarz stated that his concern is that the applicant is not mitigating the additional traffic they are putting on Tannler; they are not correcting the problem they are making worse on Tannler. There are a lot of concerns about the queuing that will occur at the bottom of Tannler.

Councilor Burgess asked if the neighborhood is interested in seeing Tannler hooking up to the 10th Street corridor. Mr. Schwarz stated that there are significant oak trees in the area where this connection would be made. There is concern about being able to save the oaks.

Councilor Burgess stated that there are multiple streets coming in that are not at intersections. Intersections create traffic and traffic can go in both directions. Mr. Schwarz stated that there have been a lot of alternatives discussed; that is, vacating the bottom of Tannler, going through Tannler East, or wrapping around Tannler West and coming down to the Albertson's intersection. The 10th Street Task Force is investigating alternatives and what is the best option.

Councilor Carson stated that, looking at the model and the open storm water detention facility referred to in Mr. Schwarz's testimony, to open the storm water detention pond would require a fair number of retaining walls and be elevated from the street. This would not be aesthetically pleasing and a difficult design. She asked what Mr. Schwarz is visioning when he says he would like to see an open water facility. Mr. Schwarz stated that he feels that the ultimate design is open to discussion. There are alternatives that have not been looked into. There have been no alternatives presented on any open retention pond. It could be an amenity for the area if done right.

Mayor King asked Mr. Schwarz to be more definitive on where the applicant did not meet the code. On the slope issue is the applicant required to provide an alternative? Mr. Schwarz cited CDC 55.100(B)3, "...the topography and natural drainage shall be preserved to the greatest degree possible." He did not see in the applicant's report any evidence that they looked at other alternatives that

might have allowed them to preserve this slope more than they have. West Linn values its drainage and slopes. When an applicant is coming to the City and asking to build something, they need to be burdened with the proof of showing that they meet all the codes that exist in the City.

Councilor Eberle noted that the code says that it must be preserved to the greatest degree possible, not that they need to present 10-15 alternatives and decide which one is the greatest degree possible. The Planning Department and the Planning Commission felt that the applicant has met the burden of proof to the greatest degree possible. She asked if the planter strips that prohibit anyone from leaving the Summerlinn complex to turn left to go up Tannler is an effort to mitigate traffic that would impact the neighborhood. Mr. Schwarz stated that there is never a queue going up the hill. The traffic that has impact is the traffic that is going down the hill at the bottom of Tannler. That is the traffic that should be mitigated.

Councilor Eberle asked what the neighborhood suggestion is to mitigate that traffic. Mr. Schwarz stated that the suggestion is a function of the 10th Street Task Force. They would like to see that group come up with the best solution for the Tannler problem.

Councilor Eberle asked how often garbage trucks and street sweepers currently go through the Summerlinn complex as part of the maintenance in reference to the noise issue. Mr. Schwarz stated that he didn't know.

Burgess noted that in the packet there are different alternatives of laying out the slope; Exhibit H - A-100, A-101, A-102, and A-103. The applicant did make some changes in the location of the building. West Linn is geographically challenged and this site is one of those challenges. The buildings have been spread out in an effort to reduce change and retaining the natural slope. He asked Mr. Schwarz if the neighborhood has an opinion about the sidewalk/planter strip going up to the curb. Is there an issue of cutting down trees to plant new trees? Mr. Schwarz stated that the neighborhood did not have an opinion on saving the trees and having a slope rather than trees and sidewalk. Mr. Schwarz stated that he did not recall this subject being discussed by the neighborhood. In regards to moving the buildings down the slope, the neighborhood request was to move the upper buildings to save as many trees as possible and to not impact the people who live up there (sight lines, etc.). They never requested that the lower building be moved closer to the street. They are asking that the upper buildings be moved closer to the street.

Council President Gates stated that it is his understanding that, when the appellant comes forward with an appeal, the role is reversed and it becomes the responsibility of the appellant to show what the improvement should be in a specific way. He stated that he felt the example of the catch basin used in

testimony had significantly different sloping involved; it was a much more level property.

Councilor Eberle asked what neighborhood's position would be if the building was moved back up closer to the Summerlinn complex versus having the building closer to Blankenship and Tannler. Mr. Swartz stated that the request was done to minimize the impact on the people on the upper portion of the site. He didn't want to speak for the whole neighborhood of the choice of the upper buildings being closer to the upper homes or having the buildings closer to the street. He is not sure those are the only two alternatives. He would prefer that the upper buildings remain where they are and move the lower building, providing a cushion between the sidewalk and lower building.

Mayor King stated that the houses directly up the hill from this site are not in the Tanner Basin Neighborhood. The development is not in the Tanner Basin Neighborhood; however, there will be a traffic impact to the Tanner Basin Neighborhood. Mr. Schwarz stated that the people around this site are technically in the Tanner Basin Neighborhood. They are in the Willamette Neighborhood; however, the people there identify more with the Tanner Basin Neighborhood Association and, when this project was put forward, they came to the meetings and expressed their concerns about this proposed building.

Mr. Monahan stated that it is the appellant's responsibility to point out deficiencies within the application or findings of the Planning Commission. In this land use matter, the responsibility for proving that all the criteria have been met stays with the applicant.

Applicant Presentation

Bob Thompson, 0690 S.W. Bancroft Street, Portland, stated that he is an architect and principal with Group MacKenzie, representing Blackhawk Development. Bill Wilt and Jeff Parker are here tonight with Blackhawk Development. Blackhawk hired Group MacKenzie to design this project about 16 months ago. Group MacKenzie is a multi-discipline design firm with architects, engineers and planners. They have designed numerous office buildings throughout the metropolitan area. With him tonight is Dick Spies, Director of Architectural Design; Dan Jenkins, Landscape Architect; Rhys Konrad, Land Use Planner; Matt Butts, Civil Engineer; and Brent Ahrend, Traffic Engineer.

They have received unanimous approval from the Planning Commission and have a recommendation of approval from City staff. The staff has also approved their lot line adjustment recently.

They have been working on this project for over a year. The site is located in an office business zone and intended for office use. The project is located in the

Willamette Neighborhood and abuts the Tanner Basin Neighborhood. Over the year they have met with both neighborhoods two to three times, City staff numerous times, ODOT, adjacent property owners, and coordinated with several traffic engineers.

The original application was submitted in June with a different design. After meeting with staff and the neighborhoods, they redesigned the project to address their concerns. After the redesign the Willamette Neighborhood acknowledged their efforts and supported the redesign effort. A portion of the redesign was the sidewalk on Tannler. Originally the planter strip was to go all the way up Tannler, but it would have required cutting the slope on the upper portion and removing the trees. They readjusted the sidewalk to abut the curb to retain the natural slope and save the trees.

They reviewed slope options. The project is designed to terrace into the bank and utilize the natural slope. The driveway on the eastern façade is the natural grade of the site and the buildings are terraced into the site to minimize site disturbance. The revised application was submitted in August. They are pleased to say after months of hard work this application has the support of City staff, the City Engineer, the City's transportation engineer, and ODOT. They have the support of adjacent property owners. They met with the Planning Commission twice in December, and it gave the project a unanimous approval with 16 conditions. Tonight they are asking for Council approval.

Dick Spies, Director of Design for Group MacKenzie, stated that he has been in this position for 14 years. Prior to that he worked as a principal in charge of commercial office development for 26 years. He feels that this project will be a benchmark that the City of West Linn can be proud of. The approach they are taking to making it as dense as possible in its footprint yet making it a low density, low impact project is noteworthy. The floor-area ratio is usually about 66%; this project will be 58%. They moved in this direction on purpose. There was concern raised from the neighborhoods about scale and fit of the project. He appreciated the comments that came back from the neighborhoods, and they feel they have taken a very serious look at those concerns and that is reflected in their current design.

The project has 51% of the site area left in native open space with 67% of the entire site landscaped. They are trying to focus on the notion of mixed use. They work closely with their planners and architects to design communities where people can work close to where they live and where they shop. This is a unique opportunity to provide good places for employment for people who live in this region.

The buildings were moved down 63 feet. They did that by a more compact parking garage. They internalized the circulation and reduced the surface area

for parking. The streetscape has been designed to internalize the parking and buffer the adjacent buildings. He is confident that they can design mechanical apparatus to satisfy the concerns of the neighbors. This will be a project that everyone will be proud of.

Brent Ahrend, 0690 SW Bancroft Street, Portland, stated that he is a traffic engineer at Group MacKenzie. Earlier in the project the Tannler East project was denied. They looked at the improvements they were proposing on the transportation system to consider what mitigation would be additional for this project. They talked about the overall plan for this with the City and ODOT. In the City's Transportation System Plan there are two recommended alternatives for dealing with this interchange; one is a tight diamond and the other would bring the off-ramp from 205 southbound instead of intersecting on 10th Street. ODOT has rejected both of these options. They have to work with the plan they have proposed now. The biggest concern is the close proximity of the intersections. They have to mitigate for a level of service D. They had to add lanes and will adjust signal timing to make these intersections work well together.

Initially the traffic study recommended nine improvements for phase one and five recommendations for phase two. The second item recommended was installing a traffic signal at the intersection of Tannler and Blankenship. It was the City and their traffic consultant (DKS, Inc.) and ODOT both that said they did not want the traffic signal at Tannler and Blankenship and asked that it be moved back to the existing driveway of the existing adjacent office building and the Albertson's access. They felt the intersection was too close for signal spacing.

The majority of traffic coming out of the project that is turning left on Blankenship will now come out of that driveway. The neighbors have several routes they can use or drive through the site. Placing a signal at the existing driveway of Albertson's will create additional gaps in traffic approaching on Blankenship, and that will help out a little bit as well.

There are 14 items in the mitigation plan. It was reviewed and approved by City staff. Revised Condition #9 was to incorporate additional items ODOT had asked for and which were missed in the first round with the Planning Commission.

The appellant has noted that they had their assessment reviewed by a traffic engineer; however, there is no documentation that a traffic engineer has reviewed their analysis or their interpretation of the analysis.

Mayor King granted the applicant five more minutes to complete their presentation.

Bill Wilt, 27050 Petes Mountain Road, stated that he owns Blackhawk. Some time ago they built another building in this community. Water retention was an

issue, and there were good decisions and the facility works well. Compared to the Summerlinn building, this building is farther back. It is not as close as it looks. There is significant difference in how the City will look with this project. This project is over the edge in quality. It is better than any building on Kruse Way. It will contribute considerably to City revenue. They have done everything possible to redesign the project in consideration to the neighbors, and he hopes that the Council will vote for their project.

There will be a considerable amount of trees and landscaping with this project that will go along with the quality of the building. In regards to traffic counts, the project is only required to provide a lane and a half through this corridor, but they are going to have two lanes which will improve the traffic over what it is today. There was a total count of 30 cars on Tannler. The reality of the situation is that there will not be 30 cars queued at the bottom of Tannler.

Councilor Gates asked how many cars more will be involved with people exiting from this project using Tannler. Brent Ahrend stated that the figures in the original traffic study (figure 4b) present the existing weekday p.m. peak hour volumes. There are 35 left turns from Tannler to Blankenship. There is some background growth that will occur from the additional housing development on the hill. Adding in all the trips (Figure 11b) there will be 273. When the signal goes over the driveway, a majority of the trips will use the driveway instead.

Councilor Gates voiced concern that, if all three phases of the transportation element were done at one time, it will allow people to go around and use the light. If this is phased one at a time, people will not have that access. Mr. Ahrend stated that the drive out on the site plan will be built with the first phase. People will have the ability to go through, and the light will be provided with the first phase. With the first phase there will be an increase in the use of Tannler for left turns as people will go where the signal is.

The original analysis recommended a signal at Tannler. When the City asked them to move it, it was reviewed and found to be okay. The level of service will remain as it is today without a signal. About 10% of the site traffic will still find it convenient to go out that way.

Mayor King noted, because of the barrier in the middle of Tannler that doesn't allow traffic to go uphill, it means that those wanting to go uphill will have to go out the other light, make a left, and make another left to go up to Tannler.

Councilor Burgess asked if the applicant still thinks the light at Tannler is the better solution. Mr. Ahrend stated that they could make it work at either location. He feels that it would be better for the neighborhood if the light was at Tannler. Additional widening is required between Tannler and 10th on Blankenship. For

the overall flow of traffic on Blankenship, it is better to be at the driveway; for the project, either location would be fine.

The concern with the signal at Tannler is that it would back up traffic coming from 10th Street turning onto Blankenship. Overall the flow of traffic on the system as a whole will be better with the signal at the driveway than it would be at Tannler. The City and ODOT have made their decision to have the signal at the driveway.

Councilor Burgess asked if there was consideration given to a formal road through the project and having the development focused on that road as opposed to onto Tannler or Blankenship.

Mr. Spies stated that they looked at alternatives and found them to be very onerous. On the entire development of the property, the idea of bringing a road onto the site would cut out a good deal of the property and take away efficiencies of the site.

Mr. Ahern indicated that aligning Tannler across from Albertson's or from 10th Avenue would be beneficial. It would help the neighborhood and traffic from the hill get out. Cutting through the site with a public street eliminates the opportunity to build the project as it is currently designed. Access would be a real issue for this site and the adjacent site, as well. If Tannler came through the site and lined up with the Albertson's driveway, the driveway for the existing building would have to go way back up the hill to meet grades for public street standards.

Councilor Burgess asked the applicant if there is anything else that came out in their study of this site that can be offered to the City in terms of 10th Street. There is a 10th Street Corridor Study and it is in everyone's interest to solve the traffic issues.

Mr. Ahern stated that the two options recommended in the TSP would be viable alternatives; however, ODOT said they would not accept either alternative. They have significant constraints with the adjacent roads and the grades. It makes it tough to build what ODOT considers a standard interchange. They would have to get variances to make it work. The other option that is still available is moving Tannler to the east to align with 10th Street.

Councilor Carson asked for more detail on the frontage of the building on Blankenship and the setback and retaining walls.

Mr. Spies stated that what they had shown at the last Planning Commission hearing was a three-tiered retaining wall system with extensive landscaping cascading down over that retaining wall system and compared that with a straight wall that would have allowed enough room for the open catch basin drainage

system. It was agreed at that point that the stair-step approach had a much more positive impact on the overall neighborhood.

A comment that came out of the neighborhood meetings was a desire to increase the pedestrian connectivity from Blankenship up into the southern edge of these buildings. There is a setback that is generous enough to get a very comfortable stair-step pedestrian way that goes up the tiers of the system through the landscaping and comes into the southern edge of the building. They feel that they have pushed the building back as much as they could to still allow enough room for landscaping in the interior of the site and making as generous a statement at the street as possible.

Councilor Carson voiced concern about a pedestrian walkway up the existing driveway between the two developments. Mr. Spies stated that they are currently proposing pedestrian connectivity that comes up from Blankenship, laterally across from Tannler with handicapped accessibility. There is also the ability to move into the parking garage. These are all tied together with pedestrian connections. There are elevators at both the north and south end of the parking structure.

Councilor Carson stated that she couldn't see a walkway available for people who are crossing the street to Albertson's. Mr. Spies stated that this could be done; a sidewalk can be placed along the driveway.

Councilor Eberle asked if consideration was given to another entryway off of Blankenship and not having any entry point off Tannler. Mr. Spies stated that they were concerned about the number of curb cuts on Tannler and the amount of traffic on Tannler. They were trying to put the traffic to the west where the signal was proposed. From a grade standpoint, they felt they couldn't put another curb cut onto Blankenship. The spacing of the curb cuts would not allow it.

Councilor Eberle asked about the proximity of the building to the roadway; in other words, how many feet from the curb their building is from Tannler and Blankenship. Mr. Thompson referred to drawing sheet C-2.1. Starting at the tightest point of the western edge of Building A, the corner of the building is 15 feet from the property line and 40 feet from the curb line. There was brief discussion regarding the dimensions and scale of the building. From Blankenship at the southeast corner of the building, from the curb line it is approximately 90 feet and from the property line it is approximately 55 feet.

Councilor Eberle asked if there is a planter strip along the sidewalk on the Blankenship side. The applicant stated that at the existing driveway the sidewalk is curb tight. In the front of the building the new sidewalk steps back to provide a six-foot planter strip along the new building.

Mayor King asked if the sidewalk, planter strip, and bank along Tannler down to Blankenship will be landscaped. Mr. Spies stated that it will be landscaped along the new development to the northeast corner of the upper building, and then curb-tight from there north. The desire of the neighborhood was to retain the existing trees on the bank. Mayor King stated that he does not agree with keeping all the trees in that area. He feels that the trees should be thinned out.

Mayor King asked if open space would be dedicated. Mr. Thompson stated that there is a conservation easement around the trees in that whole area. The invasive species in this area are blackberries. They have cleaned that out and they would like to maintain that to keep it cut down and keep the natural look.

Councilor Burgess stated that the traffic from east to west has been addressed; however, he voiced concern about accessing the property from the west. How do you get from Albertson's to Building A from the west, going east? Mr. Thompson stated that a pedestrian connection can be placed on the west side of the driveway. There is a sidewalk at that point both leading to Building A and the existing medical building. There is a pedestrian access to the intersection where there is an existing crosswalk leading towards the restaurant pads.

Councilor Carson stated that there is no crosswalk across Blankenship at either intersection; the only crosswalk is at the light. Her concern is that, wherever there is a crosswalk, there needs to be an access to the buildings. Mr. Spies discussed access and agreed that the access to the buildings should be located next to the crosswalk.

Councilor Burgess asked about better pedestrian connections that relate to the inside of the parking structure. Mr. Spies stated that they designed the parking garage ramp as far to the west as possible so people will come to the center of the parking structure and go north or south to the buildings. They could easily put a sidewalk connection to the entrance.

Councilor Burgess indicated there seems to be a public space between Buildings B and C and asked if there will be a public area for Building A. Mr. Spies pointed out an area that would work as a lobby or break space. They have yet to do any detailed space planning for the building, but they would like to see some kind of ground floor food service outlet so people could come down, have access to food, and take advantage of the porch. There are a number of covered outside decks where tenants can take advantage of the views.

Councilor Burgess asked if the crosswalks will be raised. Mr. Spies stated that they would review materials to make sure that the crosswalks are marked as a pedestrian zone.

Councilor Burgess asked if the HVAC is beyond the height limitations. Mr. Spies stated that HVAC is beyond the height limitations; it is provided for in the code. The penthouse (mechanical screen for HVAC) is 10-12 feet high. In regards to the concerns raised regarding the noise, Mr. Thompson indicated they will orient the compressor towards the freeway on the south side away from the residents.

There was brief discussion regarding mitigation. Council President Gates asked if both the applicant and opponent were willing to sign a waiver of the 120-day limit to allow time to prepare documentation on the effect of moving the light to the west in terms of traffic counts. Mr. Thompson stated that they will get that information for Council. It will take about five minutes.

Councilor Eberle asked what the medians will be filled with other than cement. Mr. Thompson stated that the island would be landscaped and the raised median in the middle of the road will be landscaped.

Councilor Eberle confirmed there would be ample ADA parking spaces available in the parking structure.

Councilor Eberle asked what efforts have been taken to build this building as a green building. Mr. Spies stated that the configuration of the building and orientation of the buildings set up the energy profile of the building. The north side of the building is set in the ground so the heat loss is controlled on that side. They have introduced light shelves and shading devices on the southern aspect of the building, which allows for protection from the heat on the window surfaces and bouncing more light back into the spaces. They will look at sophisticated electronic controls for lighting on the inside of the building; look at an energy efficient roof; capturing of water runoff into a catch basin and treating it into the landscaping. Taking advantage of the latest technology and precautions from an energy standpoint, they will design a lead standard but not necessarily go through the certification process.

Councilor Burgess asked for a review of the building materials. Mr. Spies stated that they are looking at a combination of building materials. There will be a brick veneer (wheat color); a concrete block and pre-cast concrete components; light gray architectural metal panels and accent metal panels that are part of the solar shading devices; a light green cast glass (transparent) and dark window moldings.

[A recess was taken at 9:37 p.m. and the meeting reconvened at 9:55 p.m.]

Mr. Ahern stated the City's traffic consultant (DKS, Associates) wrote a letter reviewing their traffic study dated October 30th. In the letter they indicated that they wanted the signal moved to the driveway. They also indicated that they

know the intersection that is not signalized will have long delays. They determined that the best operation would be to move the signal to the driveway.

Group MacKenzie provided a response dated November 3rd (A-173, Exhibit PC-10), which identified the level of service with the shift in traffic to be a level of service C at about 60% of capacity at that driveway with the signal. That assumes an 80/20 split of traffic from the site would go to the location where the signal is. DKS agrees with that assessment of 80/20 and asked them to stick with that.

The numbers from the site would be 236 left turns at the signal at the driveway and 59 left turns at the intersection of Tannler at the p.m. peak hour. The estimate for build-out of this site with the background growth and development that is already occurring in the area there will be about 95 left turns from Tannler to Blankenship and 294 left turns from the office driveway onto Blankenship. There are a significantly higher number of left-turns at the driveway where the signal is now proposed.

Mr. Ahern indicated that currently it was 35 left turns from Tannler to Blankenship in the p.m. peak hour. At the existing office driveway there are 58 left turns.

Mayor King asked for an explanation of staged improvements. Mr. Ahern stated that there are two stages; the improvements with the lower building and additional improvements recommended to the two buildings to north. In their recommendations in the traffic studies, all the improvements are referred to as phase one and phase two. Condition #9 references the list of improvements. Phase one (southern Building A) includes the following offsite improvements:

1. Widen eastbound Blankenship approach to 10th Street to provide full-width through and right- turn lanes
2. Install traffic signal at the driveway
3. Only applies if signal is put in at Tannler
4. Providing two southbound lanes on 10th Street from Blankenship to the southern ramp terminal.
5. Stripe a 300-foot left-turn lane on Tannler at Blankenship
6. Left-turn lane from Tannler into the site access
7. Lengthening the northbound off ramp
8. Coordinating all the signals together
9. Providing sight distance at all the driveways
10. Restripe the existing three-lane approach at the intersection of Blankenship and 10th Street to allow for left-turn and through movements from the right-most lane

Phase two (full development):

1. Complete mitigation measures from phase one
2. Only applies if signal goes in at Tannler
3. Add a second eastbound right-turn lane on Blankenship at 10th Street
4. Provide a second northbound lane on 10th at the south interchange
5. Extend the northbound left-turn lane on 10th Street at the I-205 south on-ramp to 300 feet

Mayor King voiced concern regarding traffic disruptions. Mr. Ahern indicated phase one is along Blankenship and phase two is along 10th Street. There is no date certain for phase two. Mr. Thompson indicated it may be market driven, possibly two to three years.

Councilor Eberle asked if all the mitigation efforts can be done at once. Mr. Ahern stated that it is not needed for mitigation if they are going to do one building first.

Councilor Carson asked if the applicant is required to have a driveway off Tannler. Mr. Thompson stated that he recalled Fire Marshal wanted an access at that point. They wanted to be able to access the entire complex from Summerlinn, Tannler and Blankenship. Mr. Ahern indicated having two accesses will allow people the opportunity to use one access if the other were blocked.

Councilor Burgess clarified about the east side of 10th Street and what the Willamette Marketplace was required to do. Mr. Ahern indicated the design could be worked out to provide another lane in that area if the City and ODOT desired.

There was brief discussion regarding the prohibition of left turns onto Tannler and the traffic pattern proposed. Mr. Ahern indicated that the neighborhood desired that traffic be directed to the south.

Councilor Carson asked about the condition of approval to have a bus shelter at the corner of Tannler and Blankenship. She asked whether this is still the best location for the bus shelter. Mr. Ahern stated that the bus stop could be anywhere. Mr. Thompson said it is something that TriMet would discuss with the City and work out.

Testimony in Favor of Appeal

James Bentz, 2109 Greene Street, and Kathie Halicki were called. Mr. Bentz had left the meeting; Roberta Schwarz was called.

Kathie Halicki, 2307 Falcon Drive, stated that she resides in the Willamette Neighborhood and their vote to support the application did not represent her or any other Willamette Association neighbors that signed the submitted partition.

Ms. Halicki stated that her concerns about this project are that the traffic issues have not been adequately mitigated. Will the proposed light be queued with the ODOT 10th Street? Having the light at both ends of 10th Street developments that are not queued will cause havoc on the traffic. Having it not queued will make lower Tannler and Summerlinn Drive unusable for vast portions of the day. Now there will be two to three intersections rated F that are in close proximity to each other; Tannler, Summerlinn and Debok Streets. This will create massive backups. She can see vehicles cutting through Albertson's parking lot to avoid back up of the traffic in each direction thus going around the signal. She can also see people cutting through the Tannler West or the Corporate 205 to make a left at the light to head back to 205. People will also cut through Corporate 205 to turn right onto Blankenship to head towards Johnson. These could prove to be huge safety issues particularly with the pedestrians.

Should the light be queued with 10th Street, her fear would be speeding; a problem they already have. The applicant's traffic engineer has indicated that the lights would be queued for 17 miles per hour; however, at the present time people are doing 32 to 37 miles per hour. She is concerned about the school children and many pedestrians that walk down Blankenship. This would also affect the Barrington Heights people because they will have the inability to turn left out of their development onto Salamo. She can also see the demise of the Farmers' Market because of traffic, no parking, and safety issues. This proposal could be a beautiful addition to West Linn but it should be downsized and the traffic issues need to be adequately addressed. Perhaps the 10th Street Task Force should review this proposal. If the Council accepts this application, they will be tying the very hands of the committee that was appointed to look into this issue. Major developments are at both ends of the corridor that the task force is to study; that is putting the cart before the horse.

Roberta Schwarz, 2206 Tannler, stated that she provided the Council with 110 signatures from West Linn residents that live above the proposed development. These people would not like to have this application approved. Two newspaper articles were shown regarding this issue. This is putting the cart before the horse if this is allowed to happen before the traffic issues have been completely addressed.

The burden is on the applicant. They must prove that they have done the right thing by mitigation and water retention. She briefly discussed testimony from the Planning Commission meeting by staff regarding catch basins and open detention. She indicated that simply because it is a smaller development isn't a reason not to go for an open system. She said that Measure 37 has nothing that states you have to give a person every square inch they want. This should be a smaller development. She begged that Council not make the same mistake as Blackhawk. She asked that consideration be given to the grade on Tannler. Mr.

Ken in his development wanted it to go straight through; there could be a road that goes through as an east/west connection. She concluded that the Council should make this applicant do his or her business well and make it something of which everyone can be proud.

Ken Pryor, 2119 Greene, was called to testify; he had left the meeting.

Testimony in Opposition to the Appeal

Alice Richmond, 3939 Parker Road, stated that this project is not for one neighborhood association; it is for everyone in the City. The 150 signatures do not represent all the voters.

Ms. Richmond stated that she feels it is good planning to have local employment here in the City. This will minimize traffic congestion and the promise of new economy to West Linn. She is glad that this will be a green building. She asked that Council approve this project; the outcome will be a great incentive to the environment.

Gordon Root, 2413 Remington Drive, stated that he is in real estate development; commercial, industrial, and residential development including mixed use. He has no ties with Blackhawk Development. This land has been zoned "OBC" forever; he developed Farmington Ridge in 1992 and it was known then that it was zoned the same.

Mr. Root stated that this project has been an excellent example of the public process at work. They have reached out to the neighborhood associations. They have listened to the neighborhood associations. They have made extreme adaptations to their project site plans, and it results in an outstanding design that will be a centerpiece for West Linn as a whole.

This project will provide a needed tax base and professional office space. Someone is stepping forward to take maximum advantage of the minimum commercial land in West Linn while being responsible to the neighbors and providing 51% of the land as preserved open space and preserving the white oaks and buffering noise.

This development is sustainable, compact, energy efficient and oriented towards the street. The trend is to put commercial buildings on the property line, which is a lot closer than what this is. It is excellent design, the way the architect has pulled the buildings away from the street.

The appellant is stonewalling "the project whose time has come." This application will be the funding source to fix the problems at 10th Street. The lot line adjustment has been approved; they own both parcels. The applicant has

responded to the noise. They have pushed down the buffer, and the large building upwards from the parking lot is a buffer. He guarantees that Group MacKenzie will do a good job. He has worked with them in the past and they have an army of well-qualified engineers to do the drainage and slope.

There is a financing consideration to go with staged development. In regards to an open or closed storm water treatment, he agrees with the closed system; opening it is ugly, unsightly, a danger, and requires more retaining walls to do so.

He concluded that bringing this type of development to West Linn should be congratulated. He encouraged Council to close the record tonight and approve the project.

Andrew Stamp, 4248 Galewood Street, Lake Oswego, Oregon, stated that he is the attorney representing Albertson's and West Linn Associates, who own the River Falls Shopping Center. This project will have some impact on their site, and there will need to be some widening and changes at the signal.

They appreciate the applicant's efforts to contact them and talk to them regarding this mitigation, and they have reached a tentative agreement with Blackhawk regarding this mitigation. The agreement has some cost-sharing provisions, and in exchange they will provide easements to facilitate the signalization at that interchange. In reliance on Blackhawk's promises to provide that mitigation, they feel comfortable testifying in support of the applicant tonight.

Neutral Testimony - None

Appellant's Rebuttal

Ed Schwarz, 2206 Tannler Drive, stated that the proximity of Building A is as close as it looks; it is on top of a 24-foot retaining wall. Even if it is set back from the sidewalk more than Summerlinn, it will be extremely obtrusive when you are on site. It is not just the Summerlinn building moved back a few feet. It is the Summerlinn building on top of a two-story retaining wall.

It was testified that stairs from the front door to the sidewalk were not feasible. To him this indicates that this building is too tall and too close to the sidewalk.

There was no testimony about mitigating the traffic on Tannler. It was stated that the trips will go from 39 trips on Tannler during peak hours to 95 trips. That is two and a half times more (56 trips) being added to the bottom of Tannler without mitigation. You don't put in a 350-foot left-turn lane if there are no plans for a huge queue of cars turning left.

The light at Tannler and Blankenship seems to make the most sense to relieve the traffic off Tannler. The applicant was told to move the light to Albertson's. On the other side of the freeway, a light was put in at 8th Street and 8th Court that is very close to the light at the off-ramp. He feels there should be no concern about putting lights close together because of the proposed lights at 8th Street and 10th Street. Now there is a concern that a light at Tannler is too close to the 10th Street light. The light at Tannler is the one that makes the most sense; putting a light at Albertson's doesn't help the people at Tannler and doesn't mitigate the traffic on Tannler at all.

Applicant Rebuttal

Mr. Thompson referred to Chris Jordan's memo dated January 31st, Page 4, regarding the location and orientation of the buildings to the street.

He spoke about working with the 10th Street Task Force, indicating that Condition #14 states that the applicant will work with the 10th Street Task Force if they come up with suggestions that the City feels would be appropriate to consider. They will work with the City to implement those suggestions per Condition #14 from the Planning Commission.

Mr. Ahern stated that in their analysis they have come up with mitigation for traffic impacts. In addition, the City and their consultant, as well as ODOT, have indicated that they have in fact mitigated; and both the City and ODOT recommended approval with the mitigation that they came up with together. All of the traffic engineers that have reviewed the mitigation plan agree that this project does mitigate; there is no evidence that it doesn't.

Council President Gates asked when phase one and project construction would begin if approved. Mr. Wilt stated that it would depend on the market and fill rate of the Summerlinn building, not the Blackhawk building, and the overall effects of the marketplace and community. They would like to get the project shovel ready during the dry season this year. There is time to allow the 10th Street Task Force to complete its work. Mr. Thompson indicated it would take two to three months to prepare the final design of the project and two to three months to get the permits. There are several interested tenants.

Staff Final Comments

Mr. Gordon summed up some of the issues brought out in testimony:

- The arborist has reviewed the landscape plan and believes it more than mitigates for the trees that need to be removed for the Tannler improvements.

- The applicant owns both properties; if there wasn't a joint use agreement, there would be no project. This is not a matter other than to show that it is irrevocable.
- It is not uncommon that the Engineering Department wants the ability to look at more details regarding street lighting at the very end.
- The lot line adjustment was a separate action and is not a part of this package. It will be finalized at the applicant's discretion. If the application is not approved, it will not need to be finalized. The applicant could abolish the existing lot lines, and it wouldn't have any City review at all. This is not a significant issue.
- All of the noise issues (garbage trucks, sweepers, etc.) will be screened from residents above by the two upper buildings. The project as redesigned doesn't have any of the uses behind the buildings towards the residences. There is a 200- to 600-foot buffer and the applicant's noise study did meet the criteria set forth in the code.
- The issue of rough proportionality in terms of traffic impacts the City is required to follow, it requires that the applicant look at the stages in terms of road improvements. The other key issue is whether each phase meets standards individually, and staff has determined that it does.
- The applicant did look at alternatives (pages 100-103) in terms of slope, and this was the least impact on slope because it moves the development further down the hill. There is no natural drainageway on this site.
- In terms of storm detention, the site is not flat. Staff believes the example of Lake Oswego is not practicable on this sloping site. Precedent being an issue in terms of aesthetics includes the Summerlinn Center, LDS Church application, Gramor Development, and West Linn Village.
- The strategy for above ground facilities in the Surface Water Management Plan is aimed at residential subdivisions that have questions about maintenance. The homeowner's association questioned maintenance here as well as with the LDS Church; there is a unified maintenance by a single property owner.
- The reason that the sidewalk was made curb tight above Tannler was because of significant trees and not to grade as much into the slope. If Council chooses, staff can review more of a meandering sidewalk that would allow a planter strip where it doesn't affect the trees.
- In comparison to the Summerlinn Center, that project is 18 to 25 feet away from the street. The sidewalk already existed. There is no planter strip, and that building is five feet higher. This project is 40 to 60 feet away from the street and there would be a planter strip. A better example would be the other corporate park building down the street (one story shorter and no stairway).
- The code in Design Review Sections 55.100(B)7(c) and (B)7(h) requires that the building location be as close to the street as possible.

- While the building is four stories at the corner of Tannler and Blankenship, as you go up, it is three stories when you get opposite the top of the building; it is not quite as tall along the entire route.
- In regards to the noise bounce from the Summerlinn Building, unlike that, the building across the street from this is the Albertson's Shopping Center and not a residential area.
- It would be appropriate to have a six-foot wide sidewalk up the side of the driveway, especially if it is now the main entrance in terms of pedestrians because of the signal light and crosswalks there.
- It may be appropriate to have a condition to revise the entry stairway to double it back towards the signalized intersection as opposed to Tannler and Blankenship.
- The height limitations do not include non-habitable projections. There are no standards set on how much of a non-habitable projection there can be. The roofs for the penthouses are non-habitable projections as well.
- HVAC is oriented towards Blankenship in terms of compressors; a condition of approval can be included. This is something that can be required by staff at the time of design details.
- A condition can be included to require that the islands on Tannler be landscaped.
- In terms of traffic from this site that might be going up the hill towards the residential area, the logical progression would be to turn out on Blankenship, then turn left going up Tannler. There is a left-turn lane for that. It would not be signalized, but this would allow some of the traffic to go a little out of the way.
- The left-turn prohibition on Tannler was not required by staff. It was proposed by the applicant. Staff did not object to it. If access to Tannler is to be closed off, it should be reviewed by the emergency service provider to see if it is appropriate.
- It is specified that the bus shelter (Condition #12) be provided at the existing bus stop. The condition can be modified to state that it could be located where ever TriMet decides to locate it.
- The applicant is correct in reviewing Carl Springer's work. He does agree with the applicant's 80/20 split on traffic using a signalized access out of the project, as opposed to non-signalized (October 30th memo).
- When you go from 35 to 95 PM peak trips on Tannler, that is mitigated by the staging and platooning that is available because of the lights on either side of the Tannler/Blankenship intersection and the dedicated left-turn lanes that are not there now.
- Condition #14 gives flexibility if the 10th Street Corridor Study looks at something else in the near future.
- If this project is approved, it must be begun within three years of the approval in a significant manner.

Mr. Jordan stated that the applicant commented on a meeting he held with staff and him a couple of months ago and talked about the fact that they had mentioned that this would be a significant amount of tax revenues for the City. He told them at that time that in his view the additional tax revenues were negligible to the City. The City staff does not make recommendations on land use matters based on potential tax revenues to the City nor was it a criterion for Planning Commission or City Council approval on any land use action.

Council President Gates asked legal counsel's opinion on how the word "mitigation" applies to any application. Mr. Monahan explained that the Council will need to assess all the impacts created and has the applicant attempted to mitigate or come up with some solution to lessen the impact on the surrounding area, infrastructure and traffic situation. They have posted a list of all the mitigation techniques that they have provided. Mitigation is addressing the problems that are created from the impacts that result from the development. The decision-makers must interpret the City's code and to apply it to determine whether or not these mitigations meet the standard that you believe should apply. Mitigation does not have to be zero change.

Councilor Carson asked if the conservation easement for the upper property is the best choice for the City or is some other type of easement preferable. Mr. Howard stated the Planning Commission discussed this issue. The applicant made it clear that they did not voluntarily consent to dedicate that property. It was the City Attorney's opinion that there was not enough rough proportionality to allow the City to get dedication of the property into City ownership. The code states that for all significant trees there shall be a tree conservation easement placed on all of them to the point of a drip line plus 10 feet. That is what the condition of approval states. That is a significant portion of the upper property but not all of it.

The conservation easement runs with the land. It runs even after something happens to the tree. The conservation easement can only be removed on action of the Council to vacate it. It cannot be removed if the property is sold or something else happens.

Mayor King closed the public testimony portion of the hearing and opened the meeting to discussion among the Council.

Council President Gates moved to deny the appeal and uphold the Planning Commission decision and approve the proposed office development on the northwest corner of Blankenship Road and Tannler Lane with recommendations and findings indicated by staff with the following changes:

- **Hours for lot clean up will not exceed 9:00 p.m.**

- **Meandering sidewalk on Tannler to maintain as many significant trees as possible**
- **A pedestrian sidewalk provided along the driveway extending from Blankenship up into the project**
- **A revision and addition of a stairway at the front entrance which would go more towards the light that is being installed**
- **Landscaped islands on Tannler**
- **Islands projected as medians be landscaped**
- **Condition related to the bus stop be amended to show that it be at the TriMet suggested location**

Councilor Eberle seconded the motion.

Councilor Carson proposed an additional amendment to the text of Condition #14 to delete the words "later stage."

- **"In the event that the 10th Street Task Force or another City transportation study recommends a transportation improvement that could be preferable to a transportation improvement that is approved as a condition of approval for ~~a later stage of~~ this project."**

Council President Gates agreed to make that a part of the original motion. Councilor Eberle agreed.

Councilor Burgess stated he would like to amend the motion by adding language related to pedestrian access; that the parking structure be tied into the sidewalk that goes up the walkway headed to the west where there is an actual drive entrance that is obviously an exit.
Council President Gates agreed to make this amendment a part of the original motion. Councilor Eberle agreed.

Councilor Burgess proposed an amendment to the motion by adding the language; that the HVAC be designed to minimize noise and direct any noise towards the freeway or to the south away from the residential area. Council President Gates agreed to the amendment; Councilor Eberle concurred.

Mayor King asked if the amendment for the sidewalk is for one side or both sides. The applicant volunteered both sides. Councilor Burgess stated that it would be logical to extend the sidewalks on both sides up to the west that is going into the existing development.

Mayor King asked about additional landscaping on the upper end of Tannler along the sidewalk. He would like to see some thinning of the brush along that section. **After brief discussion there was consensus to have an additional condition requiring thinning of trees to improve the aesthetic value of the site, according to the City Arborist. Council President Gates agreed to**

make this amendment a part of the original motion. Councilor Eberle agreed.

Councilor Eberle voiced concern about the impact of the meandering sidewalk along Tannler and cutting back the hillside. Councilor Burgess stated that the six-foot sidewalk and planter strip will cause cutting into the hillside property. There was brief discussion regarding the location of the significant trees and the feathering of the bank. There will be cutting in order to provide the planter strip.

Mr. Wilt stated that the brush along this area is not attractive. There is a provision that they can't do anything without the permission of the City Arborist. They will have to get the arborist's concurrence on any improvements made to the landscaping in this area. They will have to cut into the bank.

Mayor King explained that the Council must decide whether to vote on this matter or have staff prepare a final order for review and approval. He asked legal counsel if the record had to be kept open until the final vote. Mr. Monahan stated that this is not the first evidentiary hearing. The Council is not required to grant a continuance or keep the record open. It is up to the discretion of the Council.

Councilor Burgess stated that he feels that issues have been addressed. This project meets code, is properly zoned, and has dealt with issues of this difficult site.

This is a project meets code. It has been zoned office/business for a number of years. It is a difficult site, as are many in West Linn. Cost drives density. The properties that are developed now are those that were not developed in the past. This is a freeway interchange. This project will bring jobs and services to West Linn. This is a sloped site and the project addressed the slope and drainage as best as could be. He indicated that 51% of the project is left open to save significant trees.

There are significant improvements being made in this development and the proposed light is being placed where the City asked that it be located, not where they proposed. He does not think putting a light at Tannler makes a lot of sense in terms of the overall traffic pattern. It will be difficult for traffic coming up 10th turning onto Blankenship and just being stopped, which will tie up the whole intersection.

The lot line adjustment is 7% of the property and proper in terms of this development. It could be done without Planning Commission review. The indication is that the applicant has met noise standards. Door slamming and garbage truck noise occurs in residential areas. The applicant has made significant contributions in terms of a major setback, and this site is already overwhelmed with background freeway noise. The garage is blocked by the two

upper buildings, and the distance of the setback allows the mass and distance to help with the sound situation.

Water flows downhill and there is going to be drainage to the bottom. An open drainageway will require a fence and he does not feel this is what residents will want to look at on Blankenship. To stage developments of this size is common. The improvements are commensurate with the development in terms of impacts. Deferred compliance is not unusual.

The building has been placed back; however, he has concerns about the height of the retaining wall. The code was developed according to state law. The Transportation Planning Rule indicated that they wanted buildings up against the street. He does not agree, but it does meet code. For these reasons, he will be supporting the motion as amended.

Councilor Eberle stated that of the eight areas of concern raised by the Neighborhood Association, three had merit in her opinion. The three areas of concern were traffic, staged development and proximity of the building. With the discussions tonight she feels that her concerns were resolved. The retaining wall is not as overbearing as a building itself. The green area cascading over it will soften the look. All of her concerns regarding staged development were addressed. This project will allow funding to help deal with the traffic problems in this area. With the addition of Condition #14, she feels that her concerns have been alleviated. This is going to be a wonderful project for the community. The buildings look very nice. She would rather see office/business that brings jobs than to have a 10- 12- or 15-hour retail establishment. She appreciates the work that has been done and looks forward to this coming to West Linn.

Councilor Carson stated that she concurs with Councilor Eberle's comments. She had similar concerns and thinks they have been addressed. She is still concerned about traffic; however, having Condition #14 gives flexibility so, when the 10th Street Task Force completes their work, there will be cooperation to get some of the recommendations done.

Council President Gates stated that he concurs with the concerns raised and feels they have been addressed. He encouraged the applicant to participate in the 10th Street Task Force dialogue. He hopes that this whole interchange comes up with a solution that satisfies long term.

Mayor King stated that he concurs with most of what has been said. After all the testimony, he feels there are two issues of concern; the issue of the mitigation of traffic and the phasing being disruptive. He now feels that the mitigation that the project makes is adequate and meets the requirements of code, and the phasing testimony alleviated his concerns about that issue. He will be voting to deny the appeal.

Mr. Jordan suggested that this be a tentative approval. Staff would like to prepare a draft with the final revisions and bring it back to the Council for formal review and approval on February 26, 2007. Council agreed to a tentative approval.

Vote on the pending main motion as amended:
Council President Gates moved to tentatively deny the appeal and uphold the Planning Commission decision and approve the proposed office development on the northwest corner of Blankenship Road and Tannler Lane with recommendations and findings indicated by staff with the following changes:

- **Hours for lot clean up will not exceed 9:00 p.m.**
- **Meandering sidewalk on Tannler to maintain as many significant trees as possible**
- **A pedestrian sidewalk provided along the driveway extending from Blankenship up into the project**
- **A revision and addition of a stairway at the front entrance which would go more towards the proposed light**
- **Landscaped islands on Tannler**
- **Islands projected as medians be landscaped**
- **Condition related to the bus stop be amended to show that it be at the TriMet suggested location**
- **Change Condition #14, "In the event that the 10th Street Task Force or another City transportation study recommends a transportation improvement that could be preferable to a transportation improvement that is approved as a condition of approval for this project."**
- **Additional language that the parking structure is tied into the sidewalk that goes up the walkway to the west where there is an actual drive entrance that is an exit.**
- **Additional language to include the HVAC is being designed to minimize noise and direct any noise towards the freeway to the south away from the residential area.**
- **Additional condition requiring thinning of trees to improve the aesthetic value of the site.**

Ayes: Burgess, Eberle, Gates, Carson, King
Nays: None
The motion carried 5-0.

Adjournment

The meeting adjourned at 11:15 p.m.

MINUTE REVISIONS

Suggested revisions to draft minutes of City Council meeting of February 12, 2007:

- [Page 1, second to last paragraph, second to last sentence]:
  Ellen Whyte~~Helen White~~, a jazz musician, and her trio will be there.

- [Page 3, under Business from the City Council, second paragraph]:
  Council President Gates stated that all registered voters will receive phone calls to remind them to exercise their **right to** vote.

- [Page 9, second paragraph, third sentence]:
  She would like to see the signs **noticed** ~~permitted~~ as it allows people to know that a sign is going in and that they can ask questions or raise concerns.

- [Page 20, third paragraph, last sentence]:
  Take the Planning Commission recommendations and go beyond that, and decide when the other Goal 5 **inventoriesy** will be adopted.

Suggested revisions to draft minutes of City Council meeting of February 15, 2007:

- [Page 2, fifth paragraph, last bullet]:
  Southern off-ramp of I-205 ~~**and 8th Court**~~, a lane opposite the Willamette Marketplace site within the existing right-of-way

- [Page 12, fourth paragraph, last sentence]:
  With the first phase there will be **a decrease** ~~**an increase**~~ in the use of Tannler for left turns as people will go where the signal is.

- [Page 20, first paragraph, first word]:
  Kim ~~Ken~~ in his development wanted it to go straight through; there could be a road that goes through as an east/west connection.

Gates

issue, and there were good decisions and the facility works well. Compared to the Summerlinn building, this building is farther back. It is not as close as it looks. There is significant difference in how the City will look with this project. This project is over the edge in quality. It is better than any building on Kruse Way. It will contribute considerably to City revenue. They have done everything possible to redesign the project in consideration to the neighbors, and he hopes that the Council will vote for their project.

There will be a considerable amount of trees and landscaping with this project that will go along with the quality of the building. In regards to traffic counts, the project is only required to provide a lane and a half through this corridor, but they are going to have two lanes which will improve the traffic over what it is today. There was a total count of 30 cars on Tannler. The reality of the situation is that there will not be 30 cars queued at the bottom of Tannler.

Councilor Gates asked how many cars more will be involved with people exiting from this project using Tannler. Brent Ahrend stated that the figures in the original traffic study (figure 4b) present the existing weekday p.m. peak hour volumes. There are 35 left turns from Tannler to Blankenship. There is some background growth that will occur from the additional housing development on the hill. Adding in all the trips (Figure 11b) there will be 273. When the signal goes over the driveway, a majority of the trips will use the driveway instead.

Councilor Gates voiced concern that, if all three phases of the transportation element were done at one time, it will allow people to go around and use the light. If this is phased one at a time, people will not have that access. Mr. Ahrend stated that the drive out on the site plan will be built with the first phase. People will have the ability to go through, and the light will be provided with the first phase. With the first phase there will be an increase in the use of Tannler for left turns as people will go where the signal is. decrease

The original analysis recommended a signal at Tannler. When the City asked them to move it, it was reviewed and found to be okay. The level of service will remain as it is today without a signal. About 10% of the site traffic will still find it convenient to go out that way.

Mayor King noted, because of the barrier in the middle of Tannler that doesn't allow traffic to go uphill, it means that those wanting to go uphill will have to go out the other light, make a left, and make another left to go up to Tannler.

Councilor Burgess asked if the applicant still thinks the light at Tannler is the better solution. Mr. Ahrend stated that they could make it work at either location. He feels that it would be better for the neighborhood if the light was at Tannler. Additional widening is required between Tannler and 10th on Blankenship. For

the overall flow of traffic on Blankenship, it is better to be at the driveway; for the project, either location would be fine.

The concern with the signal at Tannler is that it would back up traffic coming from 10th Street turning onto Blankenship. Overall the flow of traffic on the system as a whole will be better with the signal at the driveway than it would be at Tannler. The City and ODOT have made their decision to have the signal at the driveway.

Councilor Burgess asked if there was consideration given to a formal road through the project and having the development focused on that road as opposed to onto Tannler or Blankenship.

Mr. Spies stated that they looked at alternatives and found them to be very onerous. On the entire development of the property, the idea of bringing a road onto the site would cut out a good deal of the property and take away efficiencies of the site.

Mr. Ahern indicated that aligning Tannler across from Albertson's or from 10th Avenue would be beneficial. It would help the neighborhood and traffic from the hill get out. Cutting through the site with a public street eliminates the opportunity to build the project as it is currently designed. Access would be a real issue for this site and the adjacent site, as well. If Tannler came through the site and lined up with the Albertson's driveway, the driveway for the existing building would have to go way back up the hill to meet grades for public street standards.

Councilor Burgess asked the applicant if there is anything else that came out in their study of this site that can be offered to the City in terms of 10th Street. There is a 10th Street Corridor Study and it is in everyone's interest to solve the traffic issues.

Mr. Ahern stated that the two options recommended in the TSP would be viable alternatives; however, ODOT said they would not accept either alternative. They have significant constraints with the adjacent roads and the grades. It makes it tough to build what ODOT considers a standard interchange. They would have to get variances to make it work. The other option that is still available is moving Tannler to the east to align with 10th Street.

Councilor Carson asked for more detail on the frontage of the building on Blankenship and the setback and retaining walls.

Mr. Spies stated that what they had shown at the last Planning Commission hearing was a three-tiered retaining wall system with extensive landscaping cascading down over that retaining wall system and compared that with a straight wall that would have allowed enough room for the open catch basin drainage

3. Agenda Bill 07-02-03 Motion to Recommend Approval to OLCC of a Liquor License Application for a New Outlet (Scott Welle dba Beers From Oregon, LLC, 3489 Vista Ridge Drive, West Linn)

Council President Gates moved to approve the consent agenda consisting of the minutes of January 8, 2007; a recommendation for approval of liquor license application renewals and a recommendation for approval of a liquor license application for Beers From Oregon, LLC. Councilor Burgess seconded the motion.
Ayes: Burgess, Eberle, Gates, Carson, King
Nays: None
The motion to approve the consent agenda carried 5-0.

Report from the City Manager

Chris Jordan reported that there has been some discussion in the newspaper regarding the City's new auditor. On February 20, 2007, there will be discussion at the Council's work session by the City's Finance Director, Andy Parks, regarding the process the City used to select, review, reference check, etc., for the new auditor.

Business from the City Council

Councilor Burgess reminded the voters that there is a special election March 13th on the police levy. On February 21st there will be a town hall meeting to get information on the levy. He encouraged all to vote.

Council President Gates stated that all registered voters will receive phone calls to remind them to exercise their right to vote.

Council President Gates moved to adopt the 2007-2008 Council Priorities as indicated in the February 7th version with the following revisions:

- **Imagine West Linn, change: "to ~~create a new~~ the vision**
- **Under Communication Strategy, Committees, change "that" to "the"**
- **Under Sustainability Goal 5, adding an "s" on "ordinance"**
- **Under 10th Street Corridor correct "109th Street" to "10th Street"**
- **Additional goal, "Work with TVF&R to review locations and methods for reducing fire fuel loads"**

Councilor Carson seconded the motion.
Ayes: Eberle, Gates, Carson, Burgess, King
Nays: None
The motion to adopt the 2007-2008 Council priorities carried 5-0.

West Linn City Council Meeting Minutes
February 12, 2007

DRAFT

Council Present: Mayor Norman B. King, Council President Mike Gates, Councilor Scott A. Burgess, Councilor Jody Carson, and Councilor Michele S. Eberle

Council Absent: None

Staff Present: Chris Jordan, City Manager; Bryan Brown, Planning Director; Terry Timeus, Police Chief; Gordon Howard, Senior Planner; City Attorney Bill Monahan; and Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance

Mayor King called the meeting to order at 7:06 p.m. and Council President Gates led the flag salute.

Proclamations, Recognitions and Presentations - None

Community Comments

Ed Schwarz, 2206 Tannler Drive, stated that he was here tonight to update the Council on the recent activities of the Tanner Basin Neighborhood Association. The Association has completed their neighborhood plan. It was voted on at the last meeting and passed unanimously. They look forward to the Council's review, acceptance and approval. At their next meeting will be a presentation by a professor from the University of Portland, Dr. Taakalu, Department of Civil Engineering, who will be speaking on highway, local roads and street safety for non-engineers. All are invited to attend on March 7th at 7:00 p.m. here in Council Chambers.

Mr. Schwarz announced that the Tanner Basin Neighborhood Association will be fundraising for a park in the neighborhood, as they are the only neighborhood that does not have a park. They are working towards finding land in the neighborhood association. These raised funds will help buy land for a park in the neighborhood. This fundraiser will be held on Friday, March 2nd at the Adult Center on Rosemont Road at 6:00 p.m. Tickets are $50 each and there will be dinner, music and dancing. Helen White, a jazz musician, and her trio will be there. He acknowledged the sponsors and thanked them for their help and donations.

Ellen Whyte

Lynn Fox, P.O. Box 236, Marylhurst, OR 97206 stated that she is the president of the Hidden Springs Neighborhood Association. She is concerned that there are issues on the consent agenda and they have not been adequately discussed.

She supports the recommendation to open the natural drainage ways. There are lands that had a natural function and they have been built over. If these types of lands come in for development, the streams need to be restored. Is a 15-foot setback fair to other landowners who have to go at least 50 feet? She encouraged that this setback be increased. Landowners can be rewarded for opening natural drainageways with incentives.

Ms. Oakes asked the Council for one minute to complete her testimony. Mayor King granted her one minute.

Ms. Oakes cautioned the Council not to weaken the 50-foot setback by allowing a geotechnical report to bring that back to 25 feet. It will not be fair to homeowners and people who will not take that expense. You can buy any type of report you want. She urged the Council to look at riparian corridors to see if there are corridors that are close enough to push a homeowner into another watershed; there are not corridors that close. The primary goal is to protect West Linn's natural resources to the fullest extent possible. She urged the Council to adopt a comprehensive plan. This proposal is a piece of that. Take the Planning Commission recommendations and go beyond that, and decide when the other Goal 5 inventory will be adopted.

Testimony in Opposition

James Engdahl, 3484 Fairview Way, stated that he agrees with everything that has been said. He has lived in West Linn for 20 years. Prior to that he lived in Lake Oswego and before that Colorado. He bought a wonderful lot. It is the same lot today as it was 50 years ago. There is a drainageway on his property. He submitted a series of pictures he had taken of his property and surrounding properties. He took a series of pictures this morning showing the drainage hole across the street from his residence; puddles of water after .4 inch of rain (top of the stream); property where the stream exists at the bottom of his property; flow after three inches of rain in 48 hours; a typical summer mud puddle; and a series of diagrams that show the impact year after year of what has happened to his property.

Mayor King asked what damage has occurred to this property. Mr. Engdahl stated that this property was on the market for six months. He took it off the market. People who were interested went to the Planning Department and were informed of the set of rules that are associated with this property. This has cost him months and dollars. The property when purchased was 72,000 square feet and zoned R-10; a number of lots could have been put on this site. There have been a lot of tight regulations imposed.

Ann Miller, 1009 9th Street, stated that she is here tonight because of the way it personally affects her. Ms. Cummings stated that people who are affected are

would identify the home occupation is the issue; it has to be content neutral. The language in the code appears to be put in to allow for the opportunity to have permanent signs for home occupations. In many jurisdictions signs related to home occupations are not allowed. Many times home occupations are approved with the requirement that there be no outward appearance that a home occupation is in the neighborhood. Apparently, a prior council made a determination to allow permanent signs for home occupations.

- Is this recommendation the same for the ordinance adopting a local wetlands inventory and a riparian corridor inventory? Mr. Brown stated that this ordinance and the following ordinance are not related in terms of turning it back to a Planning Director's decision. The majority of drainageway issues will always be at public hearings before the Planning Commission.
- Can Willamette be dropped from the mixed-use zone? Mr. Brown stated that he feels that the word "Willamette" could be left off; however, he would recommend leaving the name associated for now and evaluate it at a later time. This does not exclude the fact that there can be others but they may be unique.

Councilor Carson voiced concern that in the past there have been a lot of comments and issues related to signs. By eliminating both the notice and the pre-application conference, it limits the opportunity for neighborhoods to comment on signs with which they have a concern. She would like to see the signs ~~permitted~~ as it allows people to know that a sign is going in and that they can ask questions or raise concerns. She asked if there is another mechanism to let people know that a sign permit is being reviewed.

Noticed

Councilor Carson stated that, if there is to be consistency in terms of residential signs allowed and home occupation signs, she feels that the residential sign should be smaller rather than to increase the size of the home occupation sign. She asked if this should be taken out of this decision and brought back at a later time.

Councilor Carson voiced concern about having the wetland riparian area removed in lieu of the next item on inventories and asked if the language should be changed to water resource areas. Mr. Brown stated that the name could be changed to water resource areas. This may not be the only chapters that have reference to this current terminology. They will have to look through the rest of the CDC. They would not have to re-notice for the sign change in that the notice was not that specific, just that there would be changes in the sign section of the code.

Councilor Eberle asked about business licenses being tied to the ability to have a sign. Mr. Monahan stated that it isn't how you get to the ability to have a sign;

Jody

AGENDA BILL
07-03-03

For Council: March 19, 2007

Department: Administration

Subject: Approval of the City Council Meeting Minutes of February 15, 2007

City Manager's Initials: eg

Attachments: Yes - Minutes

Budget Impact:

Expenditures Required: 0	**Amount Budgeted:** 0	**Appropriation Needed:** 0

Summary:

Draft minutes of the February 15, 2007, City Council meeting have been prepared for your approval.

Recommended Action:

Motion to approve minutes.

Council Action Taken:
Approved:
Denied:
Continued:

DRAFT

West Linn City Council Meeting Minutes
Special Meeting
February 15, 2007

Council Present:	Mayor Norman B. King, Council President Mike Gates; Councilor Scott A. Burgess, Councilor Jody Carson, and Councilor Michele S. Eberle
Council Absent:	None
Staff Present:	Chris Jordan, City Manager; Bryan Brown, Planning Director; Gordon Howard, Senior Planner; John Atkins, Community Services Coordinator; City Attorney Bill Monahan; and Shirley Richardson, Minute Taker

Call to Order / Pledge of Allegiance

Mayor King called the meeting to order at 7:05 p.m. He called to order the public hearing to review the Planning Commission's approval of "Tannler West," a proposed office development on the northwest corner of Blankenship Road and Tannler Lane. The Tanner Basin Neighborhood Association is appealing the decision of File No. AP-07-01. Bill Monahan explained the hearing's purpose. The approval criteria for the proposed office development are in Community Development Code Chapter 55, Design Review. Chapter 99 has the standards for the application process and the appeal hearing process. Mayor King reviewed the hearing procedure.

Mayor King asked if any member of the Council has visited the site. Councilors Gates, Carson, Eberle, and Burgess stated that they visited the site many times. Mayor King stated that he has driven by the site but has not been on the property.

Mayor King asked if there were any conflicts of interest or *ex parte* contacts to declare. Councilor Burgess stated that he has worked with this developer in the past and they built the building where he works, but he does not feel this will interfere with his ability to vote on this issue. Council President Gates stated that he served on the 10th Street Task Force and there is information in the packet that was made available at a meeting he attended. He does not feel this will impact his decision on this issue. Councilor Carson stated that she, too, served on the 10th Street Task Force and received the same information. She does not feel this will affect her decision.

No one in the audience challenged the impartiality of any Council member or the jurisdiction of the City Council to hear this matter.

Gordon Howard reported that the application was approved on December 21, 2006, by the Planning Commission and appealed by the Tanner Basin Neighborhood Association. This is a three-building office complex, 298,000 square feet with all buildings about the same size. Included is a four-level parking structure.

In addition to the staff report tonight, a letter was received from the Oregon Department of Transportation (ODOT) explaining their support of the revised conditions of approval regarding the traffic mitigation. Copies have been made available to the Council, applicant, appellant and extra copies made available to the public.

Aerial photos were shown of the site and surrounding area. The proposed site plan and zoning map were displayed.

The major issues involve traffic; a significant amount of traffic would be put onto the streets in the area. The project will include:

- A signal light at the intersection of Blankenship Road and the new combined access driveway from this site and the existing office development to the west
- No signal light at the intersection of Tannler and Blankenship
- A left-turn channeled lane on Tannler
- On Tannler there will be two entrances into the project site and two exits, right turn only

Other proposals include:

- Lane widening to allow two lanes turning right from Blankenship onto 10th Street
- Creation of additional turning capacity on Salamo Road going onto 10th Street
- Leaving room for two left-turn lanes from 10th Street to Blankenship in the future
- A new channeled lane on the off-ramp and 250 feet of additional pavement for two lanes
- Additional queuing ability turning left from Salamo onto 10th Street where the existing left-turn lane would be lengthened
- Under the freeway 10th Street will be widened to a total of five lanes, two lanes in each direction plus a center turn lane
- Southern off-ramp of I-205 ~~and 8th Court~~, a lane opposite the Willamette Marketplace site within the existing right-of-way

Major issues in traffic are the 10th Street Corridor, adequate traffic mitigation, preclusion of comprehensive solution, impact on undeveloped properties, and additional ODOT mitigation.

The major issues of site design are the proposal is the largest commercial development ever proposed in the City; the building fronting Blankenship is in conformance with City design guidelines; the parking structure is placed between buildings thus less visible; and this project will be combined with an existing office park to the west in terms of parking, drive aisles, and management in the future.

The Planning Commission also discussed storm detention and they approved underground detention. The alternative aboveground storm detention was a poor design aesthetically, and it was felt that a single commercial property owner would be better able to maintain a private storm facility in the future.

In terms of open space, about half the site (northern portion) would be preserved as open space. Tree conservation easements would be placed over a significant portion of the area (mostly White Oaks). There was an issue with the trail along the northern boundary of the property that was resolved by the Planning Commission to reserve the trail in its existing location. The buffer created by the open space ranges from 200 to 600 feet in a horizontal plan view, and the vertical distance is 40 to 80 feet below the existing residential development above it.

Staff recommendation is to uphold the Planning Commission decision and approve the project with the conditions of approval with one exception having to do with Condition #9. That condition would include changed additional language as follows: "and the recommendations of the Oregon Department of Transportation (ODOT) contained in their letters of November 21, 2006"; and "and as modified or amended by the recommendations of Carl Springer and ODOT." This condition of approval has been agreed to by ODOT, staff, the applicant, and Carl Springer, City traffic consultant.

Mayor King asked if there was any correspondence on this matter other than those items in the packet. Mr. Howard said no.

Councilor Burgess asked if the existing pedestrian pathway goes all the way across the property and if the improvement goes all the way across the property. Mr. Howard stated that the applicant's proposal is to improve the portion of the trail that is on his property. There is a portion of the trail on the old right-of-way of Greene Street, which was not vacated because the owner would not give consent. This portion of the trail will not be improved but will remain. The Planning Commission concluded that there is no rough proportionality for a requirement to relocate or improve that trail.

Councilor Burgess asked what the level of service for Tannler is. Mr. Howard stated that he believed the existing level of service was F; the applicant will have

more information. Even with the possible light at Tannler, at p.m. peak hour because of the queuing, the level of service would still be F.

Councilor Burgess asked if the improvements along the sidewalk were going to include planter strips. Mr. Howard stated that he would check through the document to see if planter strips are included.

Council President Gates asked for clarification of the level of service F on Tannler. Mr. Howard stated that a left-turn from Tannler onto Blankenship is the level of service F. Blankenship would not be a problem.

Councilor Carson noted concern about using the driveway of nearby apartments. She asked if this will be a problem. Mr. Howard stated that there are two accesses to the Summerlinn complex. He does not see them as being used as access to the north.

Councilor Burgess asked if there is reasoning for leaving a portion of the site as open space. Mr. Howard stated that there was no other reasoning other than the applicant's choice to meet the code in regards to an appropriate buffer and protect the trees as required by the code.

Appellant Presentation

Ed Schwarz, 2206 Tannler Drive, stated that he is here tonight representing the Tanner Basin Neighborhood Association, who filed the appeal. He has submitted a document that details the concerns of the neighborhood regarding issues that have come up since the Planning Commission hearing.

The Tanner Basin Neighborhood Association completed their plan that sets forth goals and policies that affect development in their area. Some of the goals affect the development proposed:

- Improving traffic flow
- Well planned sustainable growth
- Adequate infrastructure in place before development occurs
- All of the infrastructure does not degrade beyond the level of service C

Mr. Schwarz stated that it would have been worthwhile for the applicant to work with them on the plan and look at the goals for this area.

Traffic is the largest concern with this development. The Association had a local Metro area municipal transportation engineer review their conclusions about traffic; specifically whether or not the application mitigates the additional traffic being put onto Tannler from this development as is required by the code. His conclusion was that this development does nothing to mitigate this additional

traffic. This is additional evidence that the application does not comply with the Community Development Code (CDC).

Slides were shown summarizing the concerns. This is the largest commercial development ever planned for West Linn. This comes at a time when the City is dealing with a lot of traffic issues. This proposal is impacting the area of West Linn that has the most focus on traffic.

The application is in violation in many ways:

- Violation of CDC 55.100(I)(1), which requires new development to fully mitigate for any additional traffic that it causes. Traffic will go onto Tannler Drive from the exit out of the development, and nothing is done to mitigate that traffic. The proposal is for a 250-foot left-turn lane at the bottom of Tannler. This is storage or a place to queue 15 or more cars at the bottom while people wait to turn left on Blankenship. He hadn't considered Councilor Gate's alternative of cutting through the development. It may be a preferred alternative to people who see 15 cars at the bottom of the street. Several residents of the neighborhood noted that people will see the backup, come down in the right lane to Blankenship, and make a left at the light into the entrance of Albertson's. They will cut through the Albertson's parking lot, zip up by the Great Clips, and go back out onto the road while the people on Tannler are still waiting to turn left.
- The lot line adjustment is not in compliance. The code allows for a minor lot line adjustment. The proposal will allow for an adjustment of three-quarters of an acre. There are other alternatives rather than calling it a lot line adjustment. It can be done properly through the County. This is in violation of CDC 85.210(A)(3), which only allows the tweaking of lot lines.
- The noise study was not adequate. A formal noise study was not done. A noise expert was hired by the Association. He found that there are some issues that weren't addressed by the noise study. There will be garbage trucks frequently picking up at this site. This will add extra noise that wasn't accounted for in the applicant's study. He did not feel the noise study was adequate; it does not meet CDC 55.100(D).
- Drainageway and slope issues were not fully reviewed for alternatives. The code requires that the applicant look at all alternatives to show the retaining walls are the best solution. There was nothing in their information that indicates alternatives to this much cut and fill on this slope. The Association is concerned about possible slides.
- Proposed phased development is not allowed under the code. The applicant is requesting to do the off-site mitigation in two pieces; one before the first building is occupied and the second piece before the other two buildings are occupied. If this were a staged development, they could ask for that. They are asking for design review of all structures right now.

They want approval to build all three buildings. If this is the case, they should be required to do all the off-site mitigation before occupancy.

- The applicant was allowed deferred conditions of approval that should have been included in the application

There are three other conditions of approval that they feel should be included. Do they have the legal authority to use the driveway access for the land next door? There have been no plans submitted for replacement of trees and where they will be located. Why is the street lighting plan being asked for after the fact? These issues should have been addressed in the application so the public would have a chance to review them and comment on them.

- Building A is too large. This is a 55-foot tall building which is the maximum the code allows. It will sit on top of a 24-foot tiered retaining wall. There will be a 79-foot structure (seven stories) very near Blankenship Road and the sidewalk.
- Closed versus open catch basin -- The open catch basin can be done and is easier to monitor and maintain. The Neighborhood is asking that there be an open catch basin. A picture was shown of an open catch basin in Lake Oswego.

Traffic is the biggest concern. Tree protection is very important. The other issues are important; the drainage and slope issues, the noise study not being adequate, the lot line adjustment problems. The fact that the applicant is not mitigating the traffic they are putting on Tannler is not good. The application needs to be denied and sent back and ask them to fully mitigate the traffic being put on the streets.

Mr. Schwarz asked for a continuance of the meeting and that the record be kept open for 21 days per ORS 197.763.

Councilor Gates noted that, in regards to the testimony about moving Building A back from the street, the application was adjusted to move the buildings 63 feet towards the street after comments from the neighborhood. Mr. Schwarz stated that the application was adjusted to move the upper buildings down the hill. He is not sure the lower building was moved at all.

Councilor Gates asked, if the building were approved, the neighborhood would rather see more retail than office? Wouldn't this generate more traffic? Mr. Schwarz stated that he did not know how much traffic would be generated by retail.

Councilor Gates asked Mr. Schwarz his definition of mitigation -- what already exists or not causing more than what exists? Mr. Schwarz stated that his

definition would be the added traffic being put on street that they have to mitigate for; they do not have to take care of existing traffic.

Councilor Gates noted that the current assigned level at the intersection is F. It was testified that the neighborhood would like to see a C. How is it the responsibility of the applicant to go to a C or merely not make it any worse than it is? Mr. Schwarz stated that the neighborhood association plan sets a goal of level of service C for the streets and intersections within Tanner Basin. But what the neighborhood is asking of this applicant is not to make it a C, but not make it worse than the F that it is.

Councilor Burgess asked if the concern regarding mitigation is focused on Tanner Basin. The applicant is doing quite a bit of mitigation on Blankenship, 10th Street, etc. Mr. Schwarz stated that his concern is that the applicant is not mitigating the additional traffic they are putting on Tannler; they are not correcting the problem they are making worse on Tannler. There are a lot of concerns about the queuing that will occur at the bottom of Tannler.

Councilor Burgess asked if the neighborhood is interested in seeing Tannler hooking up to the 10th Street corridor. Mr. Schwarz stated that there are significant oak trees in the area where this connection would be made. There is concern about being able to save the oaks.

Councilor Burgess stated that there are multiple streets coming in that are not at intersections. Intersections create traffic and traffic can go in both directions. Mr. Schwarz stated that there have been a lot of alternatives discussed; that is, vacating the bottom of Tannler, going through Tannler East, or wrapping around Tannler West and coming down to the Albertson's intersection. The 10th Street Task Force is investigating alternatives and what is the best option.

Councilor Carson stated that, looking at the model and the open storm water detention facility referred to in Mr. Schwarz's testimony, to open the storm water detention pond would require a fair number of retaining walls and be elevated from the street. This would not be aesthetically pleasing and a difficult design. She asked what Mr. Schwarz is visioning when he says he would like to see an open water facility. Mr. Schwarz stated that he feels that the ultimate design is open to discussion. There are alternatives that have not been looked into. There have been no alternatives presented on any open retention pond. It could be an amenity for the area if done right.

Mayor King asked Mr. Schwarz to be more definitive on where the applicant did not meet the code. On the slope issue is the applicant required to provide an alternative? Mr. Schwarz cited CDC 55.100(B)3, "...the topography and natural drainage shall be preserved to the greatest degree possible." He did not see in the applicant's report any evidence that they looked at other alternatives that

might have allowed them to preserve this slope more than they have. West Linn values its drainage and slopes. When an applicant is coming to the City and asking to build something, they need to be burdened with the proof of showing that they meet all the codes that exist in the City.

Councilor Eberle noted that the code says that it must be preserved to the greatest degree possible, not that they need to present 10-15 alternatives and decide which one is the greatest degree possible. The Planning Department and the Planning Commission felt that the applicant has met the burden of proof to the greatest degree possible. She asked if the planter strips that prohibit anyone from leaving the Summerlinn complex to turn left to go up Tannler is an effort to mitigate traffic that would impact the neighborhood. Mr. Schwarz stated that there is never a queue going up the hill. The traffic that has impact is the traffic that is going down the hill at the bottom of Tannler. That is the traffic that should be mitigated.

Councilor Eberle asked what the neighborhood suggestion is to mitigate that traffic. Mr. Schwarz stated that the suggestion is a function of the 10th Street Task Force. They would like to see that group come up with the best solution for the Tannler problem.

Councilor Eberle asked how often garbage trucks and street sweepers currently go through the Summerlinn complex as part of the maintenance in reference to the noise issue. Mr. Schwarz stated that he didn't know.

Burgess noted that in the packet there are different alternatives of laying out the slope; Exhibit H - A-100, A-101, A-102, and A-103. The applicant did make some changes in the location of the building. West Linn is geographically challenged and this site is one of those challenges. The buildings have been spread out in an effort to reduce change and retaining the natural slope. He asked Mr. Schwarz if the neighborhood has an opinion about the sidewalk/planter strip going up to the curb. Is there an issue of cutting down trees to plant new trees? Mr. Schwarz stated that the neighborhood did not have an opinion on saving the trees and having a slope rather than trees and sidewalk. Mr. Schwarz stated that he did not recall this subject being discussed by the neighborhood. In regards to moving the buildings down the slope, the neighborhood request was to move the upper buildings to save as many trees as possible and to not impact the people who live up there (sight lines, etc.). They never requested that the lower building be moved closer to the street. They are asking that the upper buildings be moved closer to the street.

Council President Gates stated that it is his understanding that, when the appellant comes forward with an appeal, the role is reversed and it becomes the responsibility of the appellant to show what the improvement should be in a specific way. He stated that he felt the example of the catch basin used in

testimony had significantly different sloping involved; it was a much more level property.

Councilor Eberle asked what neighborhood's position would be if the building was moved back up closer to the Summerlinn complex versus having the building closer to Blankenship and Tannler. Mr. Swartz stated that the request was done to minimize the impact on the people on the upper portion of the site. He didn't want to speak for the whole neighborhood of the choice of the upper buildings being closer to the upper homes or having the buildings closer to the street. He is not sure those are the only two alternatives. He would prefer that the upper buildings remain where they are and move the lower building, providing a cushion between the sidewalk and lower building.

Mayor King stated that the houses directly up the hill from this site are not in the Tanner Basin Neighborhood. The development is not in the Tanner Basin Neighborhood; however, there will be a traffic impact to the Tanner Basin Neighborhood. Mr. Schwarz stated that the people around this site are technically in the Tanner Basin Neighborhood. They are in the Willamette Neighborhood; however, the people there identify more with the Tanner Basin Neighborhood Association and, when this project was put forward, they came to the meetings and expressed their concerns about this proposed building.

Mr. Monahan stated that it is the appellant's responsibility to point out deficiencies within the application or findings of the Planning Commission. In this land use matter, the responsibility for proving that all the criteria have been met stays with the applicant.

Applicant Presentation

Bob Thompson, 0690 S.W. Bancroft Street, Portland, stated that he is an architect and principal with Group MacKenzie, representing Blackhawk Development. Bill Wilt and Jeff Parker are here tonight with Blackhawk Development. Blackhawk hired Group MacKenzie to design this project about 16 months ago. Group MacKenzie is a multi-discipline design firm with architects, engineers and planners. They have designed numerous office buildings throughout the metropolitan area. With him tonight is Dick Spies, Director of Architectural Design; Dan Jenkins, Landscape Architect; Rhys Konrad, Land Use Planner; Matt Butts, Civil Engineer; and Brent Ahrend, Traffic Engineer.

They have received unanimous approval from the Planning Commission and have a recommendation of approval from City staff. The staff has also approved their lot line adjustment recently.

They have been working on this project for over a year. The site is located in an office business zone and intended for office use. The project is located in the

Willamette Neighborhood and abuts the Tanner Basin Neighborhood. Over the year they have met with both neighborhoods two to three times, City staff numerous times, ODOT, adjacent property owners, and coordinated with several traffic engineers.

The original application was submitted in June with a different design. After meeting with staff and the neighborhoods, they redesigned the project to address their concerns. After the redesign the Willamette Neighborhood acknowledged their efforts and supported the redesign effort. A portion of the redesign was the sidewalk on Tannler. Originally the planter strip was to go all the way up Tannler, but it would have required cutting the slope on the upper portion and removing the trees. They readjusted the sidewalk to abut the curb to retain the natural slope and save the trees.

They reviewed slope options. The project is designed to terrace into the bank and utilize the natural slope. The driveway on the eastern façade is the natural grade of the site and the buildings are terraced into the site to minimize site disturbance. The revised application was submitted in August. They are pleased to say after months of hard work this application has the support of City staff, the City Engineer, the City's transportation engineer, and ODOT. They have the support of adjacent property owners. They met with the Planning Commission twice in December, and it gave the project a unanimous approval with 16 conditions. Tonight they are asking for Council approval.

Dick Spies, Director of Design for Group MacKenzie, stated that he has been in this position for 14 years. Prior to that he worked as a principal in charge of commercial office development for 26 years. He feels that this project will be a benchmark that the City of West Linn can be proud of. The approach they are taking to making it as dense as possible in its footprint yet making it a low density, low impact project is noteworthy. The floor-area ratio is usually about 66%; this project will be 58%. They moved in this direction on purpose. There was concern raised from the neighborhoods about scale and fit of the project. He appreciated the comments that came back from the neighborhoods, and they feel they have taken a very serious look at those concerns and that is reflected in their current design.

The project has 51% of the site area left in native open space with 67% of the entire site landscaped. They are trying to focus on the notion of mixed use. They work closely with their planners and architects to design communities where people can work close to where they live and where they shop. This is a unique opportunity to provide good places for employment for people who live in this region.

The buildings were moved down 63 feet. They did that by a more compact parking garage. They internalized the circulation and reduced the surface area

for parking. The streetscape has been designed to internalize the parking and buffer the adjacent buildings. He is confident that they can design mechanical apparatus to satisfy the concerns of the neighbors. This will be a project that everyone will be proud of.

Brent Ahrend, 0690 SW Bancroft Street, Portland, stated that he is a traffic engineer at Group MacKenzie. Earlier in the project the Tannler East project was denied. They looked at the improvements they were proposing on the transportation system to consider what mitigation would be additional for this project. They talked about the overall plan for this with the City and ODOT. In the City's Transportation System Plan there are two recommended alternatives for dealing with this interchange; one is a tight diamond and the other would bring the off-ramp from 205 southbound instead of intersecting on 10th Street. ODOT has rejected both of these options. They have to work with the plan they have proposed now. The biggest concern is the close proximity of the intersections. They have to mitigate for a level of service D. They had to add lanes and will adjust signal timing to make these intersections work well together.

Initially the traffic study recommended nine improvements for phase one and five recommendations for phase two. The second item recommended was installing a traffic signal at the intersection of Tannler and Blankenship. It was the City and their traffic consultant (DKS, Inc.) and ODOT both that said they did not want the traffic signal at Tannler and Blankenship and asked that it be moved back to the existing driveway of the existing adjacent office building and the Albertson's access. They felt the intersection was too close for signal spacing.

The majority of traffic coming out of the project that is turning left on Blankenship will now come out of that driveway. The neighbors have several routes they can use or drive through the site. Placing a signal at the existing driveway of Albertson's will create additional gaps in traffic approaching on Blankenship, and that will help out a little bit as well.

There are 14 items in the mitigation plan. It was reviewed and approved by City staff. Revised Condition #9 was to incorporate additional items ODOT had asked for and which were missed in the first round with the Planning Commission.

The appellant has noted that they had their assessment reviewed by a traffic engineer; however, there is no documentation that a traffic engineer has reviewed their analysis or their interpretation of the analysis.

Mayor King granted the applicant five more minutes to complete their presentation.

Bill Wilt, 27050 Petes Mountain Road, stated that he owns Blackhawk. Some time ago they built another building in this community. Water retention was an

issue, and there were good decisions and the facility works well. Compared to the Summerlinn building, this building is farther back. It is not as close as it looks. There is significant difference in how the City will look with this project. This project is over the edge in quality. It is better than any building on Kruse Way. It will contribute considerably to City revenue. They have done everything possible to redesign the project in consideration to the neighbors, and he hopes that the Council will vote for their project.

There will be a considerable amount of trees and landscaping with this project that will go along with the quality of the building. In regards to traffic counts, the project is only required to provide a lane and a half through this corridor, but they are going to have two lanes which will improve the traffic over what it is today. There was a total count of 30 cars on Tannler. The reality of the situation is that there will not be 30 cars queued at the bottom of Tannler.

Councilor Gates asked how many cars more will be involved with people exiting from this project using Tannler. Brent Ahrend stated that the figures in the original traffic study (figure 4b) present the existing weekday p.m. peak hour volumes. There are 35 left turns from Tannler to Blankenship. There is some background growth that will occur from the additional housing development on the hill. Adding in all the trips (Figure 11b) there will be 273. When the signal goes over the driveway, a majority of the trips will use the driveway instead.

Councilor Gates voiced concern that, if all three phases of the transportation element were done at one time, it will allow people to go around and use the light. If this is phased one at a time, people will not have that access. Mr. Ahrend stated that the drive out on the site plan will be built with the first phase. People will have the ability to go through, and the light will be provided with the first phase. With the first phase there will be an increase in the use of Tannler for left turns as people will go where the signal is.

The original analysis recommended a signal at Tannler. When the City asked them to move it, it was reviewed and found to be okay. The level of service will remain as it is today without a signal. About 10% of the site traffic will still find it convenient to go out that way.

Mayor King noted, because of the barrier in the middle of Tannler that doesn't allow traffic to go uphill, it means that those wanting to go uphill will have to go out the other light, make a left, and make another left to go up to Tannler.

Councilor Burgess asked if the applicant still thinks the light at Tannler is the better solution. Mr. Ahrend stated that they could make it work at either location. He feels that it would be better for the neighborhood if the light was at Tannler. Additional widening is required between Tannler and 10th on Blankenship. For

the overall flow of traffic on Blankenship, it is better to be at the driveway; for the project, either location would be fine.

The concern with the signal at Tannler is that it would back up traffic coming from 10th Street turning onto Blankenship. Overall the flow of traffic on the system as a whole will be better with the signal at the driveway than it would be at Tannler. The City and ODOT have made their decision to have the signal at the driveway.

Councilor Burgess asked if there was consideration given to a formal road through the project and having the development focused on that road as opposed to onto Tannler or Blankenship.

Mr. Spies stated that they looked at alternatives and found them to be very onerous. On the entire development of the property, the idea of bringing a road onto the site would cut out a good deal of the property and take away efficiencies of the site.

Mr. Ahern indicated that aligning Tannler across from Albertson's or from 10th Avenue would be beneficial. It would help the neighborhood and traffic from the hill get out. Cutting through the site with a public street eliminates the opportunity to build the project as it is currently designed. Access would be a real issue for this site and the adjacent site, as well. If Tannler came through the site and lined up with the Albertson's driveway, the driveway for the existing building would have to go way back up the hill to meet grades for public street standards.

Councilor Burgess asked the applicant if there is anything else that came out in their study of this site that can be offered to the City in terms of 10th Street. There is a 10th Street Corridor Study and it is in everyone's interest to solve the traffic issues.

Mr. Ahern stated that the two options recommended in the TSP would be viable alternatives; however, ODOT said they would not accept either alternative. They have significant constraints with the adjacent roads and the grades. It makes it tough to build what ODOT considers a standard interchange. They would have to get variances to make it work. The other option that is still available is moving Tannler to the east to align with 10th Street.

Councilor Carson asked for more detail on the frontage of the building on Blankenship and the setback and retaining walls.

Mr. Spies stated that what they had shown at the last Planning Commission hearing was a three-tiered retaining wall system with extensive landscaping cascading down over that retaining wall system and compared that with a straight wall that would have allowed enough room for the open catch basin drainage

system. It was agreed at that point that the stair-step approach had a much more positive impact on the overall neighborhood.

A comment that came out of the neighborhood meetings was a desire to increase the pedestrian connectivity from Blankenship up into the southern edge of these buildings. There is a setback that is generous enough to get a very comfortable stair-step pedestrian way that goes up the tiers of the system through the landscaping and comes into the southern edge of the building. They feel that they have pushed the building back as much as they could to still allow enough room for landscaping in the interior of the site and making as generous a statement at the street as possible.

Councilor Carson voiced concern about a pedestrian walkway up the existing driveway between the two developments. Mr. Spies stated that they are currently proposing pedestrian connectivity that comes up from Blankenship, laterally across from Tannler with handicapped accessibility. There is also the ability to move into the parking garage. These are all tied together with pedestrian connections. There are elevators at both the north and south end of the parking structure.

Councilor Carson stated that she couldn't see a walkway available for people who are crossing the street to Albertson's. Mr. Spies stated that this could be done; a sidewalk can be placed along the driveway.

Councilor Eberle asked if consideration was given to another entryway off of Blankenship and not having any entry point off Tannler. Mr. Spies stated that they were concerned about the number of curb cuts on Tannler and the amount of traffic on Tannler. They were trying to put the traffic to the west where the signal was proposed. From a grade standpoint, they felt they couldn't put another curb cut onto Blankenship. The spacing of the curb cuts would not allow it.

Councilor Eberle asked about the proximity of the building to the roadway; in other words, how many feet from the curb their building is from Tannler and Blankenship. Mr. Thompson referred to drawing sheet C-2.1. Starting at the tightest point of the western edge of Building A, the corner of the building is 15 feet from the property line and 40 feet from the curb line. There was brief discussion regarding the dimensions and scale of the building. From Blankenship at the southeast corner of the building, from the curb line it is approximately 90 feet and from the property line it is approximately 55 feet.

Councilor Eberle asked if there is a planter strip along the sidewalk on the Blankenship side. The applicant stated that at the existing driveway the sidewalk is curb tight. In the front of the building the new sidewalk steps back to provide a six-foot planter strip along the new building.

Mayor King asked if the sidewalk, planter strip, and bank along Tannler down to Blankenship will be landscaped. Mr. Spies stated that it will be landscaped along the new development to the northeast corner of the upper building, and then curb-tight from there north. The desire of the neighborhood was to retain the existing trees on the bank. Mayor King stated that he does not agree with keeping all the trees in that area. He feels that the trees should be thinned out.

Mayor King asked if open space would be dedicated. Mr. Thompson stated that there is a conservation easement around the trees in that whole area. The invasive species in this area are blackberries. They have cleaned that out and they would like to maintain that to keep it cut down and keep the natural look.

Councilor Burgess stated that the traffic from east to west has been addressed; however, he voiced concern about accessing the property from the west. How do you get from Albertson's to Building A from the west, going east? Mr. Thompson stated that a pedestrian connection can be placed on the west side of the driveway. There is a sidewalk at that point both leading to Building A and the existing medical building. There is a pedestrian access to the intersection where there is an existing crosswalk leading towards the restaurant pads.

Councilor Carson stated that there is no crosswalk across Blankenship at either intersection; the only crosswalk is at the light. Her concern is that, wherever there is a crosswalk, there needs to be an access to the buildings. Mr. Spies discussed access and agreed that the access to the buildings should be located next to the crosswalk.

Councilor Burgess asked about better pedestrian connections that relate to the inside of the parking structure. Mr. Spies stated that they designed the parking garage ramp as far to the west as possible so people will come to the center of the parking structure and go north or south to the buildings. They could easily put a sidewalk connection to the entrance.

Councilor Burgess indicated there seems to be a public space between Buildings B and C and asked if there will be a public area for Building A. Mr. Spies pointed out an area that would work as a lobby or break space. They have yet to do any detailed space planning for the building, but they would like to see some kind of ground floor food service outlet so people could come down, have access to food, and take advantage of the porch. There are a number of covered outside decks where tenants can take advantage of the views.

Councilor Burgess asked if the crosswalks will be raised. Mr. Spies stated that they would review materials to make sure that the crosswalks are marked as a pedestrian zone.

Councilor Burgess asked if the HVAC is beyond the height limitations. Mr. Spies stated that HVAC is beyond the height limitations; it is provided for in the code. The penthouse (mechanical screen for HVAC) is 10-12 feet high. In regards to the concerns raised regarding the noise, Mr. Thompson indicated they will orient the compressor towards the freeway on the south side away from the residents.

There was brief discussion regarding mitigation. Council President Gates asked if both the applicant and opponent were willing to sign a waiver of the 120-day limit to allow time to prepare documentation on the effect of moving the light to the west in terms of traffic counts. Mr. Thompson stated that they will get that information for Council. It will take about five minutes.

Councilor Eberle asked what the medians will be filled with other than cement. Mr. Thompson stated that the island would be landscaped and the raised median in the middle of the road will be landscaped.

Councilor Eberle confirmed there would be ample ADA parking spaces available in the parking structure.

Councilor Eberle asked what efforts have been taken to build this building as a green building. Mr. Spies stated that the configuration of the building and orientation of the buildings set up the energy profile of the building. The north side of the building is set in the ground so the heat loss is controlled on that side. They have introduced light shelves and shading devices on the southern aspect of the building, which allows for protection from the heat on the window surfaces and bouncing more light back into the spaces. They will look at sophisticated electronic controls for lighting on the inside of the building; look at an energy efficient roof; capturing of water runoff into a catch basin and treating it into the landscaping. Taking advantage of the latest technology and precautions from an energy standpoint, they will design a lead standard but not necessarily go through the certification process.

Councilor Burgess asked for a review of the building materials. Mr. Spies stated that they are looking at a combination of building materials. There will be a brick veneer (wheat color); a concrete block and pre-cast concrete components; light gray architectural metal panels and accent metal panels that are part of the solar shading devices; a light green cast glass (transparent) and dark window moldings.

[A recess was taken at 9:37 p.m. and the meeting reconvened at 9:55 p.m.]

Mr. Ahern stated the City's traffic consultant (DKS, Associates) wrote a letter reviewing their traffic study dated October 30th. In the letter they indicated that they wanted the signal moved to the driveway. They also indicated that they

know the intersection that is not signalized will have long delays. They determined that the best operation would be to move the signal to the driveway.

Group MacKenzie provided a response dated November 3rd (A-173, Exhibit PC-10), which identified the level of service with the shift in traffic to be a level of service C at about 60% of capacity at that driveway with the signal. That assumes an 80/20 split of traffic from the site would go to the location where the signal is. DKS agrees with that assessment of 80/20 and asked them to stick with that.

The numbers from the site would be 236 left turns at the signal at the driveway and 59 left turns at the intersection of Tannler at the p.m. peak hour. The estimate for build-out of this site with the background growth and development that is already occurring in the area there will be about 95 left turns from Tannler to Blankenship and 294 left turns from the office driveway onto Blankenship. There are a significantly higher number of left-turns at the driveway where the signal is now proposed.

Mr. Ahern indicated that currently it was 35 left turns from Tannler to Blankenship in the p.m. peak hour. At the existing office driveway there are 58 left turns.

Mayor King asked for an explanation of staged improvements. Mr. Ahern stated that there are two stages; the improvements with the lower building and additional improvements recommended to the two buildings to north. In their recommendations in the traffic studies, all the improvements are referred to as phase one and phase two. Condition #9 references the list of improvements. Phase one (southern Building A) includes the following offsite improvements:

1. Widen eastbound Blankenship approach to 10th Street to provide full-width through and right- turn lanes
2. Install traffic signal at the driveway
3. Only applies if signal is put in at Tannler
4. Providing two southbound lanes on 10th Street from Blankenship to the southern ramp terminal.
5. Stripe a 300-foot left-turn lane on Tannler at Blankenship
6. Left-turn lane from Tannler into the site access
7. Lengthening the northbound off ramp
8. Coordinating all the signals together
9. Providing sight distance at all the driveways
10. Restripe the existing three-lane approach at the intersection of Blankenship and 10th Street to allow for left-turn and through movements from the right-most lane

Phase two (full development):

1. Complete mitigation measures from phase one
2. Only applies if signal goes in at Tannler
3. Add a second eastbound right-turn lane on Blankenship at 10th Street
4. Provide a second northbound lane on 10th at the south interchange
5. Extend the northbound left-turn lane on 10th Street at the I-205 south on-ramp to 300 feet

Mayor King voiced concern regarding traffic disruptions. Mr. Ahern indicated phase one is along Blankenship and phase two is along 10th Street. There is no date certain for phase two. Mr. Thompson indicated it may be market driven, possibly two to three years.

Councilor Eberle asked if all the mitigation efforts can be done at once. Mr. Ahern stated that it is not needed for mitigation if they are going to do one building first.

Councilor Carson asked if the applicant is required to have a driveway off Tannler. Mr. Thompson stated that he recalled Fire Marshal wanted an access at that point. They wanted to be able to access the entire complex from Summerlinn, Tannler and Blankenship. Mr. Ahern indicated having two accesses will allow people the opportunity to use one access if the other were blocked.

Councilor Burgess clarified about the east side of 10th Street and what the Willamette Marketplace was required to do. Mr. Ahern indicated the design could be worked out to provide another lane in that area if the City and ODOT desired.

There was brief discussion regarding the prohibition of left turns onto Tannler and the traffic pattern proposed. Mr. Ahern indicated that the neighborhood desired that traffic be directed to the south.

Councilor Carson asked about the condition of approval to have a bus shelter at the corner of Tannler and Blankenship. She asked whether this is still the best location for the bus shelter. Mr. Ahern stated that the bus stop could be anywhere. Mr. Thompson said it is something that TriMet would discuss with the City and work out.

Testimony in Favor of Appeal

James Bentz, 2109 Greene Street, and Kathie Halicki were called. Mr. Bentz had left the meeting; Roberta Schwarz was called.

Kathie Halicki, 2307 Falcon Drive, stated that she resides in the Willamette Neighborhood and their vote to support the application did not represent her or any other Willamette Association neighbors that signed the submitted partition.

Ms. Halicki stated that her concerns about this project are that the traffic issues have not been adequately mitigated. Will the proposed light be queued with the ODOT 10th Street? Having the light at both ends of 10th Street developments that are not queued will cause havoc on the traffic. Having it not queued will make lower Tannler and Summerlinn Drive unusable for vast portions of the day. Now there will be two to three intersections rated F that are in close proximity to each other; Tannler, Summerlinn and Debok Streets. This will create massive backups. She can see vehicles cutting through Albertson's parking lot to avoid back up of the traffic in each direction thus going around the signal. She can also see people cutting through the Tannler West or the Corporate 205 to make a left at the light to head back to 205. People will also cut through Corporate 205 to turn right onto Blankenship to head towards Johnson. These could prove to be huge safety issues particularly with the pedestrians.

Should the light be queued with 10th Street, her fear would be speeding; a problem they already have. The applicant's traffic engineer has indicated that the lights would be queued for 17 miles per hour; however, at the present time people are doing 32 to 37 miles per hour. She is concerned about the school children and many pedestrians that walk down Blankenship. This would also affect the Barrington Heights people because they will have the inability to turn left out of their development onto Salamo. She can also see the demise of the Farmers' Market because of traffic, no parking, and safety issues. This proposal could be a beautiful addition to West Linn but it should be downsized and the traffic issues need to be adequately addressed. Perhaps the 10th Street Task Force should review this proposal. If the Council accepts this application, they will be tying the very hands of the committee that was appointed to look into this issue. Major developments are at both ends of the corridor that the task force is to study; that is putting the cart before the horse.

Roberta Schwarz, 2206 Tannler, stated that she provided the Council with 110 signatures from West Linn residents that live above the proposed development. These people would not like to have this application approved. Two newspaper articles were shown regarding this issue. This is putting the cart before the horse if this is allowed to happen before the traffic issues have been completely addressed.

The burden is on the applicant. They must prove that they have done the right thing by mitigation and water retention. She briefly discussed testimony from the Planning Commission meeting by staff regarding catch basins and open detention. She indicated that simply because it is a smaller development isn't a reason not to go for an open system. She said that Measure 37 has nothing that states you have to give a person every square inch they want. This should be a smaller development. She begged that Council not make the same mistake as Blackhawk. She asked that consideration be given to the grade on Tannler. Mr.

Kim Ken in his development wanted it to go straight through; there could be a road that goes through as an east/west connection. She concluded that the Council should make this applicant do his or her business well and make it something of which everyone can be proud.

Ken Pryor, 2119 Greene, was called to testify; he had left the meeting.

Testimony in Opposition to the Appeal

Alice Richmond, 3939 Parker Road, stated that this project is not for one neighborhood association; it is for everyone in the City. The 150 signatures do not represent all the voters.

Ms. Richmond stated that she feels it is good planning to have local employment here in the City. This will minimize traffic congestion and the promise of new economy to West Linn. She is glad that this will be a green building. She asked that Council approve this project; the outcome will be a great incentive to the environment.

Gordon Root, 2413 Remington Drive, stated that he is in real estate development; commercial, industrial, and residential development including mixed use. He has no ties with Blackhawk Development. This land has been zoned "OBC" forever; he developed Farmington Ridge in 1992 and it was known then that it was zoned the same.

Mr. Root stated that this project has been an excellent example of the public process at work. They have reached out to the neighborhood associations. They have listened to the neighborhood associations. They have made extreme adaptations to their project site plans, and it results in an outstanding design that will be a centerpiece for West Linn as a whole.

This project will provide a needed tax base and professional office space. Someone is stepping forward to take maximum advantage of the minimum commercial land in West Linn while being responsible to the neighbors and providing 51% of the land as preserved open space and preserving the white oaks and buffering noise.

This development is sustainable, compact, energy efficient and oriented towards the street. The trend is to put commercial buildings on the property line, which is a lot closer than what this is. It is excellent design, the way the architect has pulled the buildings away from the street.

The appellant is stonewalling "the project whose time has come." This application will be the funding source to fix the problems at 10th Street. The lot line adjustment has been approved; they own both parcels. The applicant has

responded to the noise. They have pushed down the buffer, and the large building upwards from the parking lot is a buffer. He guarantees that Group MacKenzie will do a good job. He has worked with them in the past and they have an army of well-qualified engineers to do the drainage and slope.

There is a financing consideration to go with staged development. In regards to an open or closed storm water treatment, he agrees with the closed system; opening it is ugly, unsightly, a danger, and requires more retaining walls to do so.

He concluded that bringing this type of development to West Linn should be congratulated. He encouraged Council to close the record tonight and approve the project.

Andrew Stamp, 4248 Galewood Street, Lake Oswego, Oregon, stated that he is the attorney representing Albertson's and West Linn Associates, who own the River Falls Shopping Center. This project will have some impact on their site, and there will need to be some widening and changes at the signal.

They appreciate the applicant's efforts to contact them and talk to them regarding this mitigation, and they have reached a tentative agreement with Blackhawk regarding this mitigation. The agreement has some cost-sharing provisions, and in exchange they will provide easements to facilitate the signalization at that interchange. In reliance on Blackhawk's promises to provide that mitigation, they feel comfortable testifying in support of the applicant tonight.

Neutral Testimony - None

Appellant's Rebuttal

Ed Schwarz, 2206 Tannler Drive, stated that the proximity of Building A is as close as it looks; it is on top of a 24-foot retaining wall.. Even if it is set back from the sidewalk more than Summerlinn, it will be extremely obtrusive when you are on site. It is not just the Summerlinn building moved back a few feet. It is the Summerlinn building on top of a two-story retaining wall.

It was testified that stairs from the front door to the sidewalk were not feasible. To him this indicates that this building is too tall and too close to the sidewalk.

There was no testimony about mitigating the traffic on Tannler. It was stated that the trips will go from 39 trips on Tannler during peak hours to 95 trips. That is two and a half times more (56 trips) being added to the bottom of Tannler without mitigation. You don't put in a 350-foot left-turn lane if there are no plans for a huge queue of cars turning left.

The light at Tannler and Blankenship seems to make the most sense to relieve the traffic off Tannler. The applicant was told to move the light to Albertson's. On the other side of the freeway, a light was put in at 8th Street and 8th Court that is very close to the light at the off-ramp. He feels there should be no concern about putting lights close together because of the proposed lights at 8th Street and 10th Street. Now there is a concern that a light at Tannler is too close to the 10th Street light. The light at Tannler is the one that makes the most sense; putting a light at Albertson's doesn't help the people at Tannler and doesn't mitigate the traffic on Tannler at all.

Applicant Rebuttal

Mr. Thompson referred to Chris Jordan's memo dated January 31st, Page 4, regarding the location and orientation of the buildings to the street.

He spoke about working with the 10th Street Task Force, indicating that Condition #14 states that the applicant will work with the 10th Street Task Force if they come up with suggestions that the City feels would be appropriate to consider. They will work with the City to implement those suggestions per Condition #14 from the Planning Commission.

Mr. Ahern stated that in their analysis they have come up with mitigation for traffic impacts. In addition, the City and their consultant, as well as ODOT, have indicated that they have in fact mitigated; and both the City and ODOT recommended approval with the mitigation that they came up with together. All of the traffic engineers that have reviewed the mitigation plan agree that this project does mitigate; there is no evidence that it doesn't.

Council President Gates asked when phase one and project construction would begin if approved. Mr. Wilt stated that it would depend on the market and fill rate of the Summerlinn building, not the Blackhawk building, and the overall effects of the marketplace and community. They would like to get the project shovel ready during the dry season this year. There is time to allow the 10th Street Task Force to complete its work. Mr. Thompson indicated it would take two to three months to prepare the final design of the project and two to three months to get the permits. There are several interested tenants.

Staff Final Comments

Mr. Gordon summed up some of the issues brought out in testimony:

- The arborist has reviewed the landscape plan and believes it more than mitigates for the trees that need to be removed for the Tannler improvements.

- The applicant owns both properties; if there wasn't a joint use agreement, there would be no project. This is not a matter other than to show that it is irrevocable.
- It is not uncommon that the Engineering Department wants the ability to look at more details regarding street lighting at the very end.
- The lot line adjustment was a separate action and is not a part of this package. It will be finalized at the applicant's discretion. If the application is not approved, it will not need to be finalized. The applicant could abolish the existing lot lines, and it wouldn't have any City review at all. This is not a significant issue.
- All of the noise issues (garbage trucks, sweepers, etc.) will be screened from residents above by the two upper buildings. The project as redesigned doesn't have any of the uses behind the buildings towards the residences. There is a 200- to 600-foot buffer and the applicant's noise study did meet the criteria set forth in the code.
- The issue of rough proportionality in terms of traffic impacts the City is required to follow, it requires that the applicant look at the stages in terms of road improvements. The other key issue is whether each phase meets standards individually, and staff has determined that it does.
- The applicant did look at alternatives (pages 100-103) in terms of slope, and this was the least impact on slope because it moves the development further down the hill. There is no natural drainageway on this site.
- In terms of storm detention, the site is not flat. Staff believes the example of Lake Oswego is not practicable on this sloping site. Precedent being an issue in terms of aesthetics includes the Summerlinn Center, LDS Church application, Gramor Development, and West Linn Village.
- The strategy for above ground facilities in the Surface Water Management Plan is aimed at residential subdivisions that have questions about maintenance. The homeowner's association questioned maintenance here as well as with the LDS Church; there is a unified maintenance by a single property owner.
- The reason that the sidewalk was made curb tight above Tannler was because of significant trees and not to grade as much into the slope. If Council chooses, staff can review more of a meandering sidewalk that would allow a planter strip where it doesn't affect the trees.
- In comparison to the Summerlinn Center, that project is 18 to 25 feet away from the street. The sidewalk already existed. There is no planter strip, and that building is five feet higher. This project is 40 to 60 feet away from the street and there would be a planter strip. A better example would be the other corporate park building down the street (one story shorter and no stairway).
- The code in Design Review Sections 55.100(B)7(c) and (B)7(h) requires that the building location be as close to the street as possible.

- While the building is four stories at the corner of Tannler and Blankenship, as you go up, it is three stories when you get opposite the top of the building; it is not quite as tall along the entire route.
- In regards to the noise bounce from the Summerlinn Building, unlike that, the building across the street from this is the Albertson's Shopping Center and not a residential area.
- It would be appropriate to have a six-foot wide sidewalk up the side of the driveway, especially if it is now the main entrance in terms of pedestrians because of the signal light and crosswalks there.
- It may be appropriate to have a condition to revise the entry stairway to double it back towards the signalized intersection as opposed to Tannler and Blankenship.
- The height limitations do not include non-habitable projections. There are no standards set on how much of a non-habitable projection there can be. The roofs for the penthouses are non-habitable projections as well.
- HVAC is oriented towards Blankenship in terms of compressors; a condition of approval can be included. This is something that can be required by staff at the time of design details.
- A condition can be included to require that the islands on Tannler be landscaped.
- In terms of traffic from this site that might be going up the hill towards the residential area, the logical progression would be to turn out on Blankenship, then turn left going up Tannler. There is a left-turn lane for that. It would not be signalized, but this would allow some of the traffic to go a little out of the way.
- The left-turn prohibition on Tannler was not required by staff. It was proposed by the applicant. Staff did not object to it. If access to Tannler is to be closed off, it should be reviewed by the emergency service provider to see if it is appropriate.
- It is specified that the bus shelter (Condition #12) be provided at the existing bus stop. The condition can be modified to state that it could be located where ever TriMet decides to locate it.
- The applicant is correct in reviewing Carl Springer's work. He does agree with the applicant's 80/20 split on traffic using a signalized access out of the project, as opposed to non-signalized (October 30th memo).
- When you go from 35 to 95 PM peak trips on Tannler, that is mitigated by the staging and platooning that is available because of the lights on either side of the Tannler/Blankenship intersection and the dedicated left-turn lanes that are not there now.
- Condition #14 gives flexibility if the 10th Street Corridor Study looks at something else in the near future.
- If this project is approved, it must be begun within three years of the approval in a significant manner.

Mr. Jordan stated that the applicant commented on a meeting he held with staff and him a couple of months ago and talked about the fact that they had mentioned that this would be a significant amount of tax revenues for the City. He told them at that time that in his view the additional tax revenues were negligible to the City. The City staff does not make recommendations on land use matters based on potential tax revenues to the City nor was it a criterion for Planning Commission or City Council approval on any land use action.

Council President Gates asked legal counsel's opinion on how the word "mitigation" applies to any application. Mr. Monahan explained that the Council will need to assess all the impacts created and has the applicant attempted to mitigate or come up with some solution to lessen the impact on the surrounding area, infrastructure and traffic situation. They have posted a list of all the mitigation techniques that they have provided. Mitigation is addressing the problems that are created from the impacts that result from the development. The decision-makers must interpret the City's code and to apply it to determine whether or not these mitigations meet the standard that you believe should apply. Mitigation does not have to be zero change.

Councilor Carson asked if the conservation easement for the upper property is the best choice for the City or is some other type of easement preferable. Mr. Howard stated the Planning Commission discussed this issue. The applicant made it clear that they did not voluntarily consent to dedicate that property. It was the City Attorney's opinion that there was not enough rough proportionality to allow the City to get dedication of the property into City ownership. The code states that for all significant trees there shall be a tree conservation easement placed on all of them to the point of a drip line plus 10 feet. That is what the condition of approval states. That is a significant portion of the upper property but not all of it.

The conservation easement runs with the land. It runs even after something happens to the tree. The conservation easement can only be removed on action of the Council to vacate it. It cannot be removed if the property is sold or something else happens.

Mayor King closed the public testimony portion of the hearing and opened the meeting to discussion among the Council.

Council President Gates moved to deny the appeal and uphold the Planning Commission decision and approve the proposed office development on the northwest corner of Blankenship Road and Tannler Lane with recommendations and findings indicated by staff with the following changes:

- **Hours for lot clean up will not exceed 9:00 p.m.**

- **Meandering sidewalk on Tannler to maintain as many significant trees as possible**
- **A pedestrian sidewalk provided along the driveway extending from Blankenship up into the project**
- **A revision and addition of a stairway at the front entrance which would go more towards the light that is being installed**
- **Landscaped islands on Tannler**
- **Islands projected as medians be landscaped**
- **Condition related to the bus stop be amended to show that it be at the TriMet suggested location**

Councilor Eberle seconded the motion.

Councilor Carson proposed an additional amendment to the text of Condition #14 to delete the words "later stage."

- **"In the event that the 10th Street Task Force or another City transportation study recommends a transportation improvement that could be preferable to a transportation improvement that is approved as a condition of approval for ~~a later stage of~~ this project."**

Council President Gates agreed to make that a part of the original motion. Councilor Eberle agreed.

Councilor Burgess stated he would like to amend the motion by adding language related to pedestrian access; that the parking structure be tied into the sidewalk that goes up the walkway headed to the west where there is an actual drive entrance that is obviously an exit.
Council President Gates agreed to make this amendment a part of the original motion. Councilor Eberle agreed.

Councilor Burgess proposed an amendment to the motion by adding the language; that the HVAC be designed to minimize noise and direct any noise towards the freeway or to the south away from the residential area. Council President Gates agreed to the amendment; Councilor Eberle concurred.

Mayor King asked if the amendment for the sidewalk is for one side or both sides. The applicant volunteered both sides. Councilor Burgess stated that it would be logical to extend the sidewalks on both sides up to the west that is going into the existing development.

Mayor King asked about additional landscaping on the upper end of Tannler along the sidewalk. He would like to see some thinning of the brush along that section. **After brief discussion there was consensus to have an additional condition requiring thinning of trees to improve the aesthetic value of the site, according to the City Arborist. Council President Gates agreed to**

make this amendment a part of the original motion. Councilor Eberle agreed.

Councilor Eberle voiced concern about the impact of the meandering sidewalk along Tannler and cutting back the hillside. Councilor Burgess stated that the six-foot sidewalk and planter strip will cause cutting into the hillside property. There was brief discussion regarding the location of the significant trees and the feathering of the bank. There will be cutting in order to provide the planter strip.

Mr. Wilt stated that the brush along this area is not attractive. There is a provision that they can't do anything without the permission of the City Arborist. They will have to get the arborist's concurrence on any improvements made to the landscaping in this area. They will have to cut into the bank.

Mayor King explained that the Council must decide whether to vote on this matter or have staff prepare a final order for review and approval. He asked legal counsel if the record had to be kept open until the final vote. Mr. Monahan stated that this is not the first evidentiary hearing. The Council is not required to grant a continuance or keep the record open. It is up to the discretion of the Council.

Councilor Burgess stated that he feels that issues have been addressed. This project meets code, is properly zoned, and has dealt with issues of this difficult site.

This is a project meets code. It has been zoned office/business for a number of years. It is a difficult site, as are many in West Linn. Cost drives density. The properties that are developed now are those that were not developed in the past. This is a freeway interchange. This project will bring jobs and services to West Linn. This is a sloped site and the project addressed the slope and drainage as best as could be. He indicated that 51% of the project is left open to save significant trees.

There are significant improvements being made in this development and the proposed light is being placed where the City asked that it be located, not where they proposed. He does not think putting a light at Tannler makes a lot of sense in terms of the overall traffic pattern. It will be difficult for traffic coming up 10th turning onto Blankenship and just being stopped, which will tie up the whole intersection.

The lot line adjustment is 7% of the property and proper in terms of this development. It could be done without Planning Commission review. The indication is that the applicant has met noise standards. Door slamming and garbage truck noise occurs in residential areas. The applicant has made significant contributions in terms of a major setback, and this site is already overwhelmed with background freeway noise. The garage is blocked by the two

upper buildings, and the distance of the setback allows the mass and distance to help with the sound situation.

Water flows downhill and there is going to be drainage to the bottom. An open drainageway will require a fence and he does not feel this is what residents will want to look at on Blankenship. To stage developments of this size is common. The improvements are commensurate with the development in terms of impacts. Deferred compliance is not unusual.

The building has been placed back; however, he has concerns about the height of the retaining wall. The code was developed according to state law. The Transportation Planning Rule indicated that they wanted buildings up against the street. He does not agree, but it does meet code. For these reasons, he will be supporting the motion as amended.

Councilor Eberle stated that of the eight areas of concern raised by the Neighborhood Association, three had merit in her opinion. The three areas of concern were traffic, staged development and proximity of the building. With the discussions tonight she feels that her concerns were resolved. The retaining wall is not as overbearing as a building itself. The green area cascading over it will soften the look. All of her concerns regarding staged development were addressed. This project will allow funding to help deal with the traffic problems in this area. With the addition of Condition #14, she feels that her concerns have been alleviated. This is going to be a wonderful project for the community. The buildings look very nice. She would rather see office/business that brings jobs than to have a 10- 12- or 15-hour retail establishment. She appreciates the work that has been done and looks forward to this coming to West Linn.

Councilor Carson stated that she concurs with Councilor Eberle's comments. She had similar concerns and thinks they have been addressed. She is still concerned about traffic; however, having Condition #14 gives flexibility so, when the 10th Street Task Force completes their work, there will be cooperation to get some of the recommendations done.

Council President Gates stated that he concurs with the concerns raised and feels they have been addressed. He encouraged the applicant to participate in the 10th Street Task Force dialogue. He hopes that this whole interchange comes up with a solution that satisfies long term.

Mayor King stated that he concurs with most of what has been said. After all the testimony, he feels there are two issues of concern; the issue of the mitigation of traffic and the phasing being disruptive. He now feels that the mitigation that the project makes is adequate and meets the requirements of code, and the phasing testimony alleviated his concerns about that issue. He will be voting to deny the appeal.

Mr. Jordan suggested that this be a tentative approval. Staff would like to prepare a draft with the final revisions and bring it back to the Council for formal review and approval on February 26, 2007. Council agreed to a tentative approval.

Vote on the pending main motion as amended:
Council President Gates moved to tentatively deny the appeal and uphold the Planning Commission decision and approve the proposed office development on the northwest corner of Blankenship Road and Tannler Lane with recommendations and findings indicated by staff with the following changes:

- **Hours for lot clean up will not exceed 9:00 p.m.**
- **Meandering sidewalk on Tannler to maintain as many significant trees as possible**
- **A pedestrian sidewalk provided along the driveway extending from Blankenship up into the project**
- **A revision and addition of a stairway at the front entrance which would go more towards the proposed light**
- **Landscaped islands on Tannler**
- **Islands projected as medians be landscaped**
- **Condition related to the bus stop be amended to show that it be at the TriMet suggested location**
- **Change Condition #14, "In the event that the 10th Street Task Force or another City transportation study recommends a transportation improvement that could be preferable to a transportation improvement that is approved as a condition of approval for this project."**
- **Additional language that the parking structure is tied into the sidewalk that goes up the walkway to the west where there is an actual drive entrance that is an exit.**
- **Additional language to include the HVAC is being designed to minimize noise and direct any noise towards the freeway to the south away from the residential area.**
- **Additional condition requiring thinning of trees to improve the aesthetic value of the site.**

Ayes: Burgess, Eberle, Gates, Carson, King
Nays: None
The motion carried 5-0.

Adjournment

The meeting adjourned at 11:15 p.m.

AGENDA BILL
07-03-04

For Council: March 19, 2007

Public Hearing: Yes__ No_X

Subject: Liquor License Application

Department: Administration

City Manager's Initials: CJ

Attachments:
Staff Memo 2-27-07; application; email to neighborhood assoc.; License List from OLCC

Budget Impact:

Expenditures Required: $0	Amount Budgeted: $0	Appropriation Needed: $0

Summary:

The applicant, John Cress, President of Bugatti's, Inc., will be taking sole-ownership of the restaurant and will be changing its name to Johnny's Caffe & Pizzeria. He has applied for a change of ownership and change of trade name (C/TN) for the OLCC licenses currently issued to Bugatti's for limited on-premises sales and off-premises sales. Johnny's Caffe & Pizzeria (Bugatti's) is located at 1885 Blankenship Road.

The City Manager has reviewed the application materials and recommends approval by the City Council.

Recommended Action:

Make a motion to recommend approval of the application to the OLCC.

Council Action Taken:

Approved:
Denied:
Continued:

West Linn Police Department

Detective Division

Memo

Date: Tuesday, February 27, 2007

To: City Manager Chris Jordan

From: Detective Sergeant Michael Boyd

CC:

Re: Liquor License Application – Ownership Change

JC Hospitality, LLC, dba as Johnny's Caffe and Pizzeria has applied for a change of ownership and business name for their OLCC license for their business, formerly known as Bugatti's café and Pizzeria, located at 1885 Willamette Falls Drive in West Linn. On 02-12-07, OLCC received the liquor license application John Cress, representing JC Hospitality LLC, submitted an application to the City as per West Linn Municipal Code 7.715. Oregon Revised Statute 471.166 provides that the Commission may take into consideration a local government's timely written recommendation on initial and renewing licenses.

I recently recommended a renewal of this liquor license and that was approved by the Council on the consent agenda of the 02-12-07 City Council meeting. This request is a name and ownership change only with the former president, JOHN CRESS, now taking sole ownership of the restaurant. I have found no valid grounds (as listed in ORS 471.313, OAR 845-005-0320, OAR 845-005-0325, or OAR 845-005-0326) to warrant unfavorable recommendations. Additionally, I checked the computer databases and found the West Linn Police Department has had no negative contacts with or regarding the former business, Bugatti's Caffe and Pizzeria.

I have notified all West Linn Neighborhood associations by e-mail regarding my investigation and informing them of the expected date that the City Council is likely to consider this recommendation.

I recommend this application be submitted to the City Council with a recommendation for approval.

Rec'd 90 Day

OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

PLEASE PRINT OR TYPE

Application is being made for:

LICENSE TYPES

- ☐ Full On-Premises Sales ($402.60/yr)
  - ☐ Commercial Establishment
  - ☐ Caterer
  - ☐ Passenger Carrier
  - ☐ Other Public Location
  - ☐ Private Club
- ☒ Limited On-Premises Sales ($202.60/yr)
- ☒ Off-Premises Sales ($100/yr)
  - ☐ with Fuel Pumps
- ☐ Brewery Public House ($252.60)
- ☐ Winery ($250/yr)
- ☐ Other: _____

ACTIONS

- ☒ Change Ownership
- ☐ New Outlet
- ☐ Greater Privilege
- ☐ Additional Privilege
- ☒ Other CTN

P27263
L76008
76010-0

Applying as:

☐ Individuals ☐ Limited Partnership ☐ Corporation ☒ Limited Liability Company

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

_____ (name of city or county)

recommends that this license be:

Granted ☐ Denied ☐

By: _____ (signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: R. Cotton

Date: 2/12/07

90-day authority: ☐ Yes ☑ No

1. Applicant(s): [See SECTION 1 of the Guide]

① JC Hospitality, LLC ③ _____

② _____ ④ _____

2. Trade Name (dba): Johnny's Caffe + Pizzeria

3. Business Location: 1885 Blankenship Rd., West Linn, Clackamas, Or. 97068
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: Same as Above
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503.557.8686 (phone) 503.697.9224 (fax)

6. Is the business at this location currently licensed by OLCC? ☒ Yes ☐ No

7. If yes to whom: Bugatti's Inc. Type of License: Limited On + Off Premises

8. Former Business Name: Bugatti's Caffe + Pizzeria

9. Will you have a manager? ☒ Yes ☐ No Name: Candice Hindman
(manager must fill out an individual history form)

10. What is the local governing body where your business is located? West Linn
(name of city or county)

11. Contact person for this application: John Cress (name) 503.522.9639 (phone number(s))
1885 Blankenship Rd., West Linn, 97068 (address) 503.697.9224 (fax number) johnbugatti@comcast.net (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① _____ Date 1-19-07 ③ _____ Date _____

② _____ Date _____ ④ _____ Date _____

1-800-452-OLCC (6522)

www.olcc.state.or.us

Boyd, Mike,

To: David.Grelewicz@nike.com; WLHSNA@msn.com; frankwesson@earthlink.com; wrelyea@comcast.net; mikekap@earthlink.net; abbiewojcik@comcast.net; brockmkrmd@aol.com; dsekov@msn.com; daver@europa.com; offer.family@comcast.net; alicejohansson3@comcast.net

Subject: OLCC license change application

JC Hospitality, LLC, dba as Johnny's Caffe and Pizzeria has applied for a change of ownership and business name for their OLCC license for their business, formerly known as Bugatti's café and Pizzeria, located at 1885 Willamette Falls Drive in West Linn. On 02-12-07, OLCC received the liquor license application John Cress, representing JC Hospitality LLC, submitted an application to the City as per West Linn Municipal Code 7.715. Oregon Revised Statute 471.166 provides that the Commission may take into consideration a local government's timely written recommendation on initial and renewing licenses.

I recently recommended a renewal of this liquor license and that was approved by the Council on the consent agenda of the 02-12-07 City Council meeting. This request is a name and ownership change only with the former president, JOHN CRESS, now taking sole ownership of the restaurant. I have found no valid grounds (as listed in ORS 471.313, OAR 845-005-0320, OAR 845-005-0325, or OAR 845-005-0326) to warrant unfavorable recommendations. Additionally, I checked the computer databases and found the West Linn Police Department has had no negative contacts with or regarding the former business, Bugatti's Caffe and Pizzeria.

This item will be heard on the consent agenda of the 03-19-07 City Council meeting.

Dist. #	License Number	Tradename	Participant	License Type	Premises Address
Local Government: WEST LINN					
2	75609	7-ELEVEN STORE #2353-18259E	VALENTINE, EDWARD L	O	19100 WILLAMETTE DR, WEST LINN, OR
	85227	ALBERTSON'S #506	NEW ALBERTSON'S INC	O	1855 BLANKENSHIP, WEST LINN, OR
	77241	B & G SERVICE STATION	B & G SERVICE STATION INC	O	22805 WILLAMETTE DR, WEST LINN, OR
	75303	BALES MARKETPLACE THRIFTWAY	SIGNATURE NORTHWEST LLC	O	19133 WILLAMETTE DR, WEST LINN, OR
	77861	BARRINGTON BISTRO	HIMMELRIGHT FOODS INC	F-COM	21450 SALAMO RD, WEST LINN, OR
	76008	BUGATTI'S PiZZERIA	BUGATTI'S INC	L	1885 BLANKENSHIP RD, WEST LINN, OR
	76010	BUGATTI'S PIZZERIA	BUGATTI'S INC	O	1885 BLANKENSHIP RD, WEST LINN, OR
	76007	BUGATTI'S RISTORANTE	BUGATTI'S INC	F-COM	18740 WILLAMETTE DR, WEST LINN, OR
	76009	BUGATTI'S RISTORANTE	BUGATTI'S INC	O	18740 WILLAMETTE DR, WEST LINN, OR
	86042	CHEERS II / BERLIN BEAR	RAINTREE INC	F-COM	1889 WILLAMETTE FALLS DR, WEST LINN, OR
	86233	GERONIMO GRILL	LINDSTEDT, JOHN M	F-COM	1849 WILLAMETTE FALLS DR, WEST LINN, OR
			CARROW, ELIZABETH A		
	77547	IXTAPA WEST LINN	IXTAPA - WEST LINN INC	F-COM	2028 SW 8TH ST, WEST LINN, OR
	86285	L & B'S	L& B'S INC	F-COM	1717 WILLAMETTE FALLS DR, WEST LINN, OR
			KINSEY, DENNIS B		
	83057	LIL' COOPERSTOWN PUB & GRILL	LIL COOPS INC	F-COM	1817 WILLAMETTE FALLS DR, WEST LINN, OR
	76450	LINN CITY PUB	RAKES INC	F-COM	19389 WILLAMETTE DR, WEST LINN, OR
	86349	MARKET OF CHOICE #5	WRIGHTS FOODLINER INC	O	5639 HOOD ST, WEST LINN, OR
	77412	MCMENAMINS WEST LINN	MCMENAMIN'S INC	F-COM	2090 SW 8TH, WEST LINN, OR
	77435	MCMENAMINS WEST LINN	MCMENAMIN'S INC	BP	2090 SW 8TH, WEST LINN, OR
	75701	PHILADELPHIA'S STEAKS & HOAGIES	SOUTH PHILLY'S INC	L	18625 WILLAMETTE DR, WEST LINN, OR
	76366	PINE GARDEN RESTAURANT	PINE GARDEN RESTAURANT INC	F-COM	21550 SALAMO RD, WEST LINN, OR
	77320	PIZZA SCHMIZZA	ONE CASCADE LLC	L	21700 SALAMO RD, WEST LINN, OR
	76146	ROUND TABLE PIZZA	FAR WEST PIZZA INC	L	19121 WILLAMETTE DR, WEST LINN, OR
	75683	SAFEWAY STORE #1713	SAFEWAY INC	O	22000 SALAMO RD, WEST LINN, OR
			GROCERYWORKS.COM INC		
	87978	SALUTE-CAFE ITALIANO	SALUTE LLC	L	1721 WILLAMETTE FALLS DR, WEST LINN, OR
	76600	SHARI'S OF WEST LINN	SHARI'S MANAGEMENT CORP	L	2180 EIGHTH CT, WEST LINN, OF
	75437	SUNSET MARKET	YOO, YOUNGMAN	O	4480 CORNWALL ST, WEST LINN OR
	76692	THAI ORCHID RESTAURANT	SAENGURAIPORN, CHAMNA	L	18740 WILLAMETTE DR, WEST LINN, OR
	77716	THE ESSENCE OF CHINA	QIU, YONGGEN	L	1727 WILLAMETTE FALLS DR, WEST LINN, OR
	76131	WEST LINN FILLING STATION	ERFAN INC	O	19120 WILLAMETTE DR, WEST LINN, OR

February 19, 2007

To Whom It May Concern:

This Liquor License Application is being submitted to you for approval because the partnership that is Bugatti's, Inc. is changing the ownership of its Caffe & Pizzeria at 1885 Blankenship Rd., West Linn.

I, John Cress, currently the President of Bugatti's, Inc. will be taking sole-ownership of this restaurant and will be changing its name to **Johnny's Caffe & Pizzeria**.
All else; staff, menu, etc. will remain the same; it is a name and legal entity ownership change only.

Should you have any questions please do not hesitate to contact me directly.

Thank you,

John Cress
Cell 503.522.9639

AGENDA BILL
07-03-08

For Council: March 19, 2007

Required Public Hearing: No
Contract Review Board: No
(Check above if applicable)

Subject:
Resolution -- Opposition to SB 45

Department: Administration

City Manager's Initials: ej

Attachments: Yes; resolution

Budget Impact:

Expenditures Required: $0	**Amount Budgeted:** $0	**Appropriation Needed:** $0

Summary:

As requested by the City Council, attached is a resolution of the City Council supporting SDC's for schools, but opposing SB 45.

Recommended Action:

Staff recommends the City Council approve the attached Resolution.

Council Action Taken:
Approved:
Denied:
Continued:

RESOLUTION NO. 07-___
WEST LINN, OREGON

A RESOLUTION OF THE WEST LINN CITY COUNCIL REQUESTING ITS STATE LEGISLATORS OPPOSE SB 45

WHEREAS, a well planned system of parks, trails and recreation facilities are critical to maintaining and improving the high quality of life and livability in West Linn; and

WHEREAS, park amenities, sports fields, trails and natural areas are also important factors in attracting new residents and businesses to our community; and

WHEREAS, as the West Linn community grows in population, it is essential to increase the amount of park land and recreation facilities in order to maintain existing levels of service for both current and future residents; and

WHEREAS, the City of West Linn has long supported the notion that growth, through system development charges, should pay the cost of providing additional infrastructure necessary to support itself; and

WHEREAS, the City of West Linn believes the state of Oregon should allow for the imposition of system development charges for schools; and

WHEREAS, SB 45 has been introduced in the state legislature that could provide schools with the authority to impose a system development charge; and

WHEREAS, SB 45 would also limit the amount of school SDC's to be charged and would connect it to parks SDC's; and

WHEREAS, the City Council believes that school SDC's should not be connected to parks SDC's; and

WHEREAS, the City Council does not agree that the legislature should place an arbitrary cap on the imposition of any system development charge, as proposed in SB 45; and

WHEREAS, SB 45 would also place school districts and park providers in competition with one another and place the administration of one SDC on two different government entities with different missions and boundaries;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WEST LINN THAT:

1. The City of West Linn opposes SB 45.
2. The City of West Linn requests that the state legislature establish a system development charge for schools that is separate from all other SDC's.

This resolution is effective upon passage.

This resolution adopted this 19th day of March 2007.

_____
Norman B. King, Mayor

ATTEST:

_____

RESOLUTION NO. 07-05
WEST LINN, OREGON

A RESOLUTION OF THE WEST LINN CITY COUNCIL REQUESTING ITS STATE LEGISLATORS OPPOSE SB 45

WHEREAS, a well planned system of parks, trails and recreation facilities are critical to maintaining and improving the high quality of life and livability in West Linn; and

WHEREAS, park amenities, sports fields, trails and natural areas are also important factors in attracting new residents and businesses to our community; and

WHEREAS, as the West Linn community grows in population, it is essential to increase the amount of park land and recreation facilities in order to maintain existing levels of service for both current and future residents; and

WHEREAS, the City of West Linn has long supported the notion that growth, through system development charges, should pay the cost of providing additional infrastructure necessary to support itself; and

WHEREAS, the City of West Linn believes the state of Oregon should allow for the imposition of system development charges for schools; and

WHEREAS, SB 45 has been introduced in the state legislature that could provide schools with the authority to impose a system development charge; and

WHEREAS, SB 45 would also limit the amount of school SDC's to be charged and would connect it to parks SDC's; and

WHEREAS, the City Council believes that school SDC's should not be connected to parks SDC's; and

WHEREAS, the City Council does not agree that the legislature should place an arbitrary cap on the imposition of any system development charge, as proposed in SB 45; and

WHEREAS, SB 45 would also place school districts and park providers in competition with one another and place the administration of one SDC on two different government entities with different missions and boundaries;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WEST LINN THAT:

1. The City of West Linn opposes SB 45.
2. The City of West Linn requests that the state legislature establish a system development charge for schools that is separate from all other SDC's.

This resolution is effective upon passage.

This resolution adopted this 19th day of March 2007.

Norman B King

Norman B. King, Mayor

ATTEST:

Nancy R. Davis

AGENDA BILL
07-03-09

For Council: March 19, 2007

Required Public Hearing: No

Subject: A Resolution Supporting Housing Opportunities

Department: Administration

Dept. Head Initials: JHA

City Manager's Initials: eg

Attachments: Resolution

Budget Impact:

Expenditures Required: $0	Amount Budgeted: $0	Appropriation Needed: $0

Summary:

The City Council has adopted as one of its priorities the need to enhance the quantity of affordable housing opportunities in West Linn. The attached resolution endorses the Housing Alliance 2007 Housing Opportunity Agenda in urging the Oregon Legislature to dedicate $100 million during the 2007-2009 biennium to build and maintain affordable housing throughout Oregon.

Recommended Action:

Act on a motion to adopt the resolution.

Council Action Taken:
Approved:
Denied:
Continued:

RESOLUTION NO. 07-__

A RESOLUTION OF THE WEST LINN CITY COUNCIL SUPPORTING HOUSING OPPORTUNITIES

WHEREAS, across Oregon housing prices continue to rise, outpacing most families' proportionate increase in income and putting home ownership beyond the reach of an increasing number of Oregon's working families; and

WHEREAS, families and individuals living on fixed incomes or on minimum wage salaries often cannot afford to rent a one-bedroom apartment at market rates in the metropolitan area; and

WHEREAS, shortages of affordable housing and homelessness affect all areas of Oregon; and

WHEREAS, levels of state funding for affordable housing programs are inadequate to meet the housing needs of many lower-income Oregon households; and

WHEREAS, the Housing Alliance is a statewide bipartisan alliance of local governments, housing advocates, community development corporations, service providers, business interests and others concerned about the lack of affordable housing in Oregon; and

WHEREAS, the West Linn City Council has adopted as one of its priorities the need to enhance the quantity of affordable housing opportunities in West Linn;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WEST LINN:

Section 1. That the City of West Linn endorses the Housing Alliance 2007 Housing Opportunity Agenda and joins with dozens of other local governments and the Housing Alliance in urging the Oregon Legislature to dedicate $100 million during the 2007-2009 biennium to build and maintain affordable housing throughout Oregon.

Section 2. This resolution shall be effective immediately on passage.

This resolution adopted this 19th day of March 2007.

_____
Norman B. King, Mayor

Attest:

_____

LEGISLATIVE ALERT

DATE: February 21, 2007
TO: All City Officials
ISSUE: **SB 400 – Public Safety Collective Bargaining**

HOMETOWN ACTIONS:

- **SB 400 may come to the Senate floor for a vote of the full Senate as early as next week. We need you to continue to keep the pressure on your legislators to urge a "NO VOTE" on SB 400. Every vote will count.** To access information for your legislators go to the League's website at www.orcities.org. Click on "Legislative" on the left main menu and go to "Legislative Information." Choose "Contact My Legislators".

- Copy the League on correspondence, call Andrea at (503) 588-6550 or send an e-mail to afogue@orcities.org to let the League know what you're hearing from your legislators.

MESSAGE TO LEGISLATORS:

Senate Bill 400 would result in significant cost increases for public safety and more importantly, eliminate the ability for local elected officials to make budgeting decisions that will balance the need for services demanded by your citizens and businesses.

BACKGROUND:

After a hard fought battle to keep SB 400 from coming out of the Senate Commerce Committee, on Tuesday, the bill came out on a close 3-2 vote. The League offered compromise language that would have made the bill workable for cities, but it was rejected by the committee chair. The battle now moves to a full vote of the Senate.

Senate Bill 400 (same as HB 2404) has been re-introduced part of a package of collective bargaining bills that were narrowly defeated in the 2003 and 2005 sessions. SB 400 would undo significant collective bargaining reforms enacted in 1995 as part of SB 750. That bill was hailed as groundbreaking collective bargaining legislation which fairly balanced the needs of both union and management interests.

In summary, SB 400 would make **staffing levels** and **safety issues** mandatory subjects of bargaining if they have a **"potential"** impact on the "on-the-job safety" and the **workload** of the employees.

Please also see the link to "Myths and Facts about SB 400"on the League's web page at www.orcities.org- click on "Legislative" on the left main menu and go to "Legislative Information."

TELL YOUR CITY'S STORY:

- Tell legislators about the importance that public safety already plays in your decisions to allocate scarce resources. What percentage of your city's general fund budget is currently allocated to public safety?
- Based on expected union requests for increased staffing levels, how would response times and other service levels to your citizens be affected?

West Linn City Council

RESOLUTION NO. 07-07
A RESOLUTION SUPPORTING HJR 14

WHEREAS, on March 13, 2007, following a vigorous public outreach and education effort incorporating the news media, cable television, electronic communications, canvassing, telephoning, letters to the editor and numerous other activities, the voters of West Linn, Oregon, cast ballots on a local option tax measure to maintain current levels of police services, and

WHEREAS, 72 percent of those who voted in the election voted in favor of renewing the police levy, and

WHEREAS, despite the overwhelming margin of voter approval, the election was nevertheless invalid because voter turnout did not exceed 50 percent, as required by the Oregon Constitution, and

WHEREAS, even if all of the 735 missing ballots necessary to achieve a 50% turnout were "No" votes, the levy election still would have been approved by 65 percent of those voting, and

WHEREAS, the West Linn City Council is deeply concerned that Democratic processes have been sabotaged by a requirement that rewards voter apathy and inaction while disenfranchising the citizens who do their duty as Americans and Oregonians by voting in elections,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF WEST LINN, that

1. The City Council supports all efforts, particularly HJR 14, to refer to the voters of Oregon a measure to repeal or modify the so-called "double majority" requirement which has cost taxpayers untold thousands of dollars in elections and campaign efforts that would otherwise be avoided if the principle of majority rule were restored in Oregon.

2. This Resolution shall be deemed effective upon adoption.

Adopted this 19th day of March, 2007.

Norman B. King

Norman B. King, Mayor

Attest:

Nancy R. Davis

3/26/07

House Joint Resolution 14

Sponsored by Representatives BURLEY, HUNT, Senators DEVLIN, MORSE; Representatives BARKER, BARNHART, BERGER, BONAMICI, BOONE, BRUUN, CANNON, COWAN, DINGFELDER, D EDWARDS, ESQUIVEL, FLORES, GALIZIO, GREENLICK, HOLVEY, JENSON, NATHANSON, READ, RILEY, ROBLAN, ROSENBAUM, SCHAUFLER, Senator WESTLUND

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Proposes amendment to Oregon Constitution to modify double majority voting requirements in property tax elections so that double majority requirement does not apply to local property tax measures submitted to electors in elections in May or November of any year.

Refers proposed amendment to people for their approval or rejection at special election held on same date as next primary election.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 11k to be added to and made a part of Article XI, such section to read:

SECTION 11k. Notwithstanding subsection (8) of section 11 of this Article, subsection (8) of section 11 of this Article does not apply to any measure voted on in an election held in May or November of any year.

PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at a special election held throughout this state on the same date as the next primary election.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

AGENDA BILL
#07-03-07

For Council: March 19, 2007

Department: Planning
Dept. Head Initials: BCB

Subject: Final Decision to approve Appeal (AP-07-03) by Centurion Homes of Planning Commission's decision denying 21-lot PUD (SUB-06-08/ ZC-06-07) proposed by Centurion Homes

City Manager's Initials: bf

Attachments:
Draft final decision for AP-07-03

Budget Impact: None

Expenditures Required $ -0-	**Amount Budgeted $** -0-	**Appropriation Needed $** -0-

Summary:
It was proposed at the March 5 City Council meeting that the draft final decision of AP-07-03 be adopted at the March 19 City Council meeting. Attached is the draft final decision for this appeal. This draft has been reviewed by City Attorney Tim Ramis.

Recommended Action:
Motion to adopt final decision for AP-07-03

Council Action Taken:
Approved:
Denied:
Continued:

p:/devrvw/CCagenda bills2007-agenda bill-07-03-07

WEST LINN CITY COUNCIL

FINAL DECISION NOTICE

AP-07-03

IN THE MATTER OF THE APPLICATION FOR A 21-LOT SINGLE-FAMILY PLANNED UNIT DEVELOPMENT AT 1165 ROSEMONT ROAD

At their meeting of March 5, 2007, the West Linn City Council held a public hearing to consider Centurion Homes appeal of the Planning Commission's decision to deny Centurion Homes' application SUB-06-08/ZC-06-07. The application proposes to develop the 6.2-acre property at 1165 Rosemont Road with a 21-lot single-family planned unit development (PUD). The approval criteria for the PUD subdivision application are found within Chapter 24 and Chapter 85 of the Community Development Code (CDC). The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing commenced with a staff report presented by Tom Soppe, Associate Planner. Phil Gentemann of Centurion Homes, Bruce Goldson of Compass Engineering, and Carrie Richter of Garvey Schubert Barer all spoke representing the applicant. Speaking in favor of the appeal were Alice Richmond and George Adams. Speaking in opposition to the appeal were Gary Dowen, Mary Dowen, Curt Sommer, Dan Schmitz, Nanette Boggess, Lynn Fox, Michelle Blankenheim, Teri Cummings, Jacob Cummings, Gary Hitesman, Karie Oakes, Charlie Davis, Tim Rand, and Jeff Treece. The appellant then provided a final rebuttal.

FINDINGS

The City Council adopted staff's findings in their decision approving the appeal. If there is a conflict between the two sets of findings, these findings control. The City Council made the following additional findings:

1. The applicable approval criteria in this case are set forth in Community Development Code (CDC) Section 85, Land Divisions, and Section 24, Planned Unit Development. Opponents argue that Sections 32, 55, 92.010(H)(3) and 95 apply and compliance not achieved. The Council finds that CDC Section 32 governing natural drainageways does not apply because a natural drainage way does not exist on the property as it is not mapped on the City's adopted Storm Drainage Master Plan maps. The proposal is for a subdivision to accommodate single family residential structures and is exempt from CDC Section 55 Design Review. CDC Section 92, Required Improvements, identifies infrastructure improvements that must be included as part of all development proposals. CDC 92.010(H)(3) requires a that all public streets be bounded with a 6 foot public sidewalk separated from the roadway by a 6 foot planter strip. By complying with the arterial road cross-sections identified in the City's adopted Transportation System Plan, the applicant will comply with this obligation. The CDC does not include a section identified as 95.

2. CDC Section 24.100 sets forth the approval criteria applicable to this Planned Unit Development request. In addition to these criteria, CDC Section 24.010 sets out a number of Purpose Statements. Most of these purpose statements, subsections B through F are mirrored

with identical language in the approval criteria. However, CDC Section 24.010(A) is not contained in the approval criteria. It provides:

> The purpose of the Planned Unit Development overlay zone is to provide a means for creating planned environments:
>
> A. To produce a development which would be as good or better than that resulting from traditional lot by lot development.

The Planning Commission erred in directly applying this purpose statement as a criteria. The wording and context of this provision does not indicate that it imposes an affirmative obligation to which the applicant must comply. Rather, it identifies the City's motivation for adopting a PUD overlay zone and is relevant to interpreting the applicable criteria, not as a criteria itself. By complying with the criteria (i.e., providing a design that preserves amenities that is also in harmony with its surroundings), this PUD will be as good as or better than a traditional lot by lot development.

If this purpose statement were an applicable approval criterion, the Council finds that this criterion is met because the development is in harmony with its surroundings and the varying lot sizes will allow for a variety of different housing options located very near commercial and community services. The construction of a recreation path within a widened open space, as well as substantial roadway improvements, will increase the use of pedestrian throughways, improve bicycle safety, and reduce the intersection wait time through a new dedicated left turn lane on Rosemont Road. This design will allow for the treatment of runoff from the Hidden Springs development thereby improving water quality to Tanner Creek. The design is therefore as good, and in some ways, better than a traditional subdivision.

3. The Planning Commissions denial was based on a finding that the approval criteria for a PUD, Section 24.100, were not met. These criteria require compliance with the following:

> **1. The proposal shall preserve the existing amenities of the site to the greatest extent possible by relating the type and design of the development to the topography, landscape features, and natural amenities existing on the site and in the vicinity.**
>
> **2. The proposed PUD shall provide a desirable, attractive, and stable environment in harmony with that of the surrounding area through thorough, well developed, detailed planning and by comprehensively correlating the provisions of this Code and all applicable adopted plans.**
>
> **3. The placement and design of buildings, use of open spaces, circulation facilities, off-street parking areas, and landscaping shall be designed to best utilize the potentials of the site characterized by special features of geography, topography, size, and shape.**
>
> **4. The PUD shall be developed so that it is compatible with neighboring development in terms of architecture, massing, and scale. Where that cannot**

be accomplished appropriate transitions shall be provided that are deferential or sympathetic to existing development.

More specifically, the Commission found that the development was not "in harmony with the surrounding area" and that a piped drainage way could be opened to provide a visual and environmental amenity, as quoted in criteria 1 and 2 above.

Regarding criteria 2 and based on the evidence contained in the record, the Council finds that the proposed 21-lot subdivision is "in harmony with its surroundings." Most compelling were the density maps submitted by the applicant showing that all of the developed property to the north is zoned either R-7 or R-10 with a PUD overlay applied and that, on average, the lots are comparably sized. Many of the lots within the Hidden Springs Ranch development are, on average, 7, 100 square feet. The smallest lot proposed in the subject development that abuts an existing lot to the north is 7,796 square feet. The existence of two flag lots within the proposed development does not create discord within the development as two flag lots already exist on Canter Lane. The Council also finds that greater consistency could be accomplished by increasing the side yard setback from 7 ½ feet to 15 feet on these flag lots, also identified as lots 10, 18, and 20.[1]

As noted in that Voter's Pamphlet explanation on the annexation, the maximum number of lots allowed on this property without a PUD is 21. Simply because a property is zoned R-10 does not mean that all of the lots will be a uniform 10,000 square foot size (or greater). Finally, the evidence shows that this developer has a reputation for and is committed to creating quality residences that will be desirable, attractive, and crate a stable environment for both existing and future residents of this area.

The Council does find that to be in harmony with the rest of the Hidden Springs neighborhood the street should be give an equine name. Additional conditions of approval will be included as part of this decision to ensure compliance. For these reasons, the proposed PUD is in harmony with the surrounding area and this criterion is met.

The Planning Commission also found that criterion 1 is not met because a piped drainage way could be opened and provide a visual and environmental amenity if opened. The Planning Commission relied on the record from the annexation request to support this conclusion. The Council disagrees because nothing in the Voter's Pamphlet indicates that the property contains a natural drainageway or other water body that would or could be preserved after annexation. The only reference to a "drainage way" in the annexation documents appears in the Phase II staff report, and testimony of opponents to this proceeding, and it is not clear that it was intended to describe an amenity of the site. In fact when interpreting the CDC to determine what constitutes a natural amenity, this Council concludes that to whatever extent a swale, wetland, or drainageway existed on this site historically, it has been decimated by surrounding development as the area has changed greatly since it was an undeveloped area. This interpretation is further supported by the language of the criterion. The currently piped drainage way is not a natural feature, and a natural drainageway does not currently "exist" on the site. Since the site has no visible riparian characteristics, it is not an "existing amenity" that should be preserved.

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[1] In a traditional R-10 development the side yard setback is set at 7 ½ feet, just as proposed in this development.

The Council also finds that preserving the swale as a drainage or wetland, with or without opening the pipe on site, would not result in an amenity that is worthwhile aesthetically or environmentally. The total length of the swale is less than 400 feet and would be compromised by driveways to serve potential lots east of the swale (or at least by a street crossing the swale to access such driveways) if the pipe were removed. Most if not all of the flow running through the existing pipe is untreated storm water from roofs and streets within the Hidden Heights subdivision. There is no evidence in the record of any source of water other than storm water and no analysis of how much water would flow if the pipe were daylighted. Mr. Schott's wetland delineation in 2005 found that no wetlands exist on the site, and the Department of State Lands and the US Army Corps of Engineers concurred with this analysis. For these reasons, existing amenities on the site will be preserved and this criterion is met.

Criterion 3 requires designing open space and other amenities to utilize the potential of the site. Although not a basis for denial by the Planning Commission, the Council believes future residents of this development, as well as the larger community, would benefit from expanding the width of the open space to be 25 feet behind lots 20 and 21 to match the open space area width behind lots 1 through 8. Further, the trail surface should be concrete rather than asphalt. Conditions shall be imposed to ensure compliance with this finding. Further, the creation of dedicated 6 foot wide on-street bicycle lanes on both Santa Anita Drive and Rosemont Road will respond to safety concerns along these fairly busy arterial streets. The Council understands that it cannot require an additional point of access or egress on Santa Anita because of the 500 foot intersection proximity limitation, as well as limitations in sight distance. For these reasons, the development responds to the topography, shape, and size of the subject parcel, and this criterion is met.

As noted above, regarding criterion 4, the Council finds that the developer has a reputation for creating quality residences that will be compatible with neighboring development in terms of architecture, massing, and scale. A condition will be imposed to enlarge the side setbacks on lots 10, 18, and 20 to ensure appropriate transitions that are sympathetic to existing development.

4. Both Rosemont Road and Santa Anita Drive are identified as arterials within the City's Transportation System Plan. Arterial street cross sections include a 48 foot pavement section within a 72 foot right of way. This includes a 14 foot median/turn lane, 6 foot bicycle lane, 6 foot landscape strip and 6 foot sidewalk.

Rosemont Road

At present, Rosemont Road is of a varying width of roughly 30 feet with the southerly curb (on the School side) set at 24 feet or more from the centerline. This will allow for a 48 feet curb to curb street improvement in the existing 60 foot right of way. The half street improvements, with a curb set on the project side at 48 feet from the existing curb along Rosemont, are adequate to meet the City's arterial road width standard plus bicycle lane, landscape strip, and sidewalk. The City's Park and Recreation Master Plan calls for an 8 foot multi-modal trail running along Rosemont Road. Rather than dedicate additional right-of-way to accommodate the 6 foot sidewalk, the applicant has agreed to locate the 8 foot trail outside of the existing right-of-way. A condition will be imposed to ensure compliance with these requirements.

Santa Anita Drive

Existing pavement area on Santa Anita Drive is approximately 34 feet within a 50 foot right-of-way. In order to meet the City arterial standard to include a bicycle lane, landscape strip and sidewalk, dedication of an additional 11 feet with 1/2 street improvements is required. The City Engineer has noted the proposed 21-lot subdivision does not take access onto Santa Anita and the impact from occasional use by these 21 lots does not trigger a need for these improvements. Thus, the City Engineer, at the direction of the City Manager, has agreed to issue System Development Credits allowing for a corresponding equal reduction in the applicant's SDC contribution pursuant to West Linn Code Section 4.455 in order to finance these improvements. A condition will be imposed to ensure compliance with these requirements.

DECISION

Based upon the findings discussed above, the Council approved the appeal and thereby approved the application with staff's conditions of approval plus the additional conditions of approval. The complete list of conditions of approval is set out below:

1. A mitigation plan shall be proposed to replace significant trees scheduled for removal from areas where ROW and utility easement placement will necessitate their removal (trees 2047-9, 2233, 2059-60). The mitigation plan shall be submitted to the city arborist. The mitigation plan shall propose to replace these significant trees on an inch by inch basis as explained in CDC 55.100(B)(2)(f).

2. Trees 2050-53 and 2055, currently scheduled for removal on the applicant's plan, are significant and should be preserved, as should their "dripline + 10" areas per CDC 55.100(B)(2)(a).

3. Trees 2056, 2155, and 2222 have been determined by the City arborist to be not quite significant, but worth preserving if possible. The applicant shall propose home and driveway plans for lots 17, 19, and 21 that minimize impacts on trees 2056, 2155, and 2222. These plans shall be reviewed by the City arborist. If the arborist determines that no home plan could sufficiently protect trees 2155, 2222, and/or 2056 trees from adverse impacts, the tree(s) in question shall be removed and replaced on a two-inch-per-one-inch basis (two inches of new tree diameter for every inch of diameter of removed tree) on site.

4. Prior to commencement of any site clearing or grading, the applicant shall place anchored and secured chain link fencing around the dripline + 10 areas of trees 2050-53, 2055-56, 2155, and 2222. The City arborist shall inspect and approve this location prior to the start of work. The fencing shall remain in place throughout the development of the site and construction of the homes, to be removed only upon the completion of all construction activity.

5. Applicant must loop waterline from Britian Court to Rosemont Road through access easement adjacent to stormwater detention pond.

6. Applicant shall construct 1/2 street improvements to Rosemont Road to meet city standards for an arterial. This will include providing 1/2 of the necessary 48 foot paved surface

within the existing 60 foot right of way. In lieu of a sidewalk, Applicant shall construct a trail along Rosemont within the open space area only, not within the right-of-way.
Applicant shall dedicate 11 feet of right-of-way along the full frontage of Santa Anita Drive for assurance of an eventual 72 foot wide arterial street. The applicant will voluntarily construct 1/2 of the City defined arterial street intersection improvements, except for the center landscape median which will be striped for eventual completion of the median when the City obtains necessary right-of-way on the other side of the street sometime in the future. Construction of these identified improvements shall not be required unless and until the applicant obtains an SDC credit certificate or other written certainty from the City that SDC credits will issue to offset the costs of these improvements.

7. Applicant shall construct fifteen-foot paved access road from Britian Court to stormwater detention facility; Access road section must meet local street section.

8. Applicant shall provide street illumination study for Rosemont and Santa Anita property frontages. If deficient, applicant shall provide PGE approved streetlights to meet City PW Construction and illumination standards.

9. All public improvements shall be constructed in conformance to City of West Linn Public Works Design and Construction Standards.

10. The entirety of the open space on site shall have a homeowner's association designated for its care and maintenance.

11. The trail through the open space areas along Rosemont Road shall be eight feet wide.

12. The applicant shall make a proportional contribution, based on PM peak hour trips generated, towards future signal installation at Salamo/Rosemont/Santa Anita, with the current amount of $1,071.43/peak hour trip inflation adjusted by ENR CCI at time of building permit issuance with a peak hour trip determination of 7 trips.

13. The name of the new street on site shall have an equine name. The applicant shall choose an equine name to be approved by staff.

14. On lots 10, 18, and 20, new home placement shall respect a minimum side yard setback of 15 feet on the sides of each respective lot that directly border existing residential development off site.

15. The open space area along Rosemont abutting lots 20 and 21 shall be 25 feet wide to match the open space area southeast portion of the property.

16. The trail through the open space along Rosemont Road shall be constructed of concrete.

This decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days of this notice pursuant to LUBA's rules and applicable statutes. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearing, or submitted a testimony sheet at the hearing, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the Land

Use Board of Appeals within 21 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code.

_____ _____

NORMAN B. KING, MAYOR DATE

Mailed this _____ day of _____, 2007.

Therefore, this decision becomes final at 5 p.m., _____, 2007.

CITY MANAGER'S OFFICE

MEMORANDUM

TO: **Norm King, Mayor**
Members, West Linn City Council

FROM: **Chris Jordan, City Manager** CJ

SUBJECT: **Centurion Homes Application Decision**

DATE: **March 12, 2007**

Staff and the City Attorney have prepared/reviewed the attached final decision on the Centurion Homes 21-lot planned unit development appeal. This item is on the Council's agenda for March 19 for final action.

Attachment

WEST LINN CITY COUNCIL

FINAL DECISION NOTICE

AP-07-03

IN THE MATTER OF THE APPLICATION FOR A 21-LOT SINGLE-FAMILY PLANNED UNIT DEVELOPMENT AT 1165 ROSEMONT ROAD

At their meeting of March 5, 2007, the West Linn City Council held a public hearing to consider Centurion Homes appeal of the Planning Commission's decision to deny Centurion Homes' application SUB-06-08/ZC-06-07. The application proposes to develop the 6.2-acre property at 1165 Rosemont Road with a 21-lot single-family planned unit development (PUD). The approval criteria for the PUD subdivision application are found within Chapter 24 and Chapter 85 of the Community Development Code (CDC). The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing commenced with a staff report presented by Tom Soppe, Associate Planner. Phil Gentemann of Centurion Homes, Bruce Goldson of Compass Engineering, and Carrie Richter of Garvey Schubert Barer all spoke representing the applicant. Speaking in favor of the appeal were Alice Richmond and George Adams. Speaking in opposition to the appeal were Gary Dowen, Mary Dowen, Curt Sommer, Dan Schmitz, Nanette Boggess, Lynn Fox, Michelle Blankenheim, Teri Cummings, Jacob Cummings, Gary Hitesman, Karie Oakes, Charlie Davis, Tim Rand, and Jeff Treece. The appellant then provided a final rebuttal.

FINDINGS

The City Council adopted staff's findings in their decision approving the appeal. If there is a conflict between the two sets of findings, these findings control. The City Council made the following additional findings:

1. The applicable approval criteria in this case are set forth in Community Development Code (CDC) Section 85, Land Divisions, and Section 24, Planned Unit Development. Opponents argue that Sections 32, 55, 92.010(H)(3) and 95 apply and compliance not achieved. The Council finds that CDC Section 32 governing natural drainageways does not apply because a natural drainage way does not exist on the property as it is not mapped on the City's adopted Storm Drainage Master Plan maps. The proposal is for a subdivision to accommodate single family residential structures and is exempt from CDC Section 55 Design Review. CDC Section 92, Required Improvements, identifies infrastructure improvements that must be included as part of all development proposals. CDC 92.010(H)(3) requires a that all public streets be bounded with a 6 foot public sidewalk separated from the roadway by a 6 foot planter strip. By complying with the arterial road cross-sections identified in the City's adopted Transportation System Plan, the applicant will comply with this obligation. The CDC does not include a section identified as 95.

2. CDC Section 24.100 sets forth the approval criteria applicable to this Planned Unit Development request. In addition to these criteria, CDC Section 24.010 sets out a number of Purpose Statements. Most of these purpose statements, subsections B through F are mirrored

with identical language in the approval criteria. However, CDC Section 24.010(A) is not contained in the approval criteria. It provides:

> The purpose of the Planned Unit Development overlay zone is to provide a means for creating planned environments:
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> A. To produce a development which would be as good or better than that resulting from traditional lot by lot development.

The Planning Commission erred in directly applying this purpose statement as a criteria. The wording and context of this provision does not indicate that it imposes an affirmative obligation to which the applicant must comply. Rather, it identifies the City's motivation for adopting a PUD overlay zone and is relevant to interpreting the applicable criteria, not as a criteria itself. By complying with the criteria (i.e., providing a design that preserves amenities that is also in harmony with its surroundings), this PUD will be as good as or better than a traditional lot by lot development.

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> **2. The proposed PUD shall provide a desirable, attractive, and stable environment in harmony with that of the surrounding area through thorough, well developed, detailed planning and by comprehensively correlating the provisions of this Code and all applicable adopted plans.**
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> **3. The placement and design of buildings, use of open spaces, circulation facilities, off-street parking areas, and landscaping shall be designed to best utilize the potentials of the site characterized by special features of geography, topography, size, and shape.**
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be accomplished appropriate transitions shall be provided that are deferential or sympathetic to existing development.

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As noted in that Voter's Pamphlet explanation on the annexation, the maximum number of lots allowed on this property without a PUD is 21. Simply because a property is zoned R-10 does not mean that all of the lots will be a uniform 10,000 square foot size (or greater). Finally, the evidence shows that this developer has a reputation for and is committed to creating quality residences that will be desirable, attractive, and crate a stable environment for both existing and future residents of this area.

The Council does find that to be in harmony with the rest of the Hidden Springs neighborhood the street should be give an equine name. Additional conditions of approval will be included as part of this decision to ensure compliance. For these reasons, the proposed PUD is in harmony with the surrounding area and this criterion is met.

The Planning Commission also found that criterion 1 is not met because a piped drainage way could be opened and provide a visual and environmental amenity if opened. The Planning Commission relied on the record from the annexation request to support this conclusion. The Council disagrees because nothing in the Voter's Pamphlet indicates that the property contains a natural drainageway or other water body that would or could be preserved after annexation. The only reference to a "drainage way" in the annexation documents appears in the Phase II staff report, and testimony of opponents to this proceeding, and it is not clear that it was intended to describe an amenity of the site. In fact when interpreting the CDC to determine what constitutes a natural amenity, this Council concludes that to whatever extent a swale, wetland, or drainageway existed on this site historically, it has been decimated by surrounding development as the area has changed greatly since it was an undeveloped area. This interpretation is further supported by the language of the criterion. The currently piped drainage way is not a natural feature, and a natural drainageway does not currently "exist" on the site. Since the site has no visible riparian characteristics, it is not an "existing amenity" that should be preserved.

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[1] In a traditional R-10 development the side yard setback is set at 7 ½ feet, just as proposed in this development.

The Council also finds that preserving the swale as a drainage or wetland, with or without opening the pipe on site, would not result in an amenity that is worthwhile aesthetically or environmentally. The total length of the swale is less than 400 feet and would be compromised by driveways to serve potential lots east of the swale (or at least by a street crossing the swale to access such driveways) if the pipe were removed. Most if not all of the flow running through the existing pipe is untreated storm water from roofs and streets within the Hidden Heights subdivision. There is no evidence in the record of any source of water other than storm water and no analysis of how much water would flow if the pipe were daylighted. Mr. Schott's wetland delineation in 2005 found that no wetlands exist on the site, and the Department of State Lands and the US Army Corps of Engineers concurred with this analysis. For these reasons, existing amenities on the site will be preserved and this criterion is met.

Criterion 3 requires designing open space and other amenities to utilize the potential of the site. Although not a basis for denial by the Planning Commission, the Council believes future residents of this development, as well as the larger community, would benefit from expanding the width of the open space to be 25 feet behind lots 20 and 21 to match the open space area width behind lots 1 through 8. Further, the trail surface should be concrete rather than asphalt. Conditions shall be imposed to ensure compliance with this finding. Further, the creation of dedicated 6 foot wide on-street bicycle lanes on both Santa Anita Drive and Rosemont Road will respond to safety concerns along these fairly busy arterial streets. The Council understands that it cannot require an additional point of access or egress on Santa Anita because of the 500 foot intersection proximity limitation, as well as limitations in sight distance. For these reasons, the development responds to the topography, shape, and size of the subject parcel, and this criterion is met.

As noted above, regarding criterion 4, the Council finds that the developer has a reputation for creating quality residences that will be compatible with neighboring development in terms of architecture, massing, and scale. A condition will be imposed to enlarge the side setbacks on lots 10, 18, and 20 to ensure appropriate transitions that are sympathetic to existing development.

4. Both Rosemont Road and Santa Anita Drive are identified as arterials within the City's Transportation System Plan. Arterial street cross sections include a 48 foot pavement section within a 72 foot right of way. This includes a 14 foot median/turn lane, 6 foot bicycle lane, 6 foot landscape strip and 6 foot sidewalk.

Rosemont Road

At present, Rosemont Road is of a varying width of roughly 30 feet with the southerly curb (on the School side) set at 24 feet or more from the centerline. This will allow for a 48 feet curb to curb street improvement in the existing 60 foot right of way. The half street improvements, with a curb set on the project side at 48 feet from the existing curb along Rosemont, are adequate to meet the City's arterial road width standard plus bicycle lane, landscape strip, and sidewalk. The City's Park and Recreation Master Plan calls for an 8 foot multi-modal trail running along Rosemont Road. Rather than dedicate additional right-of-way to accommodate the 6 foot sidewalk, the applicant has agreed to locate the 8 foot trail outside of the existing right-of-way. A condition will be imposed to ensure compliance with these requirements.

Santa Anita Drive

Existing pavement area on Santa Anita Drive is approximately 34 feet within a 50 foot right-of-way. In order to meet the City arterial standard to include a bicycle lane, landscape strip and sidewalk, dedication of an additional 11 feet with 1/2 street improvements is required. The City Engineer has noted the proposed 21-lot subdivision does not take access onto Santa Anita and the impact from occasional use by these 21 lots does not trigger a need for these improvements. Thus, the City Engineer, at the direction of the City Manager, has agreed to issue System Development Credits allowing for a corresponding equal reduction in the applicant's SDC contribution pursuant to West Linn Code Section 4.455 in order to finance these improvements. A condition will be imposed to ensure compliance with these requirements.

DECISION

Based upon the findings discussed above, the Council approved the appeal and thereby approved the application with staff's conditions of approval plus the additional conditions of approval. The complete list of conditions of approval is set out below:

1. A mitigation plan shall be proposed to replace significant trees scheduled for removal from areas where ROW and utility easement placement will necessitate their removal (trees 2047-9, 2233, 2059-60). The mitigation plan shall be submitted to the city arborist. The mitigation plan shall propose to replace these significant trees on an inch by inch basis as explained in CDC 55.100(B)(2)(f).

2. Trees 2050-53 and 2055, currently scheduled for removal on the applicant's plan, are significant and should be preserved, as should their "dripline + 10" areas per CDC 55.100(B)(2)(a).

3. Trees 2056, 2155, and 2222 have been determined by the City arborist to be not quite significant, but worth preserving if possible. The applicant shall propose home and driveway plans for lots 17, 19, and 21 that minimize impacts on trees 2056, 2155, and 2222. These plans shall be reviewed by the City arborist. If the arborist determines that no home plan could sufficiently protect trees 2155, 2222, and/or 2056 trees from adverse impacts, the tree(s) in question shall be removed and replaced on a two-inch-per-one-inch basis (two inches of new tree diameter for every inch of diameter of removed tree) on site.

4. Prior to commencement of any site clearing or grading, the applicant shall place anchored and secured chain link fencing around the dripline + 10 areas of trees 2050-53, 2055-56, 2155, and 2222. The City arborist shall inspect and approve this location prior to the start of work. The fencing shall remain in place throughout the development of the site and construction of the homes, to be removed only upon the completion of all construction activity.

5. Applicant must loop waterline from Britian Court to Rosemont Road through access easement adjacent to stormwater detention pond.

6. Applicant shall construct 1/2 street improvements to Rosemont Road to meet city standards for an arterial. This will include providing 1/2 of the necessary 48 foot paved surface

within the existing 60 foot right of way. In lieu of a sidewalk, Applicant shall construct a trail along Rosemont within the open space area only, not within the right-of-way.
Applicant shall dedicate 11 feet of right-of-way along the full frontage of Santa Anita Drive for assurance of an eventual 72 foot wide arterial street. The applicant will voluntarily construct 1/2 of the City defined arterial street intersection improvements, except for the center landscape median which will be striped for eventual completion of the median when the City obtains necessary right-of-way on the other side of the street sometime in the future. Construction of these identified improvements shall not be required unless and until the applicant obtains an SDC credit certificate or other written certainty from the City that SDC credits will issue to offset the costs of these improvements.

7. Applicant shall construct fifteen-foot paved access road from Britian Court to stormwater detention facility; Access road section must meet local street section.

8. Applicant shall provide street illumination study for Rosemont and Santa Anita property frontages. If deficient, applicant shall provide PGE approved streetlights to meet City PW Construction and illumination standards.

9. All public improvements shall be constructed in conformance to City of West Linn Public Works Design and Construction Standards.

10. The entirety of the open space on site shall have a homeowner's association designated for its care and maintenance.

11. The trail through the open space areas along Rosemont Road shall be eight feet wide.

12. The applicant shall make a proportional contribution, based on PM peak hour trips generated, towards future signal installation at Salamo/Rosemont/Santa Anita, with the current amount of $1,071.43/peak hour trip inflation adjusted by ENR CCI at time of building permit issuance with a peak hour trip determination of 7 trips.

13. The name of the new street on site shall have an equine name. The applicant shall choose an equine name to be approved by staff.

14. On lots 10, 18, and 20, new home placement shall respect a minimum side yard setback of 15 feet on the sides of each respective lot that directly border existing residential development off site.

15. The open space area along Rosemont abutting lots 20 and 21 shall be 25 feet wide to match the open space area southeast portion of the property.

16. The trail through the open space along Rosemont Road shall be constructed of concrete.

This decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days of this notice pursuant to LUBA's rules and applicable statutes. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearing, or submitted a testimony sheet at the hearing, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the Land

Use Board of Appeals within 21 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code.

_____ _____

NORMAN B. KING, MAYOR DATE

Mailed this _____ day of _____, 2007.

Therefore, this decision becomes final at 5 p.m., _____, 2007.

AGENDA BILL
#07-01-03-A

For Council: March 19, 2007

Department: Planning
Dept. Head Initials: BCB

Subject: Appeal of Planning Commission denial of Tony Marnella, 550 Investments LLC, application for 34-lot subdivision at 1200 Tamarisk Drive (MISC-06-46)

City Manager's Initials: CJ

Attachments:
Staff Reports to City Manager
1) Discussion of Issues
2) Possible Conditions of Approval

Budget Impact: None

Expenditures Required $ -0-	**Amount Budgeted $** -0-	**Appropriation Needed $** -0-

Summary:

The applicant applied for 34 lot subdivision (SUB-05-06), planned unit development, class II variance for cul de sac over 400 feet long and serving over 12 homes, natural drainageway and wetland permit.

The application was denied by the Planning Commission. They found that the cul de sac far exceeds the allowable length and more trees could have been saved. Perimeter setbacks and side yard setbacks should have been increased. But, according to the applicant, the Planning Commission erred in that the Community Development Code (CDC) makes specific accommodations for the future extension of streets. Further, the applicant offers extensive tree protection and that tree removal in streets and graded areas is an allowed exemption from the "20% rule" per the CDC.

The applicant appealed the decision. On February 26, 2007, City Council held a public hearing and directed staff to respond to specific issues as well as to provide a consolidated list of conditions of approval.

Recommended Action:
Hold public hearing.
The 120-day period lapses on April 11, 2007, so a decision should be made at this hearing.

Council Action Taken:
Approved:
Denied:
Continued:

PLACE HOLDER

AGENDA BILL

#07-01-03A

RECORD FILE

PLANNING

DEPARTMENT

PROJECT #MISC-06-46

AGENDA BILL
07-03-05

For Council: March 19, 2007

Required Public Hearing: No

Subject: An Ordinance Revising The Municipal Code Relating to Neighborhood Associations

Department: Administration
Department Head Initials: JMa
City Manager's Initials: eg

Attachments: Staff Report
Ordinance

Budget Impact:

Expenditures Required: $0	Amount Budgeted: $0	Appropriation Needed: $0

Summary:

At a previous work session, the Council discussed various amendments to the Municipal Code relating to neighborhood associations for the purposes of increasing participation, ensuring uniformity with regard to procedural matters, and improving clarity.

Recommended Action:

Act on a motion to adopt the ordinance. If the motion to adopt is unanimous upon first reading, hold a second reading.

Council Action Taken:
Approved:
Denied:
Continued:

Administration
City of West Linn

Memo

To: West Linn City Council

From: Chris Jordan, City Manager
John Atkins, Comm. Svcs. Coord.

Date: 3/8/2007

Re: Ordinance -- Neighborhood Involvement Improvement

Purpose
Council is asked to consider a change to the West Linn Municipal Code Chapter 2 that will clarify the role and responsibilities of City neighborhood associations.

Background
The City Council, City staff, and many citizens have expressed concern about various aspects of the City's neighborhood associations as currently organized under the municipal code. Some of the concerns include:

1. Lack of significant citizen attendance at many meetings of neighborhood associations.
2. Lack of formal communication methods from neighborhood associations to their members.
3. Differences in by-laws from one neighborhood association to another.
4. City funding of neighborhood associations.
5. Involvement of City staff with neighborhood associations.
6. Governance of neighborhood associations.

To assist in developing legislative and administrative changes for neighborhood associations, staff had developed the following goals/objectives prior to suggesting changes to neighborhood associations:

1. Clarify and improve the relationship between neighborhood associations, residents and the City.
2. Community building is a primary objective of all neighborhood associations.
3. Ensure consistent communication between the City and the neighborhood associations.
4. Provide a means for neighborhood associations to communicate with residents.
5. Ensure that all residents and businesses have the opportunity to have a voice in neighborhood association matters.
6. Ensure that City funds are utilized in a manner that improves neighborhoods or facilitates these objectives.
7. Ensure the community understands that a neighborhood association acts as part of the municipal government structure and is advisory to the City Council and other City boards and commissions, not as a separate agency unto itself.
8. Clarify that neighborhood associations are but one important mechanism for receiving community input and the City will continue to pursue other means also.

To accomplish these objectives, we have developed a plan that is partly administrative and, in part, requires changes to both the Municipal Code and the Community Development Code. This strategy includes:

Administrative Changes:

- The City would commit to paying for the printing and distribution of two neighborhood newsletters annually as a means to enhance communication between the association and its members.

- In addition to the services provided above, the City would budget adequate funds each year for neighborhood association projects.

- The City may provide a police officer at one meeting each quarter for each neighborhood association that requests it. Other city staff may also attend other neighborhood association meetings when invited for a specific purpose or to provide communication to the neighborhood from the City.

Legislative Changes:

1. Rules of procedure and organization are established in the Municipal Code as they are for all boards and commissions. Neighborhood associations will not need to maintain individual by-laws.

2. The City Council determines NA boundaries, following consultation with the affected neighborhood associations. (This is a clarification of existing Council authority.)

3. Establish a uniform requirement for a quorum: equal to 1% of annual estimate of NA adult population (residents 18 and older), to be provided by the City annually, but with a minimum quorum requirement of 10 members present and a maximum requirement of 20 members present.. A quorum would be required for the following official NA actions:

   a. Appeal of a land use decision.
   b. Recommendation for adoption of NA plan or amendment.
   c. Request a change in NA boundaries.

   This requirement is intended to ensure that significant actions undertaken by a neighborhood association, as enumerated above, are the outcomes of a reasonable level of participation by neighborhood residents, recognizing that neighborhood association populations range from a few hundred to more than 5,000 residents.

4. Except for 3 a., b., and c. above, all other NA business may be conducted by the NA's elected officers and any other NA members present.

5. Voting eligibility. All residents of the NA 18 years old and older are eligible to vote. You must be at the meeting to vote -- no mail-in ballots or proxies. A business located within the boundaries of the neighborhood association shall also be entitled to one vote on NA business. However, under no circumstance shall any individual have more than one vote on NA business.

6. All NA officers shall be elected for a term of one year and all NA officer elections will be held in the month of October.

7. Require that approved minutes of NA meetings and actions taken be submitted to the City within 45 days of the meeting and are accompanied by a sign-in sheet. NAs shall provide a draft agenda to the City at least two days prior to the meeting.

8. No NA may incur debt.

9. A NA may appeal a land use decision to the City Council provided the land use action is within the boundary of the NA. The City will waive the fee for such an appeal.

10. A Neighborhood Association may appeal a land use decision outside its boundary, but the appeal fee will not be waived.

11. NA's may appeal land use decisions to LUBA. City funds may not be used by a NA for this purpose.

12. NAs may not act on behalf of the City to initiate litigation of any kind.

Options

1. Approve the attached amendments to the Municipal Code implementing some of the changes listed above. Staff will initiate changes to the Community Development Code consistent with the changes to the Municipal Code. Council should also direct staff to initiate the administrative changes.

2. Modify the attached ordinance. Direct staff to make necessary administrative changes.

3. Do not amend the municipal code. Provide additional guidance to staff.

Recommendation

Based on the concerns listed at the beginning of the memorandum and the objectives listed above, staff recommends approval of option 1 above, amending the municipal code and providing direction to staff.

Attachment

CITY OF WEST LINN
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE WEST LINN CODE REVISING NEIGHBORHOOD ASSOCIATION REQUIREMENTS

WHEREAS, neighborhood associations are recognized by the City as having an important role in preserving and improving the livability of the community; and

WHEREAS, the City Council desires to promote greater participation in neighborhood association business and ensure that all residents and businesses have an opportunity to participate in neighborhood association actions; and

WHEREAS, the City Council has undertaken a review of the Municipal Code relating to neighborhood associations in order to improve clarity and establish greater uniformity and functionality with respect to membership, duties, terms of officers, and related procedural matters; now, therefore

THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

Section 1. Section 2.100 of the West Linn Code relating to neighborhood associations is hereby amended to read:

2.100 NEIGHBORHOOD ASSOCIATIONS

(1) Purpose.

The purpose of these sections is to establish a means for formally recognizing neighborhood associations and to provide for neighborhood association communications with the City. This is an additional form of communication, and is not intended to inhibit other citizens or groups from communicating with the City.

(2) Neighborhood Association.

A "neighborhood association" means any group of people organized within a geographical area for the purpose of acting on issues affecting neighborhood and community livability, and recognized by the City as having satisfied the standards of Section 3.

(3) Standards.

In order to be recognized by the City, neighborhood associations must satisfy the standards listed herein. The City Council is authorized to determine when an association has met these standards:

(a) Membership.
The membership of a neighborhood association shall not be limited by race, creed, color, sex, age, heritage, national origin or income. Any resident, business owner or owner's representative, nonprofit organization's representative or

property owner who resides, owns property or maintains a business within the recognized boundary of a neighborhood association shall be entitled to membership and to vote.

(b) Boundaries. Neighborhood Association boundaries are established by resolution of the City Council, following consultation with affected Neighborhood Associations.

(c) Neighborhood Association Governance. Bylaws of neighborhood associations are rescinded. To be considered for recognition by the City, a neighborhood association must comply with the following rules:

1. That a minimum of one general neighborhood association meeting be held each calendar year, and the time, place and purpose be well publicized throughout the neighborhood prior to the meeting;

2. Officers consisting of a President, Vice President and Secretary/Treasurer be elected annually in October.

3. That meetings be conducted in conformance with public meetings law, including that

a) Minutes must be kept and a sign-in sheet for those attending the meeting must accompany the minutes.
b) Copies of the approved minutes and sign-in sheets must be provided to the City within 45 days of the Neighborhood Association's meeting.
c) A draft agenda shall be provided to the City at least two days prior to the neighborhood association meeting.

4. For all Neighborhood Association meetings, a quorum is defined as 1% of the estimated number of adult residents (18 and older) in that neighborhood, as estimated annually by the City, with a minimum quorum requirement of 10 members present and a maximum quorum requirement of 20 members present.

5. A quorum must be present at any neighborhood association meeting where the following action is taken:
a) Appeal of a land use decision to the Planning Commission, City Council , Land Use Board of Appeals or the courts.
b) Recommendation of a neighborhood plan or amendment to a neighborhood plan
c) Request to change the neighborhood association boundaries.

6. All other business except for that listed at 5 above may be conducted or directed by the elected officers of the neighborhood association.

7. All members of the neighborhood association, as defined above, are eligible to vote on neighborhood association business provided that the

individual is 18 years old or older and is present at the neighborhood association meeting when the vote is taken. Proxies and mail-in ballots are not allowed for neighborhood association business. A business located within the boundaries of the neighborhood association is also entitled to one vote on neighborhood association business. Under no circumstances shall an individual be entitled to more than one vote on any neighborhood association business.

(4) Neighborhood Association Finances.

(a) No neighborhood association may incur debt, nor require dues.

(b) No funds provided to a Neighborhood Association by the City may be used to appeal land-use decisions to the Land Use Board of Appeals or the courts.

(5) Responsibility of City.

The City shall provide recognized neighborhood associations with the following:

(a) Timely notification of meetings of the Council, and the Planning Commission,

(b) Such other support, financial or otherwise, as may be determined by the City Council.

(c) Annual training for neighborhood association officers

(6) Appeals.

(a) Formally recognized neighborhood associations may appeal land use decisions made by the Planning Director or Planning Commission to the appropriate bodies without cost if the Planning Director finds:

(1) Community Development Code Appeal Procedures, Section 99.140 and 99.240 through 99.300, are followed;

(2) The association submits a copy of the membership minutes and vote taken supporting the appeal;

(3) The neighborhood association appeal is related to the property within the association's recognized boundaries.

PASSED AND APPROVED THIS 19th DAY OF MARCH 2007.

_____

Norman B. King, Mayor

ATTEST:

_____

Approved as to Form:

_____

City Attorney

AGENDA BILL
07-03-06

For Council: March 19, 2007

Required Public Hearing: No
Contract Review Board: No

Subject: Intergovernmental Agreement for the METRO Greenspaces Natural Areas Bond Measure Local Share Component

Department: Parks & Recreation
Dept. Head Initials: SH
City Manager's Initials: EJ
Attachments: Resolution, IGA with attachments A, B and C

Budget Impact:

Expenditures Required: -0-	**Amount Budgeted:** -0-	**Appropriation Needed:** -0-

Summary: In November 2006, voters approved a new METRO Greenspaces Bond Measure. Similar to the 1995 Greenspaces Bond Measure, this measure also includes a "Local Share" component for City projects.

West Linn is scheduled to receive $872,000 in local share dollars. Attached is a draft of the intergovernmental agreement (IGA) the City will need to enter into with METRO in order to move forward with our local share projects.

Included with the IGA are various attachments. Specifically, Attachment A addresses the specific projects the Council previously recommended by Resolution No. 06-10 (attached). Staff has worked with the West Linn Parks and Recreation Advisory Board to refine and prioritize the project list and recommends the Council add two projects; 1). The "Mary S. Young Park Restrooms" and 2). "Future Property Acquisition that Meets the Goals of the Greenspaces Program".

Included with this recommendation are the recommended project priorities as established by "Attachment A" in order to move forward with those projects. It is assumed we can revise "Attachment A" per the IGA at a later date as the project scope, schedules and financing of the remaining projects become more clear.

Recommended Action: I recommend a motion be passed authorizing the City Manager to enter into the Intergovernmental Agreement with METRO, and acknowledging "Attachment A" represents the City's current priorities for projects in the Greenspaces Bond Measure Local Share Component.

Council Action Taken:
Approved:
Denied:
Continued:

RESOLUTION NO. 06-10
WEST LINN, OREGON

A RESOLUTION OF THE WEST LINN CITY COUNCIL TO SUBMIT METRO 2006 NATURAL AREAS BOND MEASURE LOCAL SHARE PROJECT LIST AND TO NOMINATE CERTAIN PROPERTIES AS POTENTIAL REGIONALLY SIGNIFICANT METRO TARGET AREA ACQUISITIONS

WHEREAS, METRO will seek voter approval of the November 2006 Natural Areas Bond Measure and requests a projects list for such funding from qualifying jurisdictions by March 1, 2006; and

WHEREAS, the City of West Linn is the park provider within the West Linn City limits; and

WHEREAS, the West Linn Parks and Recreation Advisory Board has worked with City staff to develop a list of projects for local share funding that would be a benefit to the residents of West Linn; and

WHEREAS, the West Linn Parks and Recreation Advisory Board has worked with City staff to develop a list of regionally significant properties to nominate for METRO acquisition funding that would also be a benefit to the residents of West Linn; and

WHEREAS, consistent with criteria established by METRO, the list of projects includes only natural area related activities or acquisition of land for parks including capital improvements such as restoration and enhancement, Americans with Disabilities Act improvements, public use facilities, environmental education facilities, and trails;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WEST LINN THAT THE CITY COUNCIL SUBMITS THE FOLLOWING LIST OF PROJECTS FOR LOCAL SHARE FUNDING, AND THE FOLLOWING LIST OF REGIONALLY SIGNIFICANT PROPERTIES FOR METRO REGIONAL ACQUISITION:

LOCAL SHARE PROJECTS

- The Rosemont Road Trail West from West Linn at Carriage Way to Luscher Farm in Lake Oswego
- Removal of the upper parking lot in Wilderness Park and restoring the area with native plants
- Development in Maddax Woods Park to include entryway, parking, restroom, and pedestrian bridge connecting to Burnside Park
- Forest restoration and enhancement programs in Wilderness, Burnside, Maddax Woods and Mary S. Young Parks
- Acquisition of approximately one acre on the Tualatin River known as the Joseph Fields homestead site

REGIONALLY SIGNIFICANT PROPERTIES
FOR METRO REGIONAL ACQUISITION:

- The Oak Savannah – 20 acres at Tannler Drive and Salamo Road
- Tualatin River Bluff Property – 86 acres on Pete's Mountain directly across the Tualatin River from Fields Bridge Park
- Wilson Creek Corridor Property or other natural areas in the Stafford Triangle in particular those close to the West Linn boundaries that could be combined with City efforts to establish a green belt corridor in the Stafford Basin
- Any other properties within the existing METRO target areas near the Willamette or Tualatin Rivers

This resolution is effective upon passage.

This resolution adopted this 27th day of February 2006.

Norman B. King

Norman B. King, Mayor

ATTEST:

Nancy R. Davis

Project: Natural Areas Local Share Program

Contract No._____

INTERGOVERNMENTAL AGREEMENT
Natural Areas Bond Measure
Local Share Component

This Intergovernmental Agreement (hereinafter the "Agreement"), entered into under the provisions of ORS chapter 190 and effective on the date the Agreement is fully executed (the "Effective Date"), is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and the _____, located at_____, (hereinafter referred to as the "Local Share Partner"), and shall remain in full force and effect for the period from April 1, 2007, until June 30, 2027.

RECITALS

WHEREAS, the electors of Metro approved Ballot Measure 26-80 on November 7, 2006, authorizing Metro to issue $227.4 million in bonds to preserve natural areas, clean water, and protect fish and wildlife (the "Measure"); and

WHEREAS, the Measure provided that $44 million from bond proceeds be expended by local parks providers for specified projects; and

WHEREAS, the Local Share Partner is a local government jurisdiction who has received approval for funding for projects as specified in the Measure; and

WHEREAS, Metro and the Local Share Partner desire to enter into this Agreement to provide for funding of the Local Share Partner's projects subject to terms and conditions as provided for in the Measure;

NOW THEREFORE, the parties agree as follows:

1. Declaration of Projects

Metro hereby approves the project proposal(s) described in the "Local Share Project List," attached hereto as Attachment A to this Agreement (each individual proposal on the Local Share Project List is referred to hereinafter as a "Project"), and Metro authorizes the Local Share Partner to proceed with Projects on the Local Share Project List in accordance with Attachment A. All real property interests acquired pursuant to this Agreement shall be

held in the name of the Local Share Partner.

2. Funding

Metro's financial obligation under this Agreement is limited to $_____. Payment of funds by Metro to the Local Share Partner is subject to the procedures set forth in the "Procedures for Payment of Funds By Metro," attached hereto as Attachment B to this Agreement.

3. Funding Limitations

A. The sole purpose of this Agreement is to implement the Measure by funding Projects on the Local Share Project List. Except as described in Section 4 with respect to Metro's provision of property acquisition technical services, Metro shall have no obligations under this Agreement other than for the payment of funds pursuant to the procedures described in Attachment B to this Agreement.

B. Except as described in Section 4 with respect to Metro's provision of property acquisition technical services, Metro shall have no supervisory responsibility regarding any aspect of any Project and Metro neither intends nor accepts any direct involvement in any Project that can or could be construed to result in supervisory responsibility during the course of the Project. Upon completion of a Project and payment of funds, as provided for in Attachment B, Metro shall have no further obligations.

C. The Local Share Partner shall comply with this Agreement, the provisions of the Measure, and the Local Share Guidelines attached as Attachment C to this Agreement.

D. Metro shall not be obligated to make any payments or reimbursements pursuant to this Agreement that were incurred by the Local Share Partner prior to the Effective Date of this Agreement.

E. Metro shall not reimburse the Local Share Partner for any administrative costs, including staff, overhead and indirect costs, in excess of ten percent (10%) of the cost of a Project.

4. Land Acquisitions Technical Assistance

Provided that the Local Share Partner agrees to the terms of a separate "Land Acquisition Services" intergovernmental agreement ("IGA") with Metro substantially similar to the IGA attached as Attachment D to this Agreement prior to April 1, 2007, Metro shall provide the Local Share Partner with technical assistance regarding real estate negotiation and

related due diligence services for any Project that calls for real property acquisitions. Metro shall provide such technical assistance as provided in such Land Acquisition Services IGA and subject to the availability of Metro staff and resources as determined by Metro at its sole discretion. Metro's obligation to provide such technical services pursuant to such Land Acquisition Services IGA may be extended beyond the initial term of such IGA with the mutual written consent of Metro and the Local Share Partner.

5. Projects Not on the Local Share Project List

The Local Share Partner may substitute a different Project for a Project described in Attachment A, or may add a new Project, only if the following conditions are met:

a. The Local Share Partner through its governing body finds that one or more of the Projects described in Attachment A have become degraded, are cost prohibitive, or are otherwise infeasible, or that a Project can be accomplished for less funds than estimated, thereby making such savings available for use in a new Project;

b. The Local Share Partner through its governing body shall conduct a public process, including holding a public meeting in accord with its adopted public meeting procedures, and determine the substitute or new Project consistent with the provisions of the Measure and Attachment C; and

c. The substitute or new Project is subject to administrative approval by Metro's Regional Parks and Greenspaces Department Director, and such approval shall not be unreasonably withheld.

6. Term

Metro's obligation to provide funds pursuant to this Agreement shall terminate March 31, 2012, and all other provisions of this Agreement shall terminate on June 30, 2027. It is the intent of the parties for the Local Share Partner to have completed the Project, and for all Metro funding obligated under this Agreement to have been paid, prior to March 31, 2012. Metro's obligation to provide funds may be extended by mutual written consent of Metro and the Local Share Partner. The provisions of Sections 7, 8, 9, and 10 shall continue in effect after the Local Share Partner's completion of any Project pursuant to this Agreement.

7. Limitations on Use of Property

A. Acquired Real Property and Associated Buildings and Improvements

All real property acquired by the Local Share Partner with funding provided by Metro pursuant to this Agreement shall be maintained as parks, open space, natural areas, or trails. The Local Share Partner may not sell or otherwise authorize use of such property pursuant to this Agreement in a manner inconsistent with the intended and stated purposes of the Measure, that is, for a use other than as parks, open space, natural areas, or trails, unless the Local Share Partner complies with all of the following conditions:

(1) The Local Share Partner's decision to sell or use the property in a manner inconsistent with the intended and stated purposes of the Measure is the result of extraordinary unforeseen circumstances;

(2) The Local Share Partner does not authorize the sale or change in use of the property sooner than five years after the date that the Local Share Partner acquired the property;

(3) The Local Share Partner provides Metro 180 days advance written notice of its intent to authorize the change in use or the sale of the property to a third party;

(4) The Local Share Partner holds at least one public hearing regarding the matter, consistent with its adopted public meeting procedures, prior to making a final decision to sell or change the use of the property;

(5) Metro has approved the Local Share Partner's determination of the appraisal value of the property pursuant to the following steps:

i. At least 90 days prior to making a final decision to change the use of, or sell, the property, the Local Share Partner shall provide Metro with an independent MAI appraisal of the fair market value of the property assuming that the property was subject to the same use restrictions as were in place at the time the Local Share Partner purchased the property. Such appraisal shall not be subject to any other extraordinary assumptions; and

ii. Not later than 60 days after receiving the appraisal obtained by the Local Share Partner, Metro shall inform the Local Share Partner whether Metro has approved the appraisal, which decision shall be made in good faith and based on whether the appraisal is complete and reasonable. Metro's review shall include having the appraisal reviewed by a review appraiser hired by Metro to conduct a review in accordance with USPAP and general appraisal standards. If Metro does not approve the appraisal, then Metro shall inform the Local Share Partner the reasons for not approving the appraisal and the Local Share Partner may resubmit a revised appraisal to Metro pursuant to subsection 7(e)(i) of this Agreement; and

(6) Within 180 days after selling the property or authorizing the change in use of the property, the Local Share Partner shall apply toward completion of a Project listed on Attachment A, or a substitute Project selected consistent with the provisions of Section 5 of this Agreement, an amount equal to the greater of either (a) the appraisal value of the property, as determined pursuant to subsection 7A(5) of this Agreement, or (b) the amount of Measure funding that Metro provided to the Local Share Partner to purchase the property,.

B. Construction of Buildings or Other Improvements

All buildings and other improvements constructed by the Local Share Partner using funding provided by Metro pursuant to this Agreement shall be maintained for use exclusively in conjunction with parks, open space, natural areas, or trails. The Local Share Partner may not sell or otherwise authorize use of such buildings or improvements pursuant to this Agreement in a manner inconsistent with the intended and stated purposes of the Measure, that is, for a use other than exclusively in conjunction with parks, open space, natural areas, or trails, unless it complies with all of the following conditions:

(1) The Local Share Partner's decision to sell or use such buildings or improvements in a manner inconsistent with the intended and stated purposes of the Measure is the result of extraordinary unforeseen

circumstances;

(2) The Local Share Partner does not authorize the sale or change in use of such buildings or improvements sooner than five years after the date that the Local Share Partner completed construction of such buildings or improvements;

(3) The Local Share Partner provides Metro 180 days advance written notice of its intent to authorize the change in use or the sale of such buildings or improvements to a third party;

(4) The Local Share Partner holds at least one public hearing regarding the matter, consistent with its adopted public meeting procedures, prior to making a final decision to sell or change the use of such buildings or improvements;

(5) Metro has approved the Local Share Partner's determination of the appraisal value of such buildings or improvements pursuant to the following steps:

i. At least 90 days prior to making a final decision to sell or change the use of such buildings or improvements, the Local Share Partner shall provide Metro with an independent MAI appraisal of the fair market value of such buildings or improvements. Such appraisal shall not be subject to any extraordinary assumptions; and

ii. Not later than 60 days after receiving the appraisal obtained by the Local Share Partner, Metro shall inform the Local Share Partner whether Metro has approved the appraisal, which decision shall be made in good faith and based on whether the appraisal is complete and reasonable. Metro's review shall include having the appraisal reviewed by a review appraiser hired by Metro to conduct a review in accordance with USPAP and general appraisal standards. If Metro does not approve the appraisal, then Metro shall inform the Local Share Partner the reasons for not approving the appraisal and the Local Share Partner may resubmit a revised appraisal to Metro pursuant to subsection 7(e)(i) of this Agreement; and

(6) Within 180 days after selling such buildings or improvements or authorizing the change in use of such buildings or improvements, the Local Share Partner shall apply toward completion of a Project listed on Attachment A, or a substitute Project selected consistent with the provisions of Section 5 of this Agreement, an amount equal to the greater of either (a) the appraisal value of such buildings or improvements, as determined pursuant to subsection 7B(5) of this Agreement, or (b) the amount of Measure funding that Metro provided to the Local Share Partner to construct such buildings or improvements.

8. Oregon Constitution and Tax Exempt Bond Covenants

The Local Share Partner acknowledges that Metro's source of funds for this Program is from the sale of voter-approved general obligation bonds that are to be repaid using ad valorem property taxes exempt from the limitations of Article XI, sections 11, 11b, 11c, 11d, and 11e of the Oregon Constitution, and that the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The Local Share Partner covenants that it will take no actions that would cause Metro not to be able to maintain the current status of the real property taxes imposed to repay these bonds as exempt from Oregon's constitutional property tax limitations or the income tax exempt status of the bond interest under IRS rules. In the event the Local Share Partner breaches this covenant, the Local Share Partner shall undertake whatever remedies are necessary to cure the default and to compensate Metro for any loss it may suffer as a result thereof, including, without limitation, reimbursement of Metro for any Projects funded under this Agreement that resulted in the Local Share Partner's breach of its covenant described in this section.

9. Funding Recognition

The Local Share Partner shall recognize and document on-site, for each Project whether an acquisition or a capital improvement, and in any publications, media presentations, or other presentations referencing such Project, that funding for the Project came from the Metro Natural Areas Bond Measure. Such recognition shall comply with the recognition guidelines detailed in Attachment E to this Agreement.

10. Mutual Indemnification

The Local Share Partner shall indemnify and hold Metro and Metro's agents, employees,

and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by the Local Share Partner or the Local Share Partner's officers, agents, or employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30. Metro shall indemnify and hold the Local Share Partner and the Local Share Partner's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by Metro or Metro's officers, agents, or employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30.

11. Termination for Cause

A. Metro may terminate this Agreement, in full or in part, at any time during the term of the Agreement if Metro determines, in its sole discretion, that the Local Share Partner has failed to comply with any provision of this Agreement and is therefore in default. Metro shall promptly document such default and notify the Local Share Partner in writing of Metro's determination as required in Section 11B of this Agreement, below. Notwithstanding any termination for cause, the Local Share Partner shall be entitled to receive payments for any work completed or for which the Local Share Partner was contractually obligated on the date that Metro provided written notice of default, except that Metro shall not be obligated to make any payment other than for work specifically provided for in this Agreement.

B. Prior to termination under this Section 11 of this Agreement, Metro shall provide the Local Share Partner with written notice of default that describes the reason(s) that Metro has concluded that he Local Share Partner is in default and includes a description of the steps that the Local Share Partner shall take to cure the default. The Local Share Partner shall have 90 days from the date of the notice of default to cure the default. In the event the Local Share Partner does not cure the default within 90 days, Metro may terminate all or any part of this Agreement. Metro shall notify the Local Share Partner in writing of the reasons for the termination and the effective date of the termination, which shall not be earlier than 90 days from the date of the notice of default. The Local Share Partner shall be entitled to receive payments for any work completed, including any contractual obligations entered, after the date of the notice of termination and before the date that Metro provided

written notice of default, provided that such work or contractual obligations were undertaken by the Local Share Partner in a good faith effort to comply with one of the steps to cure the default described by Metro in the notice of default, except that Metro shall not be obligated to make any payment other than for work specifically provided for in this Agreement.

C. The Local Share Partner shall be liable to Metro for all reasonable costs and damages incurred by Metro as a result of and in documentation of the default.

D. If, after notice of termination, Metro agrees or a court finds that the Local Share Partner was not in default or that the default was excusable, such as due to a labor strike, fire, flood, or other event that was not the fault of, or was beyond the control of the Local Share Partner, Metro shall allow the Local Share Partner to continue work, or both parties may treat the termination as a joint termination for convenience whereby the rights of the Local Share Partner shall be as outlined as provided in Section 12 of this Agreement.

12. Joint Termination for Convenience

Metro and the Local Share Partner may jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision shall be effective upon ten (10) days written notice of termination issued by Metro subject to that mutual agreement. Within 30 days after termination pursuant to this provision, the Local Share Partner shall submit an itemized invoice for all unreimbursed Project work completed before termination. Metro shall not be liable for any costs invoiced later than 30 days after termination, provided, however, that Metro may reimburse additional costs, at Metro's sole discretion, if Metro determines that the delay was due to factors beyond the Local Share Partner's control.

13. Project Records, Audits, and Inspections

A. The Local Share Partner shall maintain comprehensive records and documentation relating to any Project for which it seeks payment from Metro pursuant to this Agreement, including, without limitation, the establishment and maintenance of books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all direct and indirect costs of any nature that the Local Share Partner incurred or anticipated to be incurred for the performance of this Agreement (hereinafter "Project Records"). Project Records shall include all records, reports, data, documents, systems, and concepts, whether in the form of writings,

figures, graphs, or models, that are prepared or developed in connection with any Project, including any substitute Project selected consistent with Section 5 of this Agreement.

B. The Local Share Partner shall maintain all fiscal Project Records in accordance with generally accepted accounting principles. In addition, the Local Share Partner shall maintain any other records necessary to clearly document:

1. The Local Share Partner's performance of this Agreement, including but not limited to the Local Share Partner's compliance with the Agreement, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions; and compliance with any and all requirements imposed on the Local Share Partner under the terms of this Agreement;
2. Any claims arising from or relating to the performance of the Local Share Partner under this Agreement or any public contract entered into by the Local Share Partner that is related to this Agreement;
3. Any cost and pricing data relating to this Agreement; and
4. Payments made to all suppliers and subcontractors engaged in any work for the Local Share Partner related to this Agreement.

C. The Local Share Partner shall maintain Project Records for the longer period of either (a) six years from the date of termination of Metro's obligation to provide funds pursuant to this Agreement, which date is provided in Section 6 of this Agreement, or (b) until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement.

D. The Local Share Partner shall make Project Records available to Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of Metro, the Local Share Partner agrees to bear all of the costs for Metro employees, and any necessary consultants hired by Metro, including but not limited to the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Local Share Partner elects to have such records outside these boundaries, the costs paid by the Local

Share Partner to Metro for inspection, auditing, examining and copying those records shall not be recoverable costs in any legal proceeding.

E. The Local Share Partner authorizes and permits Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, to inspect, examine, copy and audit the books and Project Records of the Local Share Partner, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any requirements of this Agreement. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provisions of Section 13E of this Agreement.

F. The Local Share Partner agrees to disclose Project Records requested by Metro and agree to the admission of such records as evidence in any proceeding between Metro and the Local Share Partner, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

G. The Local Share Partner agrees that in the event such Project Records disclose that Metro is owed any sum of money or establish that any portion of any claim made against Metro is not warranted, the Local Share Partner shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum that is due or that becomes due from Metro.

14. Public Records

All Project Records shall be public records subject to the Oregon Public Records Law, ORS 192.410 to 192.505. Nothing in this section or in any other part of this Agreement shall be construed as limiting the Local Share Partner's ability to consider real property transactions in executive session pursuant to ORS 192.660(1)(e) or as requiring disclosure of records that are otherwise exempt from disclosure pursuant to the Public Records Law (ORS 192.410 to 192.505) or Public Meetings Law (ORS 192.610 to 192.690).

15. Law of Oregon; Public Contracting Provisions

The laws of the state of Oregon shall govern this Agreement and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187, 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this Agreement. Specifically, it is a condition of this Agreement

that the Local Share Partner and all employers working under this Agreement are subject employers that will comply with ORS 656.017.

16. Notices and Parties' Representatives

Any notices permitted or required by this Agreement, other than reimbursement requests required pursuant to Attachment B, shall be deemed provided when personally delivered or upon deposit in the United State mail, postage fully prepaid, by certified mail return receipt requested, and addressed to the other party's representative(s) designated in this Section of this Agreement. Either party may change its representative(s) and the contact information for its representative(s) by providing notice in compliance with this Section of this Agreement.

Local Share Partner's Designated Representative(s): [insert name(s) and address(es)]

_____

_____

_____

_____

_____

_____

_____

_____

Metro's Designated Representatives:

Natural Areas Bond Program Manager
Metro Regional Center
600 N.E. Grand Ave.
Portland, OR 97223

with copy to:

Metro Attorney
600 N.E. Grand Ave.
Portland, OR 97223

17. Assignment

The Local Share Partner shall not assign any of its responsibilities under this

Agreement without prior written consent from Metro, except that the Local Share Partner may delegate or subcontract for performance of any of its responsibilities under this Agreement.

18. Severability

If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.

19. Entire Agreement; Modifications

This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The Local Share Partner, by the signature below of its authorized representative, hereby acknowledges that the Local Share Partner has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year indicated below.

_____	**METRO**
Name of City/County/District	
_____	_____
Signature	Michael Jordan Metro Chief Operating Officer
Print Name: _____	
Title: _____	
Date: _____	Date: _____

APPROVED AS TO FORM BY:

_____	_____
Signature	Paul A. Garrahan Senior Assistant Metro Attorney
Print Name: _____	
Title: _____	
Date: _____	Date: _____

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Attachment A

Local Share Project list

- **Mary S. Young Restroom Project**
- **Construction of a restroom and storage building at Mary. S. Young Park**
- **Local Share funds required, $175,000. Other funds required, Land and Water Conservation Fund Grant, $97,000. City Park Fund, $25,000.**
- **Timeline – Advertise for Bids, April 30, 2007. Award Contract June15, 2007. Notice to proceed July 1, 2007. Final Inspection, December 15, 2007.**
- **Location – See Map**
- **Contact:** **Ken Worcester**
  22500 Salamo Road # 1100
  West Linn, Oregon 97068

  503-557-4700
  kworcester@ci.west-linn.or.us

- **Rosemont Trail Project**
- **Construction of a paved pathway from West Linn's Northwest boundary at Carriage Way running Northwest to West along Rosemont Road to meet up with the existing trail heading East from Stafford Road in Lake Oswego.**
- **Local Share funds required, $150,000. Other funds required, Clackamas County, $150,000. City of Lake Oswego, $150,000. Three Rivers Land Conservancy $100,000.**
- **Timeline – Project Design, April – August 2007. Acquire Easements and Permits, March 31, 2008. Advertise for Bids, April 30, 2008. Award Contract June15, 2008. Notice to proceed July 1, 2008. Final Inspection, December 15, 2008.**
- **Location – See Map**
- **Contact:** **Ken Worcester**
  22500 Salamo Road # 1100
  West Linn, Oregon 97068

  503-557-4700
  kworcester@ci.west-linn.or.us

- **Property Acquisition**
- **Purchase Property That Meets the Goals of the Greenspaces Program**
- **Local Share Funds, up to $547,000. West Linn Park System Development Funds, to be determined.**
- **Timeline – Ongoing between July 1, 2007 and March 31, 2012**
- **Location – Unspecified within or outside current Urban Growth Boundary**

- **Contact:** **Ken Worcester**
  22500 Salamo Road # 1100
  West Linn, Oregon 97068

  503-557-4700
  kworcester@ci.west-linn.or.us

Other Projects needing scope and funding refinement include:

- **Wilderness Park Upper parking Lot removal**
- **Maddax Woods Development**
- **Reforestation Projects**

Attachment B

PROCEDURES FOR PAYMENT OF FUNDS BY METRO NATURAL AREAS BOND PROGRAM LOCAL SHARE

Metro has committed to pay to local jurisdictions (Local Share Partners) amounts specified for approved projects under the local share component of the 2006 Natural Areas Bond Measure. Under the Measure, funds must be expended on projects for acquisition and capital construction and improvements that result in the creation or acquisition of a capital asset, consistent with generally accepted accounting principles. For purposes of reimbursement, all of the following also apply:

- Capital cost may include not only the purchase price or cost of construction, but also any other costs incurred to place the asset in its intended location and condition for use;
- Each project shall be an improvement to non-federal, publicly owned property, or, in the case of acquisition, the ownership of the property shall be by a non-federal public agency or jurisdiction;
- Each project shall be real property (including buildings on such real property) or a building or other tangible improvement to real property, not intellectual or other intangible property; and
- The Local Share Partner shall properly record the acquisition or improvement as an asset in the jurisdiction's audited financial statements, and the accounting treatment for this project shall be consistent with the Local Share Partner's treatment of other similar transactions.

Examples of potentially eligible costs include the following, provided that they are costs that can be capitalized under generally accepted accounting principles:

- Legal and title fees
- Closing costs (including escrow fees and recording fees)
- Negotiation costs
- Due diligence costs (including costs of appraisals, land surveys and environmental investigations)
- Land preparation costs
- Demolition cost (associated with new construction)
- Architect and engineering fees
- Insurance premiums during the construction phase
- Transportation and freight charges
- Staff overhead costs, meeting federal guidelines under the Single Audit Act of 1984, which are directly related to the acquisition of a natural area asset.

Payments to Local Share Partners will be processed as reimbursement for costs incurred and paid by the Local Share Partner. Only in the case of land acquisition will transfers be made prior to expenditure, with said transfer into escrow accounts for land acquisition transactions.

Prior to any reimbursement or transfer of funds to escrow the Local Share Partner must sign a designation of signature authority form.

REIMBURSEMENT PROCEDURES

For each request for reimbursement, the Local Share Partner shall provide to Metro:

- A completed Request for Release of Funds, signed by an authorized representative of the Local Share Partner certifying appropriateness of the charges,
- A schedule of charges being submitted for reimbursement including the name of the vendor or person who was paid, description of charge and amount, and
- Applicable documentation to support the schedule of charges, including copies of invoices, statements, receipts, payroll reports, and/or other evidence of expenditures incurred.

Such documents shall be submitted to:

Local Share Coordinator
Metro Regional Parks and Greenspaces
600 N.E. Grand Avenue
Portland, OR 97232-2736

Upon Metro's receipt of a request for reimbursement:

- Metro's Local Share Coordinator shall review the submitted documents and recommend approval for payment to the Program Director, or request additional information from Local Share Partner as needed.
- Metro Accounts Payable will process a reimbursement check to the Local Share Partner within thirty (30) days of the date of receipt of completed reimbursement documents by Metro. All reimbursements will be made payable to the Local Share Partner jurisdiction. Reimbursement may be by electronic funds transfer, warrant or check.

ESCROW TRANSFER PROCEDURES

If the Local Share Partner requires a wire transfer of funds to escrow to complete land acquisition transactions, a wire transfer information request form must be completed. A preliminary closing statement that details the price of the property and all related closing costs should be included to document each request submitted.

Funds will be transferred as required within five business days of written or faxed notice submitted to the attention of:

Local Share Coordinator
Metro Regional Parks and Greenspaces
600 N.E. Grand Avenue
Portland, OR 97232-2736

Fax number: 503-797-1849

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Attachment C

Local Share Guidelines

The Metro Council established these Local Share Guidelines with its adoption of Metro Resolution No. 06-3672B, which resolution submitted the Measure to the voters of the Metro region. As provided in Exhibit B to that resolution, only agencies that were public park providers as November 6, 2006 are eligible to receive funds. Funds from the bond measure shall not be used to replace local funds on any project and funds from the bond measure should be used to leverage other sources of revenue when possible. Local share funds should be used to the greatest extent possible to fund new projects and not pay agency overhead or indirect costs. In no event shall the staff, overhead and indirect costs on local share projects exceed 10% of the cost of any project. In addition, such funds may be expended only on projects related to natural areas or acquisition of land for natural areas, open space, parks or trails, including:

Real Property Acquisition:

- Fee Simple (or easement) purchase of real property for use as parks, open space, natural areas, or trails, including natural areas, wildlife and trail corridors identified in the Metropolitan Greenspaces Master Plan, the Regional Greenspaces System Concept Map (adopted 2002), the Regional Trails Plan Map (adopted 2002), the Nature in Neighborhood Map (Fish & Wildlife Habitat Protection Program, Resource Classification Map), and locally determined significant natural areas, neighborhood and pocket parks, wildlife habitat and trail corridors.

Capital Improvement Projects:

- Restoration or enhancement of fish and wildlife habitat.
- Improvements to existing parks to enhance the integrity of habitat and increase natural plantings.
- Improvements to existing natural area amenities to provide universal access to the public (meets Americans with Disabilities Act requirements).
- Public use facilities such as trailheads, rest rooms, picnic tables and shelters, children's play areas, viewing blinds, water systems, camp sites and barbeque pits, fishing piers, associated accessories such as information signs, fences, security lighting, and circulation facilities (i.e., entry, egress and circulation roads, parking areas).
- Environmental education structures or accessories (e.g., nature centers and/or interpretive displays).
- Trail design, engineering, construction and landscaping.

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