

Shroyer, Shauna

From: Rapp, Reagan S. (Perkins Coie) <RRapp@perkinscoie.com> on behalf of Robinson, Michael C. (Perkins Coie) <MRobinson@perkinscoie.com>
Sent: Wednesday, October 08, 2014 10:18 AM
To: Pelz, Zach
Cc: Robinson, Michael C. (Perkins Coie); King, Seth J. (Perkins Coie); Stephenson, Garrett H. (Perkins Coie); Kerr, Chris; mmahoney@conam.com; rmorgan@conam.com; jeff@parkerdev.com; 'bwb@johnson-reid.com'; bahrend@mcknze.com; Thornton, Megan; Shroyer, Shauna
Subject: City of West Linn File Nos. ZC-14-01/PLN-14-01
Attachments: 2014.10.08 Lt C. Steel re part of evidentiary submittal (with exhibit).PDF

Dear Zach,

Attached please find my letter to Chair Christine Steel that constitutes part of ConAm's evidentiary submittal. Please place this letter in the official Community Development Department file for this application and before the Planning Commission.

Please recycle the submittal sent to you yesterday, October 7, and replace it with this one.

Please confirm receipt of this email.

Thank you.

Mike

Michael C. Robinson | Perkins Coie LLP

PARTNER

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October 8, 2014

Michael C. Robinson
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VIA EMAIL

Ms. Christine Steel, Chair
West Linn Planning Commission
City of West Linn Planning Department
22500 Salamo Road, Suite 1000
West Linn, OR 97068

Re: City of West Linn File Nos. ZC-14-01/PLN-14-01

Dear Chair Steel and Members of the West Linn Planning Commission:

This office represents the Applicant, ConAm Properties, LLC (“ConAm”). This letter constitutes part of ConAm’s evidentiary submittal, which must be submitted no later than Wednesday, October 8, 2014 to the West Linn Planning Department. ConAm will submit additional evidence and argument prior to that deadline.

This letter addresses five (5) issues:

- Written testimony accepted by the Planning Commission prior to the conclusion of public testimony at the initial evidentiary hearing on Wednesday, October 1, 2014;
- Confirmation of the continuance of the public hearing and the written record schedule adopted by the Planning Commission prior to the conclusion of the October 1, 2014 hearing;
- Response to a procedural issue raised by Mr. Schwarz;
- Response to September 30, 2014 email from Commissioner Russell Axelrod; and
- The “Arch Bridge and Bolton Town Center Existing Conditions Report” dated April 2, 2014.

1. Written testimony received prior to the end of public testimony at the initial evidentiary hearing on October 1, 2014.

The Planning Department received the following written testimony prior to the end of public testimony on October 1, 2014:

- A. 2-page letter dated October 1, 2014 from Michael C. Robinson.

- B. 4- page letter dated October 1, 2014 from Michael C. Robinson.
- C. 1-page handout from City's website entitled "Public Hearing Procedure and Approval Criteria" from Michael C. Robinson.
- D. 3-page handout from West Linn Community Development Code ("CDC") 105.010, including one (1) page from CDC 105, "Purpose" and two (2) pages from comprehensive plan (pages CI-3 and CI-4).
- E. 1-page letter dated October 1, 2014, by Casey Davidson in support of the Application.
- F. 1-page letter dated September 17, 2014, from Tony Butterfield.
- G. 5-page memorandum submitted by Mr. and Mrs. Ed Schwarz and others with eleven (11) exhibits.
- H. 4-page letter dated September 25, 2014, with six (6) exhibits from Michael C. Robinson.
- I. Email with one (1) exhibit from Savanna Oaks Neighborhood Association.
- J. Email from Waohua Yang and Jiamei Zhou.
- K. Email from Ryan Gray.
- L. Letter dated September 25, 2014, from Powell Development Company in support of the Application.
- M. Email from Randy and Jean Lambert.
- N. Email from Planning Commissioner Russell Axelrod.
- O. Email from Jill Nowak.
- P. Email from Donna and Hilton Friedman.
- Q. Email from Anthony Perry.
- R. Copy of PowerPoint presentation presented by Applicant to Planning Commission on October 1, 2014.

Applicant will present rebuttal to the opposition testimony listed above in separate submittals to the Planning Commission.

2. Confirmation of continuance of public hearing in open record schedule adopted by the Planning Commission prior to the close of the initial evidentiary hearing on October 1, 2014.

Commissioner Schwark moved, and Commissioner Griffith seconded the motion, to adopt the following public hearing and open record schedule:

- To continue the public hearing until October 15, 2014 at 6:30 p.m. for Applicant rebuttal only, followed by Planning Commission deliberation on the Application;
- To leave the written record open for all parties to submit argument and evidence (as those words are defined in ORS 197.763(9)) until October 8 at 5 p.m.; and
- To leave the written record open until October 10, 2014 at 5 p.m. for the Applicant to submit final written argument only without new evidence.

The Planning Commission unanimously adopted Commissioner Schwark's motion. No party objected to the motion.

3. Response to procedural issue raised by Mr. Schwarz.

Mr. Ed Schwarz raised an issue concerning his inability to be present at the Planning Commission work session prior to the initial evidentiary hearing for this Application. Mr. Schwarz told the Planning Commission that he attempted to find the conference room in which the work session was being held but that the door allowing access to the conference room was locked and that he could not access the work session for about 15–20 minutes. Mr. Schwarz did not explain how his failure to be present at the work session prejudiced his substantial rights in the public hearing, which are an adequate opportunity to prepare a case and a full and fair hearing. *Muller v. Polk County*, 16 Or LUBA 771 (1988). To the extent others raised this issue during the evidentiary hearing, they also did not establish prejudice.

The Applicant's attorney arrived at City Hall early, saw that the conference room upstairs was occupied as an office (apparently by the West Linn Chamber of Commerce) and inquired about the location of the work session. City staff told him that the work session had been moved to the conference room downstairs and that the door into the Planning Department would be left open for access to the room. The Applicant's attorney and two representatives of ConAm attended the entire meeting. Ms. Carrie Ochs was the other member of the public that attended the entire

meeting. No member of the public addressed the Planning Commission or staff during the work session and the work session audio recording is available to the public.

Mr. Schwarz complained that the Applicant and his representatives were the only persons to attend the meeting. This is incorrect. First, as noted above, Ms. Ochs was present for the entire meeting and Mr. Schwarz arrived about halfway through the meeting. Second, the Applicant and the Applicant's attorney should not be blamed for arriving early, inquiring about the location of the meeting and attending the meeting. Finally, it is apparent that the door to the Planning Department was inadvertently closed. No one has suggested that either the Planning Commission or the Planning Department purposefully closed the door and excluded the public.

The Planning Commission should find that this issue is not a valid procedural objection concerning the conduct of the initial evidentiary hearing.

4. Response to September 30, 2014 email from Commissioner Russell Axelrod.

Commissioner Axelrod submitted an email dated September 30, 2014 to his fellow Planning Commissioners in which he said he opposed the Application and encouraged the Planning Commission to vote against the Application. Commissioner Axelrod was not present at the October 1, 2014, public hearing.

One or more of the Planning Commissioners disclosed receiving Commissioner Axelrod's email. The Applicant told the Planning Commission it did not object to Commissioner Axelrod's email becoming part of the record, so the email is not an *ex parte* contact.

Additionally, the Applicant explained to the Planning Commission that the issue of whether Commissioner Axelrod is biased against the Application can be resolved at the continued public hearing on October 15, 2014. In the event Commissioner Axelrod decides to recuse himself from participation, then the issue is moot. In the event he does not do so, then West Linn Community Development Code ("CDC") Chapter 99 provides the process for determining bias and whether Commissioner Axelrod should be recused from the proceeding. The Applicant testified at the October 1, 2014 hearing that it would reserve its right to object to Commissioner Axelrod's participation at the continued October 15, 2014 public hearing.

5. The Arch Bridge and Bolton Town Center Existing Conditions Report Supports the Application.

Exhibit 1 to this letter includes excerpts from the "Arch Bridge and Bolton Town Center Existing Conditions Report" (the "Report"), dated April 2, 2014. The report shows that the Applicant's arguments about the validity of this site for development for office and retail uses

and the need for multi-family residential housing are accurate. The following excerpts from the Report are instructive.

- A. "Executive Summary", page ii of the Report: "There are relatively few choices of housing for people in this category [population over age 65] if they wish to live in other than single-family detached homes. ". . . the absence of different housing choices may cause some older people to leave [the community]"
- B. "Executive Summary", page ii of the Report: "West Linn also has under-representation of people in the age category of 20-34. This is likely due both to the lack of places of employment as well as to a lack of different housing choices. There is a demand for rental housing, especially at affordable price points, that is not being met."

These two (2) findings from the Executive Summary demonstrate that the City has a need for additional multi-family dwellings in order to provide an opportunity for affordable housing for those who do not wish to live in a single-family home.

- C. "Arch Bridge/Bolton Town Center-Market Conditions Assessment-Draft" dated March 31, 2014 at page 1: "At this time, West Linn offer few housing choices for [populations over 65] households. If an aging household would like to remain in West Linn, the primary housing choice is the single-family detached home. A household that would like a smaller choice is likely to leave the community."
- D. *Id.* at page A-17: "The City has issued only eleven (11) permits for multi-family units of any kind over the last ten (10) years."
- E. *Id.* at page A-18: "The existing multi-family complexes, however, enjoy strong rents and low vacancy rates."

The above two (2) findings demonstrate that few opportunities have arisen for multi-family dwellings and the results are strong (and also high based on other evidence in the record) rents with low vacancy rates. The multi-family opportunity at this site offers West Linn residents an alternative to single-family homes that are at an appropriate location.

- F. *Id.* at page A-19: "Very few multi-family units have been built in the last ten years, and it is likely that there is pent-up demand for additional units."
- G. *Id.* at page A-23 and 24: "Overall the [town center] study area shows a healthy office market, but given the small size there is little demand for new office space."

Ms. Christine Steel, Chair
October 8, 2014
Page 6

The Report supports the conclusion that additional multi-family housing is needed and that the office market in West Linn is weak. While a town center may eventually satisfy some of these needs, the Application before the Planning Commission allows the City to address both of these needs now: removing land from a commercial zoning category where it is highly unlikely it will develop anytime in the near future and thus have no positive benefit to the City's economic development and rezoning that same land to R-2.1 to allow development now for multi-family housing.

Finally, the Report "Urban Design and Development Potential" section at page C-3 notes the deficiency in the OBC for multi-family developments.

The Applicant appreciates the Planning Commission's courtesy to all of the parties and urges the Planning Commission, after they have listened to all of the argument and evidence, to recommend approval of the Application to the West Linn City Council.

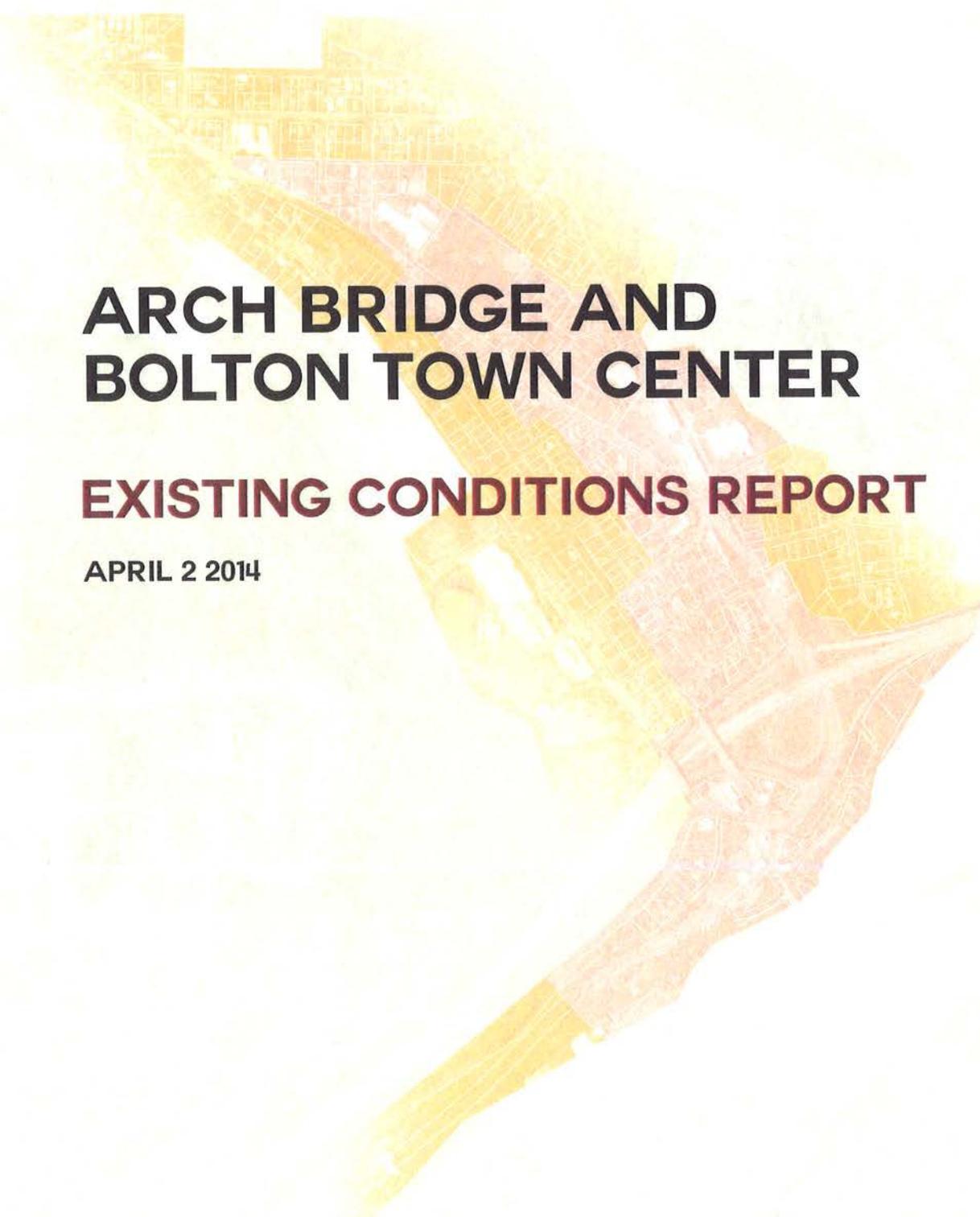
Very truly yours,



Michael C. Robinson

MCR:rsr
Enclosures

cc: Mr. Chris Kerr (via email) (w/ encls.)
Mr. Mike Mahoney (via email) (w/ encls.)
Mr. Rob Morgan (via email) (w/ encls.)
Mr. Jeff Parker (via email) (w/ encls.)
Mr. Brendan Buckley (via email) (w/ encls.)
Mr. Brent Ahrend (via email) (w/ encls.)
Mr. Zach Pelz (via email) (w/ encls.)
Ms. Megan Thornton (via email) (w/ encls.)



ARCH BRIDGE AND BOLTON TOWN CENTER

EXISTING CONDITIONS REPORT

APRIL 2 2014



LMN
ECONORTHWEST
WALKER MACY
NELSON NYGAARD
STUDIO CASCADE

EXECUTIVE SUMMARY

The consultant team examined the study area from a number of different perspectives, including economics, urban design, development pattern, transportation, and recreation. All of these subjects are addressed in the subsequent sections of this report.

The following represents highlights of this analysis:

DEMOGRAPHICS AND MARKET ECONOMICS

1. West Linn has a long-standing stature in the metropolitan area as being a good community to raise a family with the availability of a high performing school district.
2. As with many other communities, West Linn is beginning to experience an aging of its population, with an increasingly larger portion being over 65.
3. There are relatively few choices of housing for people in this category if they wish to live in other than single-family detached homes. Typically, many people as they age desire to stay in their community to enjoy their social connections but "downsize" into more efficient housing. The absence of different housing choices may cause some older people to leave.
4. West Linn also has an under-representation of people in the age category of 20-34. This is likely due both to the lack of places of employment as well as to a lack of different housing choices. There is a demand for rental housing, especially at affordable price points, that is not being met.
5. Creating a town center, with a mix of uses and different housing choices, could help meet the demands by both older people as well as younger people for different choices in the marketplace.
6. There is also a notable absence of a hotel that can serve the community – both people visiting relatives and those conducting business in the area. This use could be accommodated within a town center.
7. There is a demand for additional restaurants and personal service businesses. While these could occur in many different places, a town center is certainly an appropriate and likely location.

TRANSPORTATION:

1. The study area accommodates a significant amount of traffic in a generally efficient manner. There are no pressing needs for safety enhancements.
2. The primary opportunities for improvements in the area involve the allocation of existing facilities and right-of-way to other purposes in addition to moving vehicles.
3. The Highway 43 Concept Plan suggested a number of improvements to Willamette Drive. Although these did not extend very deep into the study area, similar improvements such as bicycle lanes, a median to control left turns and enhance the character, upgraded sidewalks and crosswalks are potentially applicable to the town center.
4. There are redundant access ramps associated with I-205. One could be eliminated with a reconfiguration of roadways, intersections and lights. This could make the area safer for walking and biking, open up areas for other purposes, and enhance the experience of people arriving into West Linn from both the Arch Bridge and I-205.
5. The Broadway bridge crossing over I-205 duplicates the function performed by the West "A" Street bridge. There is a possibility that the Broadway corridor could be re-purposed to accommodate other uses such bicycle and walking routes.



DATE: March 31, 2014

ECO Project #: 21631

TO: Mark Hinshaw, LMN Architects

FROM: Anne Fifield and Lorelei Juntunen, ECONorthwest

SUBJECT: ARCH BRIDGE/BOLTON TOWN CENTER-MARKET CONDITIONS ASSESSMENT-DRAFT

ECONorthwest is part of a multi-disciplinary team led by LMN Architects to create a redevelopment plan for the area in West Linn to the west of the Arch Bridge. This memorandum provides an initial assessment of demographic and market trends that affect redevelopment of the study area.

This market assessment does not provide any specific recommendations regarding uses for the study area. Instead, it provides an understanding of key demographic and market trends, to identify viable uses for redevelopment in the study area. Later phases of the planning process will refine this understanding, and describe potential uses on specific sites.

The remainder of this memorandum is organized into the following parts:

- Key findings and implications
- Description of the study area
- Overview of demographics and economic conditions
- Development market

1. Key Findings and Implications

West Linn is a southern suburb in the Portland metropolitan area. The Portland region has a relatively strong economy—its total employment is growing. The strength of the regional economy benefits the study area. The population of the region is expected to grow at a steady pace, and the study area will be in a position to capture some of the demand for housing that the new households will generate.

West Linn is attractive to affluent households with children. The community has a high portion of children and its housing stock is dominated by detached single-family units. West Linn is part of a school district that enjoys a good reputation, and the area is likely to continue to be attractive to such households.

West Linn, however, is experiencing the same demographic trends as the nation: its population is aging and in the coming decades, a larger portion of its population will be over 65. A portion of these households will choose to downsize from large, detached single-family houses to higher-density homes that require less maintenance. At this time, West Linn offers few housing choices for these households. If an aging household would like to remain in West Linn, the primary housing choice is the single-family detached home. A household that would like a smaller choice is likely to leave the community. Providing housing choices for an aging



population could give existing residents a wider choice of housing options to enable them to age in their community.

Although most of the households in West Linn have relatively high incomes, a portion of the community has lower incomes. Our research found evidence of strong demand for low-cost rental housing. The school district's reputation will attract families with children to the area; smaller, less costly family-oriented housing could provide housing choices for those families.

The broad employment trends show that West Linn residents are highly employable, but they tend to not work in West Linn, and employment opportunity in Clackamas County is diminishing relative to employment opportunity elsewhere in the region. This indicates that West Linn functions as a 'bedroom community'. Creating a town center in the study area may be a tool to create employment opportunities in the study area, redeveloping the area to encourage businesses to locate in West Linn, and potentially providing opportunities for co-working space. There is likely demand for a small amount of office space that offers flexible space to small sole proprietors.

The study area shows a reasonably strong retail market, with low vacancy rates. There are potential retail opportunities for full-service restaurants and personal care services. The opportunity for new retail space is limited, however. The area is not likely to be a large retail center.

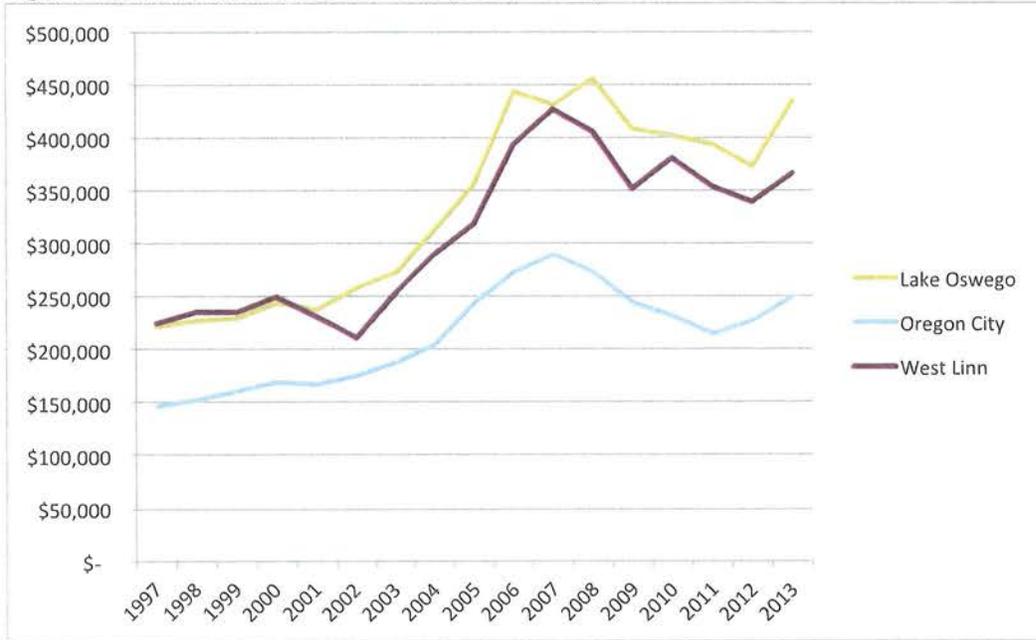
West Linn has no hotel at this time. The primary demand for a hotel in a suburban community stems from individuals visiting residents of West Linn. It is likely that the community could generate adequate demand for a hotel. Combining a hotel with event space for large parties such as weddings, could generate additional demand.

The study area has relatively high-value properties west of Interstate 205, making it unlikely that the area will redevelop in the near term. The land between the Interstate and the western bank of the Willamette River, however, has a number of relatively low-value properties. Existing development on many parcels is relatively low value, making it more likely that the area could redevelop.

These key findings suggest that a mix of uses could be supported in the study area, particularly in the area near the Willamette River. A mix of owner and renter-occupied housing, some office space and retail space, along with a hotel, could create a town center on the eastern edge on West Linn.



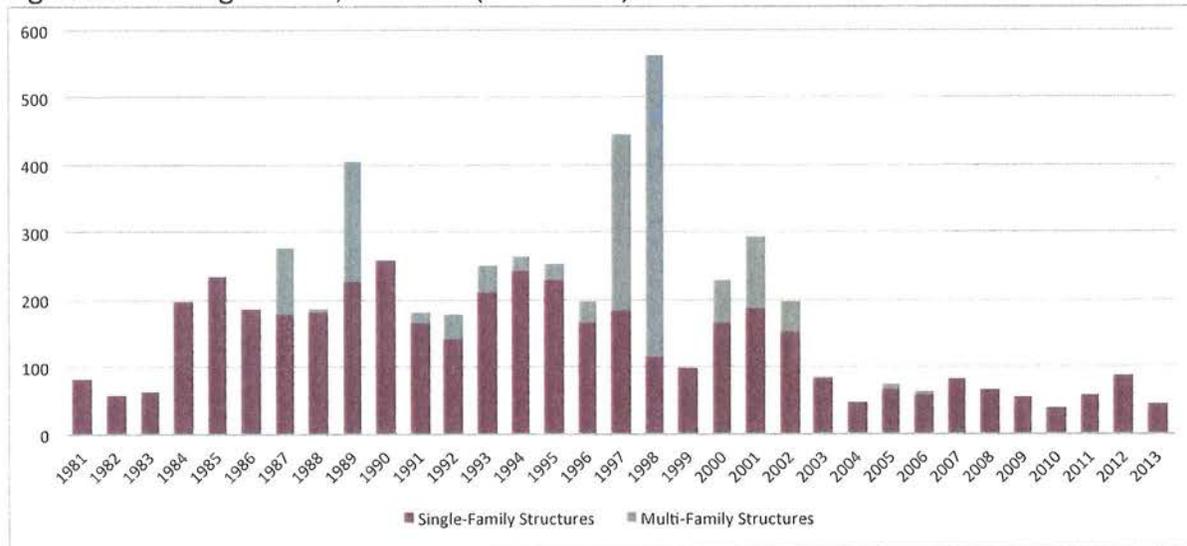
Figure 14. Median Home Sale Prices (1997-2013)



Source: Zillow.com

Figure 15 shows building permits for single-family structures and multi-family structures in West Linn between 1981 and 2013. Permits for single-family housing peaked in the early 1990s. Permits for multi-family housing peaked in 1997 and 1998. Since 2003, about 60 units have been per year, on average. The City has issued only eleven permits for multi-family units of any kind over the last ten years.

Figure 15. Building Permits, West Linn (1980-2012)

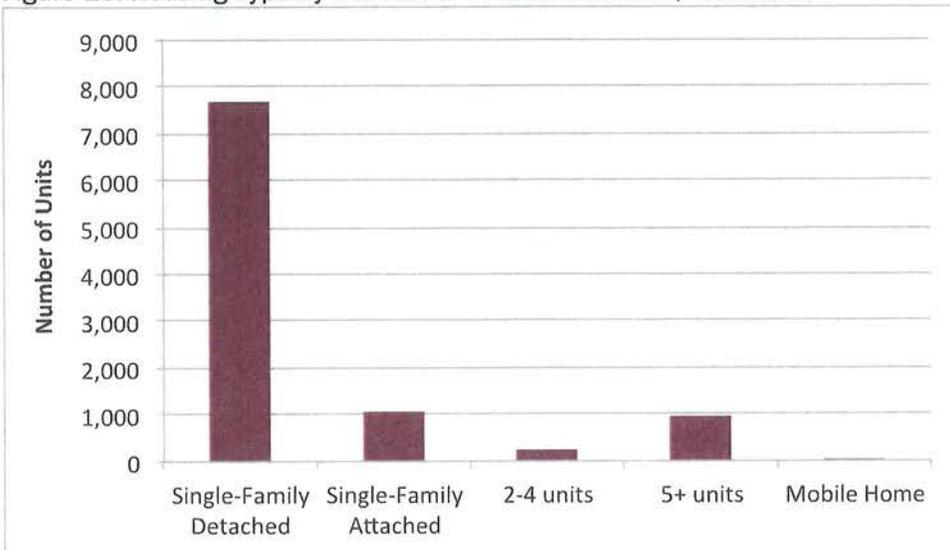


Source: City of West Linn Building Department (<http://westlinnoregon.gov/building/latest-housing-counts>).



Figure 16 shows the mix of housing types in West Linn. The data show that a large majority, 77%, of housing units are single-family detached houses. A small portion, 11%, lives in attached single-family units, such as townhomes. The remainder (11%) lives in multi-family units, ranging from duplexes to apartment complexes with more than 20 units.

Figure 16. Housing Type by Number of Units in Structure, West Linn



Source: U.S. Census Bureau. 2008-2012 American Community Survey 5-year Estimates. Table DP04.

The data show that the majority of the housing stock in West Linn is single-family detached units. The existing multi-family complexes, however, enjoy strong rents and low vacancy rates. Table 4 shows the rents and vacancy rates for three apartment complexes in West Linn. Two complexes, Cascade Summit and Summerlinn, are relatively new and offer high-level amenities. One of the complexes that ECONorthwest was able to reach, the Amy Street Apartments, is in the study area. The apartment manager reported that the units are very easy to fill and units are rarely vacant for long. The rents at the Amy Street Apartments are much lower than at the larger, newer complexes.



Table 4. Apartment Rents and Vacancy Rates, West Linn

Complex	Unit	Number of Units	Rent	SF	\$/SF	Vacancy Rate
Cascade Summit	1 Bedroom	62	\$1,000	795	\$1.26	1.6%
22100 Horizon Dr	2 Bedroom	182	\$1,200	1045	\$1.15	1.1%
West Linn, Oregon	3 Bedroom	50	\$1,500	1289	\$1.16	6.0%
	<i>Total/Average</i>	294			\$1.17	2.0%
Summerlinn	1 Bedroom	35	\$1,100	765	\$1.44	14.3%
400 Springtree Lane	2 Bedroom	70	\$1,350	1239	\$1.09	2.9%
West Linn, Oregon	3 Bedroom	21	\$1,800	1515	\$1.19	9.5%
	<i>Total/Average</i>	126			\$1.18	7.1%
Amy Street Apartments	Studio	1	\$650	350	\$1.86	0.0%
5250 Amy Street	1 Bedroom	1	\$725	550	\$1.32	0.0%
West Linn, Oregon	2 Bedroom	7	\$895	850	\$1.05	0.0%
	3 Bedroom	1	\$850	1000	\$0.85	0.0%
	<i>Total/Average</i>	10			\$1.05	0.0%

Source: ECONorthwest.

The housing market data show that the great majority of housing units in West Linn are high-cost, single-family detached units. This aligns with the demographic structure of the community, which showed the community appeals to affluent households with children. Staff at the City of West Linn and members of this project’s Advisory Committee noted that the community has long supported its K-12 schools and the school system enjoys a good reputation. The State of Oregon has rated the schools in West Linn as ‘outstanding’.

A small portion of the community’s households rent their homes. The existing rented housing has low vacancy rates and high rents, indicating potential demand for additional rental housing. Very few multi-family units have been built in West Linn over the last ten years, and it is likely that there is pent-up demand for additional units.

A small portion of West Linn is low income. There are few housing choices for lower-income households, and new housing in the study area could provide new workforce housing. Given the good reputation of the school district, it is likely that many families would like to locate in the area, but cannot find housing within their price range.

The lack of higher-density ownership housing in West Linn creates an opportunity. The demographic analysis showed that the portion of West Linn residents over the age of 65 is growing. At this time, those individuals have few choices to allow them to remain in West Linn as they age. Higher-density units, with low maintenance requirements, are likely to appeal to a portion of this demographic.

4.2 Retail Uses

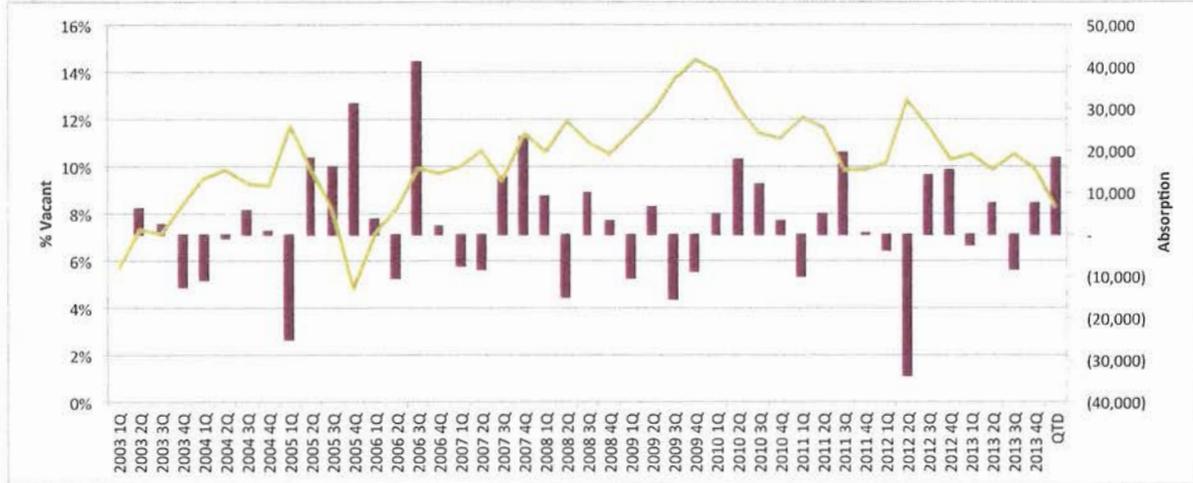
Figure 17 shows vacancy and absorption for retail space in the West Linn/Lake Oswego region; Figure 18 shows average rents in the region. Vacancies in the market have been low, even



4.3 Office Uses

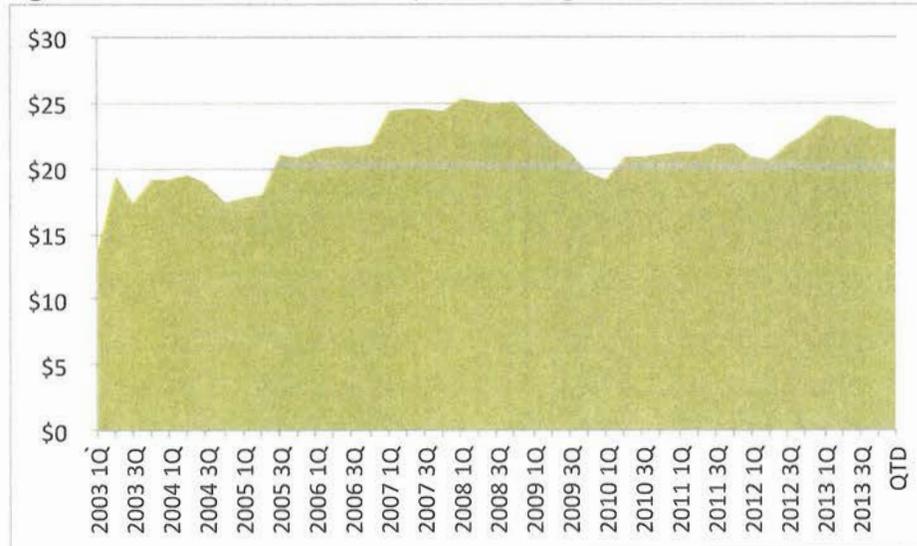
Figure 21 shows vacancy and absorption for office space in the West Linn/Lake Oswego region; Figure 22 shows average rents in the region. Vacancies in the market have been 10% and 14%, until a recent decline to 8%. The vacancy rate is evidence of a relatively weak office space market, negatively affected by weak demand during the recession. Rents, however, have climbed to about \$24 per square foot, after a steep decline in the early part of the recent severe recession.

Figure 21. Office Vacancy Rates and Absorption, West Linn/Lake Oswego, 2003-2014



Source: Costar.

Figure 22. Office Rents, West Linn/Lake Oswego, 2003-2014



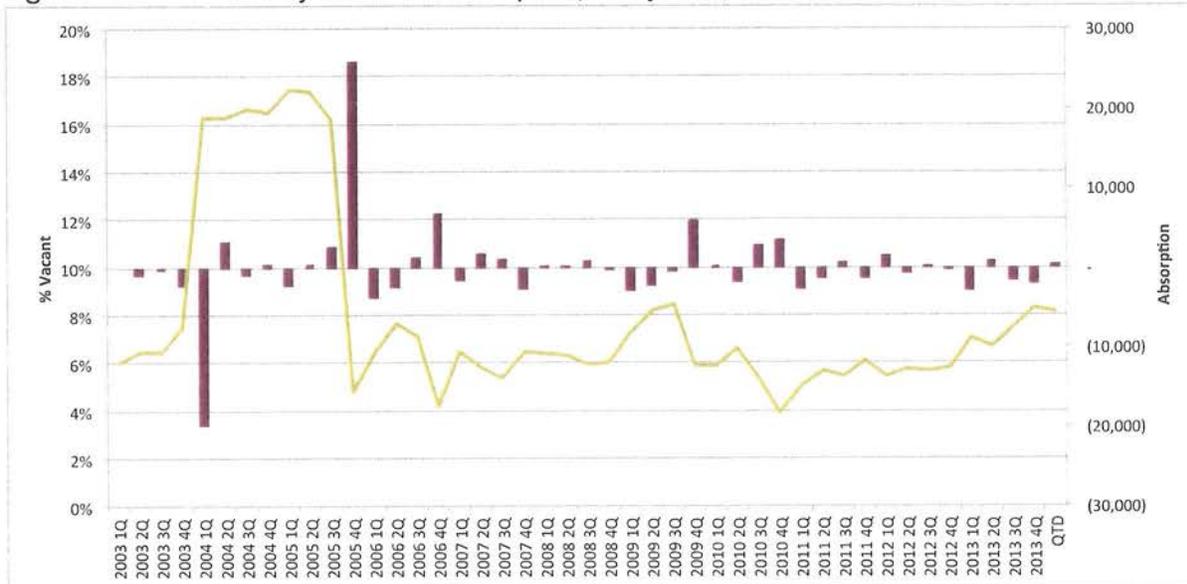
Source: Costar. Reported rents are triple net, noted as NNN, which excludes the cost of taxes, insurance, and janitorial services.

ECONorthwest also analyzed office-space trends in the study area. Figure 23 and Figure 24 show trends for office space in the study area along Highway 43. The smaller area shows a low



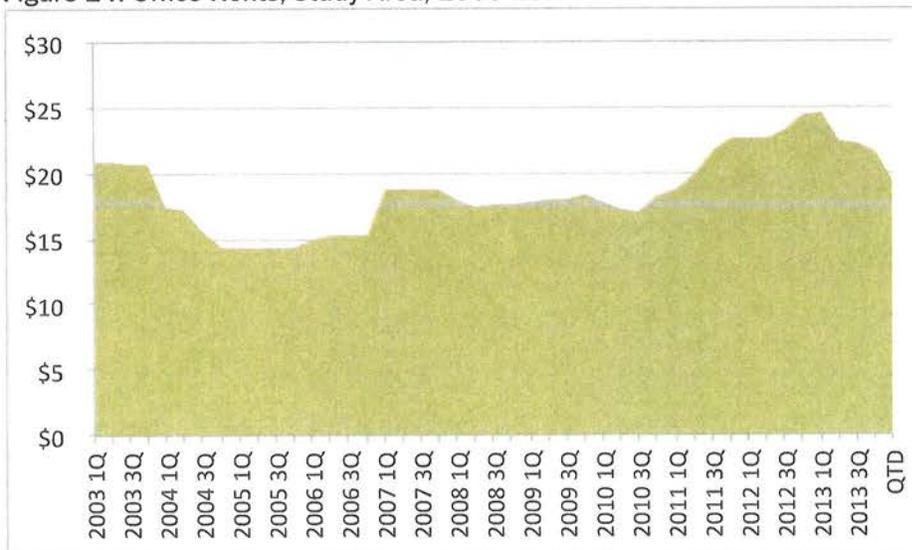
vacancy rate, hovering around 6% since 2005. This smaller geography has roughly 230,000 square feet of office space. For context, the KOIN tower in downtown Portland has about 300,000 square feet of office space. Overall, the study area shows a healthy office market, but given the small size there is little demand for new office space.

Figure 23. Office Vacancy Rates and Absorption, Study Area, 2003-2014



Source: Costar.

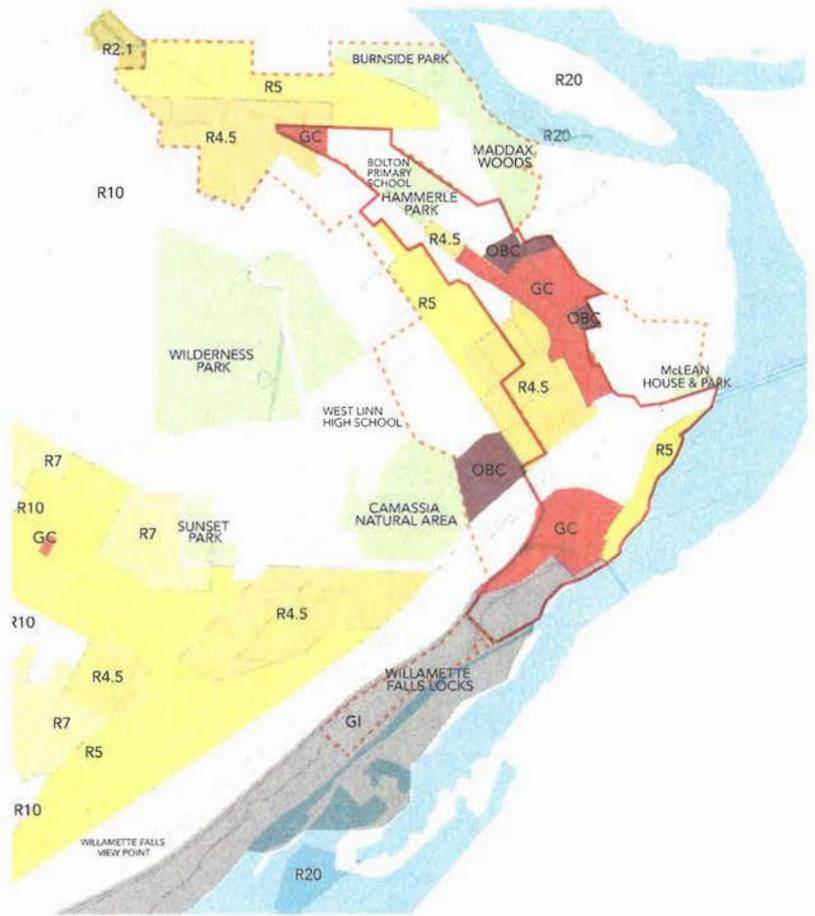
Figure 24. Office Rents, Study Area, 2003-2014



Source: Costar. Reported rents are triple net, noted as NNN, which excludes the cost of taxes, insurance, and janitorial services.

The consultant team has interviewed members of the business community in West Linn, and a few interviewees reported that West Linn has a high number of individuals working from their home. In an effort to find data to support the statement, ECONorthwest summarized business





ZONING

The Primary Study Area contains a number of different zoning districts. Several single family residential districts, including R10, R5 and R4.5 are adjacent to the commercial designation of General Commercial (GC). There are also three areas zoned for Office Business Center (OBC). The latter two districts offer the greatest potential for creating a town center.

However, there are some aspects of these zones that could limit redevelopment. The GC zone has a height limit of 45' feet or 3 ½ stories. (The height limit is one story and ten feet lower within 50 feet of residential districts.) Typically, mixed use development in emerging urban centers is at least four stories, as a higher yield from dwellings on the upper floors is necessary to make development feasible. Two stories of units are typically insufficient to accomplish this. Another limiting factor is the 50% maximum lot coverage. The challenge of this regulation can dissuade potential developers since it involves a limited yield on the investment. Finally, housing is allowed only above the first floor. This assumes that all mixed use development will be "vertical" in the arrangement of uses. There might well be designs that involve horizontal mixed use,

such as commercial fronting on a street with housing behind and a courtyard in between. This standard also assumes that there is sufficient demand for commercial space in all instances; this can inadvertently discourage some developers from even considering projects, as the demand for commercial space is far less than it was prior to the Recession.

For the most part, standards for the OBC zone are similar to those for GC. Consequently, some regulations serve to discourage residential development.

Most cities that are determined to create a unique town center do not rely upon zoning districts applicable in other parts of the city. It is useful to have a special "Town Center" district that can reflect a clear vision of mixing uses, encouraging intensity and perhaps somewhat greater height, lower parking ratios, and the need for pedestrian orientation, connections and public spaces. This does not necessarily mean a one-size-fits-all approach; these standards can be tailored to fit different areas of the town center.



Shroyer, Shauna

From: Rapp, Reagan S. (Perkins Coie) <RRapp@perkinscoie.com> on behalf of Robinson, Michael C. (Perkins Coie) <MRobinson@perkinscoie.com>
Sent: Wednesday, October 08, 2014 1:36 PM
To: Pelz, Zach
Cc: Robinson, Michael C. (Perkins Coie); King, Seth J. (Perkins Coie); Stephenson, Garrett H. (Perkins Coie); Kerr, Chris; mmahoney@conam.com; rmorgan@conam.com; jeff@parkerdev.com; 'bwb@johnson-reid.com'; bahrend@mcknze.com; Thornton, Megan; Shroyer, Shauna
Subject: City of West Linn File Nos. ZC-14-01/PLN-14-01 (Email 1 of 2)
Attachments: 2014.10.08 Lt C. Steel re context for public comments before the Commission.PDF; ExhibitA.PDF

Dear Zach,

Attached please find my letter to Chair Christine Steel regarding context for the public comments before the Commission. Please place this letter in the official Community Development Department file for this application and before the Planning Commission.

Please confirm receipt of this email.

Thank you.

Mike

Michael C. Robinson | Perkins Coie LLP

PARTNER

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October 8, 2014

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VIA EMAIL

Ms. Christine Steel, Chair
West Linn Planning Commission
c/o City of West Linn Planning Department
22500 Salamo Road #1000
West Linn, OR 97068

Re: City of West Linn File Nos. ZC-14-01/PLN-14-01

Dear Chair Steel and Members of the West Linn Planning Commission:

This office represents the Applicant, ConAm Properties, LLC (“ConAm”). This letter encloses public comments and public meeting minutes for three (3) prior land use reviews on the property (“Subject Property”) at issue in ConAm’s Application (the “Application”). The purpose of this submittal is to provide some context for the public comments now before the Commission.

As explained in the Staff Report, there were three (3) relatively recent land use reviews on the subject property:

- DR 06-24 – Design Review Approval for Three Office Buildings (“Tannler West”).
- AP 07-01–Appeal of DR 06-24 (*appeal denied by Council*).
- MICS-10-14/LLA-01-03–Approved Lot Line Adjustment and Extension of DR 06-14 (Tannler West extension).

In each of these reviews, Ed and Roberta Schwarz provided a considerable amount of testimony in opposition to commercial development on the Subject Property, consistent with the current OBC zoning. Their opposition primarily focused on traffic impacts. **Exhibits A–C** include meeting minutes and public testimony of the Schwarzs, both on their own behalf and for Mr. Schwarz, on behalf of the Tanner Basin Neighborhood Association.

The purpose of bringing the Schwarzs’ prior testimony to your attention is twofold. First, ConAm wishes to highlight the fact that if developed for multi-family residential uses, the traffic generation of the site will be less than if developed under the OBC zone. Mr. Brent Ahrend’s July 11, 2014 letter concludes that the difference between reasonable worst case vehicle trip generation in the OBC zone and the R-2.1 zone is a reduction of over 500 vehicle trips during the two peak hours, with a 73 percent reduction in vehicle trips in the morning peak hour and a 65 percent reduction in the evening peak hour. To the extent that the Schwarzs’ previous concerns

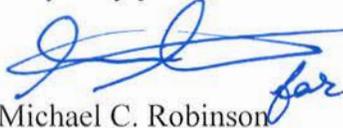
Ms. Christine Steel, Chair
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with development under the OBC zoning were related to traffic impacts, this Application should resolve many of those concerns.

Second, the Schwarzs' prior testimony demonstrates that they oppose both of the uses (multi-family residential and commercial development under OBC zoning) proposed currently and previously for the Subject Property.

This letter is not intended to disparage or embarrass Mr. and Mrs. Schwarz in any way, and ConAm understands and appreciates their concerns. ConAm believes that the proposed map amendment does much to address the Schwarz's previously-articulated traffic concerns with development under the OBC zone. However, it is important for the Commission to understand the history of the Schwarz's opposition to development of the Subject Property either for multi-family uses or consistent with the current OBC zone.

Very truly yours,



Michael C. Robinson

MCR:rsr

cc: Mr. Chris Kerr (via email)
Mr. Mike Mahoney (via email)
Mr. Rob Morgan (via email)
Mr. Jeff Parker (via email)
Mr. Brendan Buckley (via email)
Mr. Brent Ahrend (via email)
Mr. Zach Pelz (via email)
Ms. Megan Thornton (via email)

**CITY OF WEST LINN
PLANNING COMMISSION MINUTES**

**Special Meeting
Thursday, December 21, 2006**

Members present: Chair John Kovash, Vice Chair Michael Jones and Commissioners Gary Stark, Michael Bonoff, Michael Babbitt and Paul Fisher.

Staff present: Bryan Brown, Planning Director; Gordon Howard, Senior Planner; Dennis Wright, Acting City Engineer, and William Monahan, Ramis Crew Corrigan, LLP, City Attorney.

Members absent: Commissioners Gary Stark and Gary Hitesman.

CALL TO ORDER

Chair John Kovash called the Planning Commission meeting to order at 7:30 p.m.

PUBLIC COMMENTS

Alice Richmond, 3939 Parker Rd., cautioned citizens not to take abundance for granted and sent holiday greetings.

PUBLIC HEARINGS

(Note: Full copies of the staff reports and all related documents for the hearings on the agenda are available for review through the Planning Department.)

DR-06-24, WL Corporate Park II-Tannler West (continued from 12/7/06)

Chair Kovash opened the public hearing and observed that Commissioner Stark was not present to hear the continued hearing and that he and Commissioner Fisher had not been present at the previous hearing. Both Chair Kovash and Commissioner Fisher reported they had visited the site, reviewed the DVD of the last hearing, and read the contents of the record. No one challenged the authority of the Commission or any Commissioner's ability to hear the application.

Public testimony

Alice Richmond, 3939 Parker Rd., related that she found from her own experience that intersections along 10th Street in West Linn operated more efficiently than those in other nearby jurisdictions. She opined that City residents should have opportunities to work and shop in West Linn, so they would not have to travel to other cities.

Roberta Schwarz, 2206 Tannler Dr., held that the proposed project would exacerbate, not lessen, the impact of traffic on residents of the Tanner Basin Neighborhood Association, the Willamette Neighborhood Association, and other condominium and apartment residents in the areas. She noted Karen Bettin had submitted emailed communication outlining concerns of residents on Summerlinn Way that should be addressed. **Bryan Brown, Planning Director**, reported he had discussed her emailed communication with the applicant's traffic engineer.

Ed Schwarz, 2206 Tannler Dr. representing the Tanner Basin Neighborhood Association, asked the Commissioners to deny the application because it did not comply with four Code provisions. He clarified that it did not mitigate all of the additional traffic it created as required by CDC 55.100(I), including additional traffic from the development that would exit the development and further congest the Tannler/Blankenship intersection, making an existing condition worse. He said the application did not comply with CDC 55.100(D), because the Association's acoustical engineer had found the applicant's noise study lacking because it did not adequately address garbage pick up noise and it compared noise from lot sweepers with the current ambient noise of the freeway, which might be lower in the future after the freeway was repaved. He said that would impact residents in the early morning hours. He contended the proposed minor lot line adjustment allowed in CDC 85.210(A) was not "minor" due to the amount of land involved. He said the Association did not believe the applicant had preserved the topography and natural drainageway to the greatest degree possible, as called for in CDC 55.100 (B). He said the Association believed that the application should show that all traffic improvements would be completed prior to occupancy; it should include a street lighting plan; it should include legal evidence of a shared driveway agreement; and it should describe mitigation tree species and locations. He said those should not be allowed to be deferred under conditions of approval. He anticipated that Building A would seem to loom over Blankenship Road. He said the Association was also concerned that issues related to the Conservation Easement and the public trail were not entirely resolved. During the questioning period, he clarified that the Association had seen no evidence that the applicant had considered alternative building locations that might better preserve the slope. He stressed that the Code provided that roadway and driveway alignment was to be done in a manner that mitigated impacts on neighbors, and that included increased traffic loads on Tannler and Blankenship Roads. He acknowledged that he did not have the expertise to know how that should be addressed, but he noted the 10th Street Task Force might recommend how that should be addressed.

Ken Pryor, 2119 Greene Street, submitted written testimony. He said the proposed four-story building was too tall for its location on a busy corner and it did not serve as an appropriate transition (in terms of bulk and mass) by stepping down to surrounding, lower-profile uses. He contended the project would cause the Tannler intersection at the bottom of the hill to get even worse than its current Level of Service F. He said the City Engineer should have asked the applicant to study the impact on Summerlinn and other smaller streets and consider the traffic generated by Willamette Cove development and other pending projects on Dollar Street. He anticipated such a study would show the proposed traffic mitigation was inadequate.

Kathie Halicki, 2307 Falcon Dr., indicated she liked the architectural design, but she worried the applicant did not adequately mitigate traffic problems, especially at the Albertson's entrance, and would make the Tannler and Summerlinn intersections worse. She described routes she believed drivers would take in order to avoid backups at the intersections. She worried about the safety of children waiting for school buses on Blankenship Road. She questioned whether there would be adequate driver sight distance at the Tannler/Blankenship intersection. She anticipated the plan for six-year build out would mean six years of noise and inconvenience for residents. She held the proposed project should be downsized and traffic issues needed to be better addressed. She said that allowing major developments at both ends of the corridor before the 10th Street Corridor Task Force had done its work was "putting the cart before the horse."

Ruth Offer, 1831 5th Avenue; and Alice Johansson, 1207 Orchard St., Co-chairs of the Willamette Neighborhood Association, reported that 42 members of the Association had met on December 13, 2006 to examine the Tannler West plan. They noted the applicant had incorporated neighbor's suggestions in the revised plan and the only remaining issue was the traffic signal at the Albertson's shopping center. They reported that the Association felt it was important to hear the recommendations of the 10th Street Task Force before the applicant's project was approved; but, if it were approved before then, a phased process would give the Task Force a chance to examine the situation at the applicant's project.

Andrew H Stamp, Esq., 4248 Galewood St., Lake Oswego, Oregon, 97035, testified on behalf of New Albertsons, Inc. and West Linn Associates, LLC, the owners of the River Falls Shopping Plaza. He reported that they were working in good faith with the applicant to find ways to address impacts to their shopping center that would ensure long-term viable access to the center, and they were so close to agreement that they had enough confidence in the applicant's representations to ask for approval.

Rebuttal

Frank Hammond, 1001 SW 5th Ave., Ste 2000, Portland, Oregon 97204, the applicant's attorney, reported the applicant and the staff had agreed on alternative language for Conditions 5 and 6 that were contained in memorandums the applicant had submitted that day. He advised that none of the opponents' arguments were sufficient to prevent approval of the application. He said the Commission decision had to be based on applicable standards and criteria in the Community Development Code, and the applicant had met them all. He advised opponents misapplied CDC 55.100 (I)(1) by citing one sentence regarding street and driveway alignment out of context and interpreting "mitigation" to mean the proposed project could not result in degradation of any part of the service anywhere in the transportation system. He said "mitigation" meant to lessen the impact of traffic, and he recalled testimony that traffic would be better after the development than it was currently. He recalled the City Engineer had found the proposed mitigation was sufficient and it would not foreclose a future solution to the 10th Street traffic issue. He said to delay approval of the application for many months, until the 10th Street traffic study was done, was a "moratorium" that state law did not allow. He advised a minor lot line deviation could also be used to change a number of lot lines but the applicant was only advocating one lot line adjustment and that met the Code. He noted that the opponents' noise expert did not say the application would not meet the noise criteria, only that he did not agree with some technical aspects of the applicant's report. He noted the applicant's study found that, "the noise radiating from the office park will meet all state and city noise regulations during all hours," and that was the only substantial evidence that related to the applicable Code standards the decision had to be based on. He advised that the Code did not require the applicant to present an alternatives analysis and the staff had agreed the application preserved the topography and natural drainageway to the greatest extent possible. He said some aspects of opponent's testimony did not relate to applicable Code criteria.

Matt Butts and Bob Thompson, Group Mackenzie, 0690 SW Bancroft St., Portland, Oregon, 97201, explained the applicant proposed to improve the existing path along the top of the site because to meander it would take it into Conservation Easements for trees there. They

pointed out the plan also showed other pedestrian connections, and they said the applicant would make the existing trail coming from the Greene Street right-of-way better over the portion that crossed their site. They clarified that neither an improved existing path nor a meandering path would meet Americans with Disabilities Act accessibility standards because of the steep slope, and the City would still be responsible for the stairs in the public right-of-way. Mr. Hammond addressed the issue of whether some conditions should actually be satisfied before approval. He advised that state law provided that a condition needed to be feasible in order to be permissible, and the applicant had provided evidence that a lighting plan would meet all City requirements; they had submitted a letter to the record to show that joint access would be available between the applicant and the adjacent property owner; and they had reached an agreement with the staff that a conceptual landscape plan showed feasibility of their tree planting plan. He said that was all the applicant was required to do at that stage. Mr. Howard explained the staff agreed to the applicant's modification of Condition 5 to 24 caliper inches of mitigation trees because the City Arborist had not found as many trees on the corner of Tannler/Blankenship were significant as the Planning Department staff had originally thought he had. He added that a couple of Madones were to be removed for road improvement would be mitigated and the City Arborist had found the applicant's landscape plan provided more than enough mitigation inches. Mr. Butts requested approval with the applicant's alternative Condition 14 that allowed underground storm water detention. He pointed out the storm water report explained that physical constraints of the hillside made an above ground pond impracticable because the applicant would have to make the hillside artificially steeper and put a hole in it for a pond. He said that the City could rely on a single-entity owner to maintain the facility more than it could rely on multiple owners in a subdivision to maintain their facility. He said undergrounding the facility would allow the ground above it to be used as a landscaped pedestrian plaza featuring low, attractive, terraced, landscaped retaining walls that created an entrance to the building from the street as well as a "gateway" to the project and the neighborhood. He said locating the development on the lower part of the site helped protect the steep slope and many significant trees. He said it would be possible for the applicant to fit an above ground detention facility on the site, and it would be less expensive, but that would require a less-attractive 20-foot high retaining wall and a six-foot high fence and stairs that would not create a "gateway." He said the proposed design was the best solution for the corner.

Mr. Ahrend discussed traffic issues (see the applicant's Memorandum dated December 21, 2007). He said the project would help improve traffic conditions, not make them worse, and that was the only evidence in the record. He recalled testimony it would make the LOS F of the Tannler/Blankenship intersection worse. He said the applicant had originally proposed a signal there, but the City and the City's traffic consultant had asked that the applicant place a signal at the Albertsons center and the site driveway because that would facilitate traffic flow and because a signal at Tannler would be too close and cause backup queues. He clarified that the applicant believed either solution would work, but they should not put a signal on both intersections because that would make conditions worse on Blankenship Road. He noted the City found the LOS F at Tannler Drive for left turns was acceptable because it was the best solution on the whole for that corner of the Blankenship/10th Street corridor and there were alternate routes for drivers to use. He noted that opponents contended that would send traffic to Salamo Road that should be mitigated. He said the applicant would follow the suggestion of the City's traffic consultant and re-stripe the Salamo Road approach at 10th and refine the signal in order to

increase the capacity of the left turn that the majority of traffic was using. He addressed the issue of staged development. He recalled testimony that there was a benefit to that in that it offered time for the 10th Street Task Force to find a different solution after traffic generated by the first building was mitigated. He said the Transportation System Plan (TSP) did not call for anything other than the current roadway configuration, and the City's consultant agreed the proposal would make the current situation better. He said the proposed traffic signal at the driveway would help residents on Summerlinn because a signal close to the intersection would create larger gaps in traffic (i.e., turning opportunities) for them than a signal at Tannler/Blankenship Road would. He advised that if all signals were coordinated, as required by the City, drivers would tend to drive at the posted speed in order to avoid having to stop at every light. He said the plan ensured adequate driver sight distance at the Tannler/Blankenship intersection. He pointed out that ODOT had submitted a November 21, 2006 Memorandum in which that agency agreed with the proposed mitigation.

During the questioning period, Commissioner Babbitt worried about queuing experienced by drivers coming to the project from I-205 to 10th Street and turning on Blankenship Road. He reported he had waited through a light the previous day because the queue there had been full. Mr. Ahrend reported that ODOT and the City traffic consultant had found there would be a queue for cars coming off the freeway ramp, but all queued cars would be able to go through when the light turned green. He said the applicant found it would operate at an acceptable level with project generated traffic, but it was possible a second turn lane would need to be added to accommodate additional traffic from other future developments in the area. He advised that mitigation had to relate to existing conditions and the decision had to be based on the current Code standards, but the applicant would work with the City and come back to request modification of the conditions of approval if the City found a better solution during later phases of the development. City Attorney Monahan suggested alternate language for the conditions that provided that in the event the 10th Street Task Force, or another City transportation study, recommended a transportation improvement that conflicted with and could be preferable to a transportation improvement that was approved as a condition of approval for a later stage of the applicant's project, the Planning Director was to arrange to meet with the applicant, and if the applicant agreed, the application to modify the conditions would be processed at no cost to the applicant. Mr. Ahrend confirmed that the applicant had agreed in their November 3, 2006 Memorandum to stripe the Tannler Drive approach to Blankenship Road during the first phase of development to create a 300-foot long left turn lane and to install a median that limited left turns out from the site access. He also confirmed that a protected pedestrian crossing to help pedestrians access food vendors across Blankenship Road would be built in the first phase of development. He said Phase 1 improvements that created a separate turn lane and the signal at the location the City asked for would create gaps in approaching traffic would make it easier for drivers to turn left to head for I-205. He noted neighbors had the option of using Salamo Road. He explained a seeming "disconnect" between the reported numbers of incoming and outgoing traffic at peak hours in the Trip Generation Table was because people tended to come to work at about the same time, but they left work over a longer period of time that was partially outside the PM Peak Hour period. Commissioner Fisher noted there were many more parking spaces proposed than the trip table indicated would be used. Mr. Howard advised that the applicant proposed a number of parking spaces that was closer to the minimum number of spaces required by the Code than the maximum number of spaces (which was 110% of minimum) it allowed. He

related his experience at the adjacent development was that even when fully leased, parking there was only about 50% to 60% utilized. He also advised that there were standard trip-generation rates used by transportation engineers for office developments.

Dick Spies, Director of Design, Group Mackenzie, 0690 SW Bancroft, Portland, Oregon, 97239, addressed the issue of the mass and bulk of the development. He related the applicant had modified the proposal after they discussed it with the Tanner Basin and Willamette Neighborhood Associations. He explained the changes softened the scale of the four-story office buildings while keeping them efficient and marketable. He said they had modified them to look good in relation to the landscape, the shorter retail uses below, the adjacent office use, and the neighbors above the site. He clarified that the mechanical components on the upper roof area would not be accessible to tenants, but the roof terraces would be accessible to fourth floor tenants. He pointed out how the levels and materials of the façade facing Blankenship Road and the three-section terraced retaining wall had been used to soften it and make it serve as the transition to surrounding uses that the Code called for.

Chair Kovash announced a ten-minute break in the proceedings and then reconvened the hearing at 9:17 p.m. He asked Vice Chair Jones to read newly drafted language for Condition 14, as follows:

“In the event that the 10th Street Task Force or another city transportation study recommends a transportation improvement that ~~conflicts with and~~ could be preferable to a transportation improvement that is a condition of approval for a later stage of this project, the following shall occur:

- 1 The Planning Director will notify the applicant to schedule a meeting to discuss the condition; and,
- 2 If the applicant agrees that the alternative improvement should replace a condition of approval, then,
- 3 An application will be processed at no cost to the applicant to consider whether a modification to a specific condition of approval should be made.”

The City Attorney agreed that the Commissioners could remove “conflicts with and” because it was still up to the applicant to decide to consider asking for a change. Mr. Hammond confirmed the applicant would agree to that language. Commissioner Bonoff observed the applicant’s action to apply for a change would be voluntary. Chair Kovash observed it offered an opportunity to make a change based on a recommendation from the task force.

Bill Wilt, 27050 Petes Mountain Rd., representing Blackhawk, LLC, stressed that when the development was finished the applicant would have spent as much as \$2 million to make traffic flow better than the current condition. He explained that engineering consultants had calculated that the development needed to install 1.5 lanes, so they proposed two lanes. He explained that parking spaces cost approximately \$20,000 each and there had to be enough of them to accommodate and make the project attractive to potential tenants. He said a pond was not appropriate at a “front door,” and an above ground detention facility would be an “eyesore” and

a safety risk. He said the development would be an aesthetic and economic asset to the community and he asked for approval.

Questions of staff

Dennis Wright, Acting City Engineer, submitted a copy of the section of the West Linn Public Works Design and Construction Code that discussed Detention Facilities. He pointed out it provided that surface storage was preferable and underground detention could be approved by the City Engineer only where an above ground facility was "impracticable." He said for that reason he typically asked for ponds unless he was convinced that was impracticable. He anticipated that an above ground storage facility could be designed to serve as an amenity to a development in a creative design, however, he said that he had no problem with a large commercial owner taking responsibility for maintaining and repairing underground facilities if they agreed to maintain it according to City standards. He confirmed that the underground facility would work from an engineer's perspective, and he observed the Commissioners' analysis could consider more factors than his duties allowed him to consider in determining whether to allow it. Chair Kovash observed that the proposed design of the buildings would have to be drastically altered and reduced in order to locate a pond where a building was currently proposed. Mr. Wright reported that the applicant had modified the original application to address changes in scope suggested by the City streets and water engineering staff and then submitted a traffic study that had been reviewed by City staff and the City's traffic consultant, who had concluded it mitigated traffic impacts generated by the proposed development. He clarified that both the overall impacts of the built out project and the impacts of each individual phase had been examined.

Mr. Howard then offered his comments regarding issues raised in testimony. He said approval of a joint driveway use agreement would be a ministerial decision and he observed the applicant currently owned both the site and the other development. He said the City Arborist had reviewed and agreed to the applicant's suggested language for Condition 5, and the Planning Department staff found it acceptable because the Code required a tree conservation easement, not a general conservation easement over the entire northern portion of the site. He said the easement would protect the significant trees there, particularly White Oak trees. He related that the staff and the City Attorney agreed the applicant had a strong argument that the original staff-recommended Condition 8, which related to the trail, did not meet the rough proportionality test and that the combined proposed project and adjacent project offered internal walkways pedestrians could use to access the proposed project and the project to the south of the site, making a northern trail from Green Street less necessary. He noted the applicant proposed to pave at least a portion of that trail. He said the staff did not agree with the Tanner Basin Neighborhood Association's interpretation of "minor lot line adjustment," and there was ample precedent demonstrating what the county surveyor would allow or not allow. He said the site included three legal lots of record that the applicant theoretically could combine without any City approval. He said the staff found the applicant had adequately addressed the issue of noise raised by the neighborhood association. He pointed out the staff report included alternatives considered by the applicant in order to preserve the topography, and the staff agreed they were not as good as the stair stepped buildings and preservation of the northern half of the site as natural area that was proposed. He advised that each phase of development had to "stand on its own" in meeting Code criteria, and the

applicant had agreed to the staff request to stage the parking structure so that it met the Code parking requirement related to each phase of development. He addressed the issue of the bulk and scale of the Blankenship Road building. He advised the intent of the Code was not suburban style office complexes, or a suburban look like the Albertsons center conveyed, but it called for an "interesting streetscape," and bringing buildings closer to the street, as the applicant proposed, and it limited the street right-of-way to building height ratio to 1:1, and the proposed building height was under that limit. He acknowledged that while the proposed bulk and scale was greater than that of residences above it, it was also separated from them by a large buffer. He confirmed that the staff now recommended the applicant's suggested language for Conditions 5 and 6 (found in the applicant's December 21, 2006 correspondence) and Condition 8 (found in their December 19, 2006 correspondence) and the additional language the City Attorney had fashioned to address the possibility that Condition 14 might eventually be revised to reflect the solutions found in a corridor study. He pointed out the City had received an email from Roy Kim, RKM Development, owner of the property referred to as "Tannler East," that requested the Commissioners not adopt conditions that would adversely impact access opportunities for a future development on that site. He noted that the lack of a signal on Blankenship Road would have the most impact on a Tannler East development in terms of traffic issues.

During the questioning period, Commissioner Babbitt indicated he was concerned that there would be a queuing problem for traffic coming off the freeway and onto 10th and Blankenship. He recalled the applicant's traffic engineer anticipated that future developments could help "fix" that problem, but the Commissioner wanted to know if there would be enough right-of-way to do that in the future. Mr. Wright said he believed there was because the traffic engineers had used a specialized traffic modeling system that anticipated traffic flow and spacing and had shown that there might be a queue, but those vehicles would be able to go through at the green light. Commissioner Bonoff was concerned that if the Conservation Easement were limited to around significant trees the applicant would be able to put the surrounding area in lawn and apply herbicides and pesticides. He advised that blackberries would not be a problem due to the southern exposure. He wondered if designating a larger, general, easement area would be considered "taking." Mr. Howard advised the Code did not control how the applicant landscaped the areas outside the easement, which protected a tree from its trunk to the drip line, plus ten feet. However, the applicant would likely be challenged if they did something there that reduced the buffering and screening of the residences above the site. City Attorney Monahan advised there had to be an appropriate connection between how much land was necessary to carrying out the Code intent to preserve trees and how much land was put into a Conservation Easement. He observed that because the significant trees were spread out, and not clustered, it would be difficult to justify requiring a large general area to be preserved to protect scattered trees. Mr. Wright clarified for Commissioner Bonoff that the applicant proposed to treat storm water by sending it through vaults of filters before it was directed into underground tanks.

Deliberations/Motion

Chair Kovash closed the public hearing and asked each Commissioner to discuss his perspective and concerns. Commissioner Bonoff observed the applicant had agreed to be flexible and volunteer to respond to 10th Street Task Force results. He said the site served as "gateway" to West Linn and he would be sorry to see anything happen to the unique tree resource there.

Commissioner Babbitt said he was not assured about queuing conditions on 10th Street, and he did not want to see \$2 million dollars of improvements eventually have to be removed in order to install two lanes. He wanted assurance there would be enough right-of-way to install two lanes in the future. Vice Chair Jones noted the applicant had obtained conditional approval of the Willamette Neighborhood Association and the owners of the Albertsons center. He said he shared Commissioner Babbitt's and Commissioner Bonoff's concerns, but he had no problem accepting the underground storage facility. Commissioner Fisher also questioned the applicant's finding that queuing would not be a problem on 10th Street because the group of vehicles waiting in the left turn lane at one signal could all go through when it turned green. He worried that all the traffic backed all the way up the 10th Street off ramp would not clear during the green light because there was already a problem there. He said the solution would be to add a left turn queue, but that had not been proposed, so mitigation was not complete. He said traffic attempting to exit the neighborhood to get to the freeway or up Salamo Road was going to be impacted and that situation also needed to be mitigated. He observed that the project was beautifully designed.

Vice Chair Jones asked Commissioner Babbitt and Commissioner Fisher what could be done to address their concern regarding the left turn lane at 10th Street. Commissioner Babbitt said he wanted to be assured there would be room for two northbound lanes turning left and one northbound lane turning right. Mr. Wright confirmed there was sufficient right-of-way for that along the segment of 10th Street between the freeway off ramp and the Blankenship road signal. He suggested a condition could be crafted to require the applicant to move their improvements further west into the right-of-way that abutted the Albertsons shopping center and add a second left turn lane for cars going north and onto Blankenship Road. Commissioner Babbitt clarified that he simply wanted assurance there was enough room for a future second left turn lane there, so the applicant's proposed improvements would not have to be removed. He agreed to Mr. Howard's suggested language that, "Improvements associated with the 10th Street/Salamo Road/Blankenship Road intersection shall allow for future installation of a second left turn lane from 10th Street onto Blankenship Road without significant removal of recently installed improvements." Commissioner Bonoff suggested his concern could be addressed with a requirement that the applicant was to consult with the City Arborist if they planned activities that would significantly affect the character of the northern habitat on the site, such as large-scale vegetation removal and herbicide application. When asked the applicant's representative said they were concerned they would not be allowed to remove blackberries, but they could agree to consult with the City Arborist. Chair Kovash recalled seeing blackberry bushes there.

Vice Chair Jones moved to approve DR-06-24 subject to the conditions recommended by the staff, modified as follows:

Condition 5 was to provide that, "The applicant shall plant 24 caliper inches of replacement trees to mitigate the removal of Pacific Madrone species required by improvements to Tannler Drive on the southeastern portion of the property. "

Condition 6 was to be modified to be consistent with the language related to the Conservation Easement suggested in the applicant's letter of December 21, 2006, as modified by the staff.

Condition 8 was to read, " The applicant shall improve the existing pedestrian trail along the northern boundary of the site. The trail shall be a width of 8 feet, paved with asphalt. The applicant shall dedicate a 15-foot wide pedestrian easement centered on the constructed trail."

Renumber Condition 14 regarding underground Stormwater detention to Condition 13.

New Condition 14 to read, "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 a condition of approval for a later stage of this project, the following shall occur:

- 4 Plan dire will notify the applicant to schedule a meeting to discuss the condition; and,**
- 5 If the applicant agrees that the alternative improvement should replace a condition of approval, then,**
- 6 An application will be processed at no cost to the applicant to consider whether a modification to a specific condition of approval should be made."**

Condition 15 to read, "The applicant shall consult with and receive approval from the City Arborist prior to removal of modification of any vegetation or application of any herbicides in the undeveloped area on the northern portion of the site. The City Arborist's approval shall be based on the impact on the health of the existing trees in this undeveloped area and the integrity of the natural habitat on the site."

Condition 16 to read, "Improvements associated with the 10th Street/Salamo Road/ Blankenship Road intersection shall allow for future installation of a second left turn lane from 10th street onto Blankenship Road without significant removal of recently installed improvements."

Commissioner Babbitt seconded the motion and it passed 4:0.

ITEMS OF INTEREST FROM STAFF (None)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Chair Kovash announced the Commissioner Hitesman had resigned from service on the Planning Commission for health reasons. He reported that he had submitted the Planning Commission report on their accomplishments and future work plan to the City Council and apprised the Councilors of the additional staff workload caused by more frequent meetings as well as citizens' concern that it was difficult for interested citizens to submit their input in a timely manner after an applicant made changes to their application. He invited suggestions for improving the system. The Commissioners advised that changes made by an applicant during the hearings process could be beneficial for the community. Commissioner Fisher suggested the 120-day rule start date might be "reset" if it was determined the application was not complete.

ADJOURNMENT

There being no other business, Chair Kovash adjourned the Planning Commission meeting at approximately 10:14 p.m.

APPROVED:

Michael Jones, Chair

Date

**CITY OF WEST LINN
PLANNING COMMISSION MINUTES
SPECIAL PUBLIC MEETING**

Thursday, December 7, 2006

Members present: Vice Chair Michael Jones and Commissioners Gary Stark, Michael Bonoff and Michael Babbitt.

Staff present: Bryan Brown, Planning Director; and Timothy Ramis, Ramis Crew Corrigan, LLP, City Attorney.

Members absent: Chair John Kovash and Commissioners Gary Hitesman and Paul Fisher.

CALL TO ORDER

Vice Chair Jones called the Planning Commission meeting to order at 7:30 p.m.

PUBLIC COMMENTS

Alice Richmond, 3939 Parker Road, indicated that the Commission was doing a good job helping to complete the City of West Linn as it grew.

PUBLIC HEARINGS

(Note: Full copies of the staff reports and all related documents for the hearings on the agenda are available for review through the Planning Department.)

DR-06-24, Design Review West Linn Corporate Park II, NW corner of Tannler and Blankenship "Tannler West"

Vice Chair Jones opened the public hearing, explained the applicable criteria and procedure, and announced the time limits for testimony. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contacts (including site visits). The only declarations were that Commissioners Babbitt, Stark and Vice Chair Jones each reported they had made a site visit. When invited by the Vice Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

Staff Report

Bryan Brown, Planning Director, presented the staff report (see Planning & Building Department Staff Report dated December 7, 2006). He said the applicant proposed three large office buildings, a parking structure, and some surface parking spaces. He pointed out nearly half of the site was to be Open Space protected in a Conservation Easement. He observed that the site owner also owned the existing adjacent corporate office park. He reported that the applicant had modified the application so a variance was no longer necessary. He pointed out there would be a single entrance to the development from Tannler Drive, and the other connections would be through the adjacent corporate park onto Blankenship. He advised the Comprehensive Plan indicated the area of the site was appropriate for commercial development and the Zoning Map allowed office use. He discussed issues related to the proposal. He

reported that the City's traffic consultant and Engineering Department staff had reviewed the applicant's professional traffic studies, analysis and conclusions related to mitigation and found them to be adequate. However, he advised that a policy decision related to timing of the mitigation would need to be made because a City task force was working on developing an ultimate solution to congestion in the 10th Street corridor. He said the City's traffic consultant and the staff believed the proposed mitigation would likely be necessary under any scenario at build out of the development and would not likely affect the City's final solution to the corridor. He advised the right-of-way where an exiting pedestrian trail would be improved was too steep and unnecessary for a street, and the staff and the applicant differed about whether the easement should be 15 or 20 feet wide and how much of it should be relocated. He pointed out the applicant had submitted a November 1, 2006 Memorandum in which they clarified they requested underground storm water detention facilities for aesthetic reasons: An above ground facility would require high retaining walls near the intersection. He recalled the City had approved underground facilities at the nearby Blackhawk development. He discussed the staff recommended conditions of approval. He said the applicant had agreed to most of them, except they wanted Condition 5 modified to specify 24 inches of replacement trees were to mitigate removal of Madrone trees and to allow the applicant to work with the City Arborist to verify that some "significant trees" to be replaced were actually significant trees. They wanted Condition 6 to only require a Conservation Easement over significant trees in the northern half of the site, and not over that entire half of the site. They wanted Condition 8 to require a 15-foot wide pedestrian easement and allow them to leave the trail at the northern edge of the site, where it was currently located, because it would be costly to relocate it. He said the staff agreed with the applicant's suggestion to reword Condition 10 to say the half street improvements were to be to current City standards. He pointed out the staff report offered a choice of alternatives for Condition B, depending upon whether the Commissioners chose above or underground detention.

During the questioning period, Mr. Brown clarified that either alternative for water detention would adequately detain water, so the determination would be based on what the Commissioners found was practicable. He agreed to research and report what the approval of underground facilities for the adjacent office park was based on and to create a map that showed how much difference there would be between the general Conservation Easement area required in the recommended conditions and a Conservation Easement limited to around significant trees that had been requested by the applicant. He advised that activity and landscaping were more restricted in a Conservation Easement than in Open Space. He clarified that although the Comprehensive Plan and the zoning allowed the proposed use, the Code required the applicant to mitigate impacts so the development would not make existing traffic conditions any worse or adversely affect the development potential of other nearby properties. He reported the City's traffic consultant concluded the applicant's mitigation plan might change the options available to a developer of "Tannler East," but it did not eliminate their options. He said the City had not yet received another proposal for that site.

Applicant

Bob Thompson, Group MacKenzie, 0690 SW Bancroft, Portland, Oregon, 97239, said the site was zoned for an office business center and was next to three other office buildings

developed or owned by the applicant, Blackhawk, LLC. He pointed out the site was very steep. He testified the applicant had met with the Willamette Neighborhood Association, the abutting Tanner Basin Neighborhood Association and the Oregon Department of Transportation (ODOT) as they designed the project. He pointed out the applicant had submitted two letters suggesting revised wording of some staff recommended conditions. He noted the staff and the City's traffic consultant recommended approval of the application, and it met all City standards.

Dick Spies, Director of Design, Group MacKenzie, 0690 SW Bancroft, Portland, Oregon, 97239, testified that the applicant had revised their design in order to benefit the neighborhood. He showed the earliest and the latest project concept models. He recalled neighbors had been concerned about saving trees and the scale of the buildings. He said the applicant had responded by compacting and reducing the size of the project so that two-thirds of it would be in landscaping. He said the proposed project's density was lower than a typical project of its type. He said the four-story garage was now three stories and the upper buildings had been moved farther downhill to make a larger Open Space, save trees, and offer a better view from residences above the site. He pointed out entrance design, garage circulation patterns, materials and colors to be used, and architectural eyebrow details that hid the HVAC equipment. He said the façade had been broken up wherever possible to give the development a more pedestrian scale.

Dan Jenkins, Group MacKenzie, 0690 SW Bancroft, Portland, Oregon, 97239, presented the landscape plan. He said the applicant was saving all significant White Oak trees and would plant over 200 trees on the lower half of the site. He said the front of the parking structure would feature vegetated screens, and vegetation would cascade down the retaining walls at the corner of Tannler and Blankenship if the applicant could install them, instead of having to install an above ground water detention facility there.

Brent Ahrend, Group MacKenzie, 0690 SW Bancroft, Portland, Oregon, 97239, pointed out how the site was accessed and where traffic mitigation improvements would be made. He explained a raised median would only allow right turns onto Blankenship. He advised that it was the closely spaced intersections that caused congestion. He said the proposed mitigation had been reviewed by the City traffic consultant and ODOT and the applicant had changed two aspects of their traffic mitigation plan to incorporate their suggestions. He said the proposed mitigation plan added more capacity to the transportation system than the applicant's project actually used, and much of the mitigation had been necessary in order to make closely spaced intersections function well together. He said it was consistent with the City's current plans for the transportation system.

Bill Wilt, 27050 Petes Mountain Rd., who represented Blackhawk, LLC, testified the proposed mitigation addressed the community's concern about traffic and it would actually improve the traffic situation because at full build-out of the project, the traffic situation would be better than it was currently. He said the project would add significant revenue to the City. He anticipated the project would be built over six years. He said the applicants had not yet identified a major company that might occupy it. He asked for approval.

During the questioning period Mr. Ahrend clarified that there was room and it was in the City's and ODOT's plans to expand to five lanes under the freeway. **Matt Butts, Director of Civil**

Engineering, Group MacKenzie, 0690 SW Bancroft, Portland, 97232, explained that because the applicants had moved the buildings farther down the hillside to save northern trees, there was not enough flat area at the bottom to maintain an above ground detention pond. Mr. Wilt explained that “practicability” was not a Code criterion, but a term the City Engineer used. He said the City preferred above ground storm water detention facilities because when the City took responsibility for them, above ground facilities were easier to check and maintain. He explained that the applicant had agreed to be responsible for maintaining an underground facility at another development they had just completed. He said it was more expensive, but preferable for practical, aesthetic and safety reasons to have underground facilities and not an above ground pond with steep walls. He said the piping would be under the landscaping, and the applicant would agree to maintain it. He assured the Commissioners that there were to be lids to open to examine the system to be certain it was working, and the applicant was required to report its condition to the City on a regular basis. Mr. Wilt also explained that the applicant wanted the Conservation Easement to be configured around individual significant trees so they could control blackberries and maintain the rest of the Open Space. Mr. Butts explained the applicant preferred to improve the trail in its existing location rather than relocate it to where they would have to make larger cuts in the hillside that would disturb trees. The applicant’s representatives also clarified they planned to incorporate as many sustainable (“green”) building features as they could, but they did not plan to apply for LEADS certification due to the cost. They clarified that they planned upper level terraces that could hold vegetation, but they would not have a “green roof.” Vice Chair Jones announced a ten- minute break in the hearing and reconvened it at 9:10 p.m.

Proponents

Alice Richmond, 3939 Parker Rd., reminded the Commissioners that a City task force had anticipated traffic from future commercial centers in the vicinity at the time Tanner Basin was developed, and that Tanner Basin residential area generated most of the traffic past the site. She advised the underground detention was the trend because open ponds were ugly, hazardous and attracted mosquitoes. She indicated that she approved of the plan to incorporate sustainable features, such as special windows, and she advised that sustainability was more than just putting green plants on a roof. She advised that New York City sidewalks were only 15 feet wide. She said the development would economically benefit the City.

Gordon Root, 2413 Remington Dr., said he favored the proposal because the traffic mitigation measures would help improve failing intersections, the project was good use of the City’s commercial land, and he applauded the applicant’s plan to keep so much of the site in Open Space and landscaping.

Andrew Stamp, 4248 Galewood St., Lake Oswego, 97035, stated he was a land use attorney and represented New Albertsons, Inc. and West Linn Associates, LLC, owners of the River Falls Shopping Center. He said his clients were not opposed to the application, and it appeared to them that any impacts to their center could be worked out, but he asked that the record be kept open in order to allow their experts to analyze its impact.

Alice Johansson, 1207 Orchard St., Co-chair of the Willamette Neighborhood Association, asked that the hearing be continued to allow the Association time to discuss it at a meeting the following Wednesday.

Ed Schwarz, 2206 Tannler Dr., testified on behalf of the Tanner Basin Neighborhood Association. He reported the Association had voted 11 to 0 to oppose the project. He noted it was larger than what had been proposed for Tannler East, and it would generate more traffic. He explained that residents also saw tree preservation and the aesthetics of the buildings as primary issues. He said they believed the applicant was not mitigating traffic impacts at Tannler and Blankenship and it would make them worse and cause drivers to opt to cut through the neighborhood. He said they did not want to see any more development in the area until the new traffic task force found an overall solution to 10th Street corridor traffic problems. He questioned how the applicant could move three-quarters of an acre of land from an adjacent lot to the site without affecting conditions of approval of the adjacent development. He advised the noise study did not show the development would meet CDC 55.100(D) that there was to be less than 5-decibel increase in noise when a development was proposed on undeveloped land. He said the applicants had offered no evidence that they had examined alternative layout of buildings that might better maintain the topography and natural drainage patterns (as called for in the Code). He said that although the applicants did not propose staged development, recommended Condition 9 phased traffic mitigation as if the project were phased. He held all mitigation should be installed before any building was occupied. He said that a driveway joint use agreement, a map and species list of replacement trees, and a street lighting plan should be presented during the hearing and not just be conditions of approval. He said Building A was too close to Blankenship and would appear from the street to be a monolithic structure, like the Blackhawk building. He said the recent memorandums from the applicant regarding conditions of approval showed they did not accept four conditions that offered the most public benefit, including dedicating the Open Space to the City; replacement trees; an improved hiking trail; and planter strips. He requested that the hearing be continued to address unresolved issues. During the questioning period, he confirmed the applicant had changed some materials at the request of the Association. However, he held that their most important concerns about traffic and trees and their request for more retail had not been adequately addressed. He confirmed to Commissioner Stark that the Association wanted all aspects of traffic congestion to be fully mitigated before any development were allowed that would increase traffic, so no one was worse off as a result of the development. City Attorney Ramis clarified that the standard was that mitigation was to ensure the *system* operated as well as it did before the development.

Roberta Schwarz, 2206 Tannler Dr. testified on behalf of Neighbors for a Livable West Linn. She reported they opposed the application for the same reasons listed by the Tanner Basin Neighborhood Association. She stressed that the proposed large development would generate a level of traffic that would not be mitigated by the proposed plan. She said development of the site should be postponed until the new City traffic task force had worked out a comprehensive solution to 10th Street corridor traffic problems in April 2007. She recalled experts had advised the City Council that above ground water detention was preferable to underground detention. She asked that the hearing be continued to beyond her group's scheduled meeting a week hence. She advised the group had enlisted the help of a traffic expert to prepare a report. She stressed

that although the proposed development was anticipated to provide 10% of the City's commercial tax base, which was 30% of the tax base, residents paid 70%.

When asked, the applicant agreed to extend the 120-day rule period by the interval between the current hearing and December 21, 2006. When Vice Chair Jones polled the Commissioners they asked the staff to respond to testimony that any development that increased the traffic problem should be put on hold. They asked the staff to interpret whether increased traffic impact was that which affected any person, or that which affected the system. They asked for written testimony showing ODOT supported the proposed traffic mitigation. They asked if the City could protect the area the staff proposed as a Conservation Easement as well as the applicant. They asked the applicant to provide evidence of a legally binding agreement related to joint use of a driveway access, to clarify how close to the sidewalk the buildings would be, to clarify the species of mitigation trees, and to provide a street lighting plan. They asked opponents to provide professional evidence that traffic problems would be worsened by the mitigated project and that the application did not meet noise standards. They asked the staff to clarify CDC lot line adjustment criteria. The staff clarified that it was a set of public works standards, not the Code, which called for above ground storm water detention. Vice Chair Jones asked them to discuss that and the pathway at the next hearing.

Commissioner Babbitt moved to continue DR-06-24 to December 21, 2006 and leave the record open to allow written and oral testimony at that time. Commissioner Bonoff seconded the motion and it passed 3:0.

ITEMS OF INTEREST FROM STAFF (None)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION (None)

ADJOURNMENT

There being no other business, Vice Chair Jones adjourned the Planning Commission meeting at 9:55 p.m.

APPROVED:

Michael Jones, Chair

Date

Additional Proposed Condition to Address 10th Street
Task Force Recommendations

14
NOTE
AT
P.C.
HEARING
12/21/06

In the event that the 10th Street Task Force, or another City transportation study, recommends a transportation improvement that ~~conflict with and~~ could be preferable to a transportation improvement that is approved as a condition of approval for a later stage of this project, the following shall occur:

↓
Bill Monahan,
City Attorney

- 1) the Planning Director will notify the applicant to schedule a meeting to discuss the condition, and
- 2) if the applicant agrees that the alternative improvement should replace a condition of approval, then
- 3) an application will be processed, at no cost to the applicant, to consider whether a modification to a specific condition of approval should ~~take place~~ be made.

City of West Linn Attendance Sign-Up Sheet

a) DR-06-24; Design Review, West Linn Corp. Park II "Tannler West"

Date: December 21, 2006

PLANNING COMMISSION

Signing in on this sheet establishes your standing and your right to appeal in this quasi-judicial or legislative case as long as this is the first hearings body to review the case. PLEASE PRINT (illegible names may void your standing) and fill in Item # from above list.

**MUST PRINT CLEARLY AND IDENTIFY ITEM #
TO ESTABLISH STANDING**

NAME	ADDRESS (Incl. city West Linn)	PHONE	SIGNATURE	
Alice Richmond	Parker Rd			
Andrew Stang	4778 Galewood St. Lake Oswego OR 97035	503 675-4318	<i>Andrew Stang</i>	A
Ed Schwarz	2206 TANNER DR	503 723-5015	<i>Ed Schwarz</i>	A
ROBERTA SCHWARTZ	2206 TANNER DR	503 723-5015	<i>Roberta Schwarz</i>	A
Ken Pryor	2119 GAZETT	503 723-0057	<i>Ken Pryor</i>	A
Kathie Halicki	2307 Falcon Dr. Lake, O	503 723-6989	<i>Kathie Halicki</i>	A
Bryan Cavaness	4248 SW Galewood, 97035	503 675-4310	<i>Bryan Cavaness</i>	A
Karen Belen	4475 Summerlin Way	503 656-1713	<i>Karen Belen</i>	A
Bill Wilt	27050 PIERES Mt Rd 97035	503 557-9675	<i>Bill Wilt</i>	A
Wanda Mink	97035	X	<i>Wanda Mink</i>	A
Dr. Marilyn Rasmussen	5305 Summerlin Way	503 657-4340	<i>Marilyn Rasmussen</i>	
Wendy Johnson	1207 Orchard St	656-5684	<i>Wendy Johnson</i>	A
Ruth Offer	1831 Fifth Ave West Linn	503 657-1330	<i>Ruth Offer</i>	A
Ken Snow	2125 FIRECREST Dr.	503 612 4418	<i>Ken Snow</i>	A
JIM OHLGEMUS	2285 TANNER		<i>Jim Ohlgemus</i>	A

PLEASE PRINT

CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Alice Richmond DATE 12-21-06

STREET ADDRESS 3939 Parker Rd

CITY West Linn STATE Oregon ZIP 97068

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) continued from 12/7/06 Corporate Park II
Tunnel West. Dr. 06-2.

IN SUPPORT NEITHER FOR NOR AGAINST IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT)

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent _____

let's talk about 10th street traffic light and
others = any one would not mind to wait even
15' for lights rather than fight several traffic
lights to go out of west linn to get what we
want; what we need - a far better solution.

PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.

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PLEASE PRINT

CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME ED SCHWARZ DATE 12/21/06
STREET ADDRESS 2206 TANNER DRIVE
CITY WEST LINN STATE OR ZIP 97068

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) TANNER WEST "A"

IN SUPPORT NEITHER FOR NOR AGAINST IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT)

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) TANNER BASIN NA

*If group, please list people you represent.

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PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME KEN TRYOR DATE 12/21/06

STREET ADDRESS 2119 GREENE

CITY West Linn STATE GA ZIP 97058

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) DR-06-2 Tanager West

IN SUPPORT NEITHER FOR NOR AGAINST IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT)

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent.

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Roberta Schwarz DATE 12/21/06
STREET ADDRESS 2206 Tanner Dr
CITY West Linn STATE OR ZIP 97068

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) Tanner West A

IN SUPPORT _____ NEITHER FOR NOR AGAINST _____ IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT)

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT) _____

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent.

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

BOB THOMPSON

NAME GROUP MACKENZIE DATE 12.21.06

STREET ADDRESS 0690 SW BANCROFT

CITY PORTLAND STATE OR ZIP 97201

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) WILLAMETTE 205 (TANNER WEST)

IN SUPPORT NEITHER FOR NOR AGAINST _____ IN OPPOSITION _____

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT) _____

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT) _____

NAME OF ORGANIZATION (if applicable) GROUP MACKENZIE

*If group, please list people you represent.

MATT BUTTS

DICK SPIES

RHYS KONARD

BRENT AHREN

PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Bill Wilt DATE 12-21-06

STREET ADDRESS 27050 PENE'S Mt. Rd.

CITY West Linn STATE OR ZIP _____

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) A. + HANDED WEST

IN SUPPORT NEITHER FOR NOR AGAINST _____ IN OPPOSITION _____

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT) _____

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT) _____

NAME OF ORGANIZATION (if applicable) APP.

*If group, please list people you represent.

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Frank Hammond DATE 12-21-06

STREET ADDRESS 1001 SW 5th Ste 2000

CITY Portland STATE OR ZIP 97204

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) Tanuler west

IN SUPPORT NEITHER FOR NOR AGAINST IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT)

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent.

Attorney for Applicant

PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Andrew H Stamp, Esq. DATE Dec 21, 2006
STREET ADDRESS 4248 Galewood Street
CITY Lake Oswego STATE OR ZIP 97035

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) Tannler West

IN SUPPORT NEITHER FOR NOR AGAINST _____ IN OPPOSITION _____

(conditional support)
SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT) _____

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent.

New Albertsons, Inc
West Linn Associates, LLC

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Ruth Offer & Alice Johansson DATE 12/21/06
STREET ADDRESS Willamette Neighborhood Assoc.
CITY _____ STATE _____ ZIP _____

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) # A

IN SUPPORT _____ NEITHER FOR NOR AGAINST IN OPPOSITION _____

SPEAKING AS INDIVIDUAL (5 MIN. LIMIT) _____ SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION* (10 MIN. LIMIT) _____

NAME OF ORGANIZATION (if applicable) WNA

*If group, please list people you represent.

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PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.

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PLEASE PRINT

CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Kathie Halicki DATE 12/21/06

STREET ADDRESS 2307 Falcon Dr

CITY West Linn STATE Or. ZIP 97068

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) Tanner West (A)

IN SUPPORT NEITHER FOR NOR AGAINST IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT)

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent.

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PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.

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G R O U P

MACKENZIE

December 7, 2006

City of West Linn
Attention: Gordon Howard
22500 Salamo Road, Suite 1000
West Linn, OR 97068

Re: **Willamette 205 Corporate Center**
Additional Information Regarding Conditions of Approval
Project Number 2060016.00

Dear Gordon:

The purpose of this letter is to comment on the Conditions of Approval regarding the additional information we received from City Staff since our earlier letter dated December 14, 2006. We continue to appreciate the efforts of City Staff in reviewing this project and preparing a Staff Report that recommends approval with conditions. Due to recent communication with City Staff, the conditions are proposed to be revised as follows:

Condition 5. The applicant shall plant ~~24~~ 196 caliper inches of replacement trees to mitigate the removal of Pacific Madrone species significant trees required by improvements to Tannler Drive on the southeastern portion of the property. A plan showing the location and species of these trees shall be reviewed and approved by the City Arborist, and the trees shall be planted or a bond posted guaranteeing their planting prior to occupancy of any structures.

Comment: Based on recent communication between the applicant's representative and City Staff, it has been determined that a site meeting will take place after the December 7th hearing between City Staff and the City Arborist. Assuming City Staff and the City Arborist agree with our arborist about mitigation, we recommend the above revision to the original condition of approval.

Condition 6. In accordance with Section 55.100.B.2.b, (t)he applicant shall place a general conservation easement over significant trees within the northern, undeveloped portion of the site that prohibits any disturbance or improvements without approval of the City of West Linn. (Alternatively, the applicant may choose to dedicate this area to the city.)

Comment: Due to recent communication between the applicant and City Staff, and review of the above mentioned Code section, the applicant agrees to this revised condition language and will coordinate with City Staff and the City Arborist in preparing the conservation easement and easement areas.

0690 SW Bancroft St | PO Box 69039 | Portland, OR 97239-0039
Tel: 503.224.9560 Web: www.grpmack.com Fax: 503.228.1285

Group Mackenzie, Incorporated
Architecture
Interiors
Land Use Planning

Group Mackenzie Engineering, Incorporated
Civil/Structural Engineering

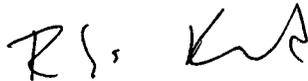
Transportation Planning

Locations:
Portland, Oregon
Seattle, Washington
Vancouver, Washington

City of West Linn
Willamette 205 Corporate Center
Project Number 2060016.00
December 7, 2006
Page 2

The remaining conditions are acceptable as outlined in our December 4, 2006 letter. Thank you again for your assistance with this project.

Sincerely,

Handwritten signature of Rhys Konrad, consisting of the initials 'RS' followed by a stylized 'K' and 'A'.

Rhys Konrad
Planner

Enclosure: May 18, 2006 Meeting Minutes

c: Bryan Brown – City of West Linn
Jeff Parker, Bill Wilt, Rod Livesay, Wade McGilvra – Blackhawk Development
Bob Thompson, Dan Jenkins, Brent Ahrend, Matt Butts, Dick Spies, Tom Wright –
Group Mackenzie

**City of West Linn
Attendance Sign-Up Sheet**

a) West Linn Corporate
Park II "Tannler West"

Date: December 7, 2006

PLANNING COMMISSION

Signing in on this sheet establishes your standing and your right to appeal in this quasi-judicial or legislative case as long as this is the first hearings body to review the case. PLEASE PRINT (illegible names may void your standing) and fill in Item # from above list.

**MUST PRINT CLEARLY AND IDENTIFY ITEM #
TO ESTABLISH STANDING**

NAME	ADDRESS	PHONE	SIGNATURE	
EDWARD SCHWARZ	2206 TANNER DR	503 723-5015	Edward Schwarz	a
Roberta Schwarz	" "	" "	Roberta Schwarz	"
MARCO W. METZELCK	2233 GREENE	503-656-5012	M. Metzelsck	
Kathie Halick	2307 Falcon Dr.	503 723-6989	Kathie Halick	"
Ian Kyles	2565 Remington Dr.	503-723-0365	Ian Kyles	a
Bill Wilt	27050 PETES AVE RD	503-757-4625	Bill Wilt	A
WAVE MCGINN			Wave McGinn	A
Alice Johnson	1209 ORWARD	503-656-5684	Alice Johnson	A
Therese Bailey	1827 Barnes Cir W	503-657-5344	Therese Bailey	A
Karen Beth	4975 Summerlin	503-656-1713	Karen Beth	A
Bruce Phillips	2372 Falcon Dr	503-656-4846	Bruce Phillips	A
JEFF PARKER	2030 WILSON		Jeff Parker	A
Alice Richmond	Parker Rd		Alice Richmond	
Edward Reer	2413 Remington Drive		Edward Reer	A
Trang Mahi	2155 NW Central	690-2422	Trang Mahi	A

PLEASE PRINT

CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Alice Richmond DATE 12-7-06

STREET ADDRESS A 3939 Parker Rd -

CITY W.L. ORE. STATE 97068 ZIP

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) Community comment

IN SUPPORT NEITHER FOR NOR AGAINST IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT)

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Bill Wilt DATE 12-7-06

STREET ADDRESS 27050 PETES MT. RD

CITY WEST LINN STATE OR ZIP _____

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) _____

IN SUPPORT NEITHER FOR NOR AGAINST _____ IN OPPOSITION _____

SPEAKING AS INDIVIDUAL (5 MIN. LIMIT) _____ SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION* (10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) BLACK HAWK

*If group, please list people you represent.

_____	_____
_____	_____
_____	_____
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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Alice Richmond DATE 12-7-06
STREET ADDRESS 3939 Parker Rd
CITY WL STATE OR ZIP 97068

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) OR 06 24

IN SUPPORT NEITHER FOR NOR AGAINST _____ IN OPPOSITION _____

SPEAKING AS INDIVIDUAL (5 MIN. LIMIT) _____ SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION* (10 MIN. LIMIT) _____

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent.

_____	_____
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PLEASE PRINT

CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME GORDON REED DATE 12/02/06
STREET ADDRESS 2413 REMINGTON DRIVE
CITY WEST LINN STATE OK ZIP 97068

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) _____

IN SUPPORT NEITHER FOR NOR AGAINST _____ IN OPPOSITION _____

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT) _____

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT) _____

NAME OF ORGANIZATION (if applicable) _____

*If group, please list people you represent.

_____	_____
_____	_____
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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME ED SCHWARZ DATE 12/7/06
STREET ADDRESS 2206 TANNER DRIVE
CITY WEST LINN STATE OR ZIP 97068

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) TANNER WEST, # 3a

IN SUPPORT NEITHER FOR NOR AGAINST IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT)

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) TANNER BASIN NEIGHBORHOOD
ASSOC.

*If group, please list people you represent.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Roberta Schwarz DATE 12/7/06
STREET ADDRESS 2206 Tanner Dr
CITY WL STATE OR ZIP 97068

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SUBJECT AND AGENDA #(s) Tanner West

IN SUPPORT _____ NEITHER FOR NOR AGAINST _____ IN OPPOSITION

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT) _____

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) Neighbors for a Livable West Linn

*If group, please list people you represent.

People from several different neighborhoods in WL

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CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME Andrew H. Stamp DATE 7 Dec 2006

STREET ADDRESS 4248 Galewood Street

CITY Lake Oswego STATE OR ZIP 97035

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) Willamette 205 Corporate Center - DR-06-24

IN SUPPORT _____ NEITHER FOR NOR AGAINST IN OPPOSITION _____

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT) _____

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) West Linn Associates, LLC / New Albertsons, Inc.

*If group, please list people you represent.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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PLEASE PRINT

CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME ALICE JOHANSSON DATE 12/9/06

STREET ADDRESS 1201 ORCHARD ST

CITY WEST LINN STATE OR ZIP 97068

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) DR 06-24

IN SUPPORT _____ NEITHER FOR NOR AGAINST IN OPPOSITION _____

SPEAKING AS INDIVIDUAL
(5 MIN. LIMIT) _____

SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION*
(10 MIN. LIMIT)

NAME OF ORGANIZATION (if applicable) WILLAMETTE NEIGHBORHOOD ASSN

*If group, please list people you represent.

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PLEASE PRINT

CITY OF WEST LINN PLANNING COMMISSION TESTIMONY FORM

NAME GROUP MACKENZIE DATE 12.7.06
STREET ADDRESS 0690 SW. BANCROFT
CITY PORTLAND STATE OR ZIP _____

I wish to testify on the agenda item(s) listed below or offer information during community comments.

SUBJECT AND AGENDA #(s) WILLAMETTE 205 / BLACKHAWK

IN SUPPORT NEITHER FOR NOR AGAINST _____ IN OPPOSITION _____

SPEAKING AS INDIVIDUAL (5 MIN. LIMIT) _____ SPEAKING ON BEHALF OF A GROUP OR ORGANIZATION* (10 MIN. LIMIT) _____

NAME OF ORGANIZATION (if applicable) GROUP MACKENZIE

*If group, please list people you represent.

<u>BOB THOMPSON</u>	<u>DAN JENKINS</u>
<u>RHYS KONRAD</u>	<u>TOM WRIGHT</u>
<u>DICK SPIES</u>	_____
<u>MATT BUTTS</u>	_____
<u>BRENT AHRENS</u>	_____

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WEST LINN PLANNING COMMISSION
FINAL DECISION NOTICE
DR 06-24

IN THE MATTER OF THE CONSTRUCTION OF THREE OFFICE BUILDINGS AND A PARKING STRUCTURE AT THE NORTHWEST CORNER OF BLANKENSHIP ROAD AND TANNER DRIVE

At a special meeting of December 7, 2006 and a special meeting of December 21, 2006, the West Linn Planning Commission held a public hearing to consider the request by Blackhawk LLC to approve the development of the property at northwest corner of Blankenship Road and Tanner Drive, known as the West Linn Corporate Park II, or "Tanner West." The proposal would result in 289,000 square feet of office space in three buildings, along with a proposed parking structure and surface parking totaling 839 spaces. The approval criteria for the design review application are found within Chapter 55 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 Bryan Brown, Planning Director. The applicant provided a presentation, represented by Group MacKenzie (Bob Thompson, Rhys Konrad, Dick Spies, Matt Butts, Brent Ahrend, Dan Jenkins, and Tom Wright). Alice Richmond and Gordon Root testified in support of the application. Speaking in opposition to the project were Ed Schwarz and Roberta Schwarz. Speaking as neutral parties were Andrew Stamp and Alice Johansson. The Commission also received written testimony in opposition from Ken Pryor. The hearing was continued to December 21, 2006.

On December 21, 2006, the Commission received additional testimony from in opposition from Ken Pryor, Kathie Halicki, Roberta Schwarz, and Ed Schwarz. Alice Richmond and Andrew Stamp offered testimony in support. Providing neutral testimony were Ruth Offer and Alice Johansson of the Willamette Neighborhood Association. Finally, the applicant offered rebuttal testimony, represented in addition to the Group MacKenzie staff by Frank Hammond and Bill Wilt. The Commission received additional written testimony from Ed Schwarz, acoustical engineer Albert Duple, Roy Kim, and Karen Bettin.

FINDINGS

The Planning Commission adopted the findings as proposed by staff and the applicant, with the following exceptions and additions:

1. The Planning Commission determined that Condition # 2, relating to legal agreements for shared access with the property to the west, were sufficiently non-discretionary in character as to be acceptable, and was easily met because the applicant controls both properties.
2. The Planning Commission determined, based upon a review by the City Arborist, that only 24 caliper inches of significant trees were being removed for road improvements at the southeast corner of the site, and that the applicant's landscape plan submitted as part

X (12)

of the application provided more than enough mitigation trees as required by CDC 55.100(B)(2)(f).

3. The Planning Commission determined that CDC 55.100(B)(2)(b) required the applicant to place tree conservation easements to preserve significant trees in the northern portion of the site. The Commission also determined that a condition of approval was appropriate to ensure that vegetation removal, new landscaping, or herbicide application throughout the northern portion of the site did not impact the scattered significant oak and other trees within this area.
4. The Planning Commission determined that the applicant had successfully argued that the proposed condition of approval requiring realignment of the trail on the northern boundary of the site was not roughly proportional to the impacts upon pedestrian usage generated by the proposed development, and that the applicant's offer to pave the existing trail was appropriate.
5. The Planning Commission accepted the applicant's traffic analysis and proposed mitigation, and found that the phasing of the mitigation was appropriate to match the phasing of traffic impacts related to the proposed site development. The Commission recognized that the soon to begin Tenth Street Corridor study analysis might come forward with different recommendations for improvements than those proposed by the applicant, and thus that some flexibility needed to be built into consideration of street improvements related to subsequent phases of the project. Therefore, the Commission determined that a condition of approval allowing for consensual reconsideration of traffic improvements related to later phases of the project was appropriate.
6. The Planning Commission was concerned that the proposed development not preclude additional improvements that might be necessary to mitigate other proposed applications, such as on the "Tannler East" site on the northeast corner of Tannler Drive and Blankenship Road. The Commission therefore thought a condition of approval that ensured traffic improvements associated with this project did not unnecessarily frustrate a future second left turn lane from Tenth Street onto Blankenship Road was appropriate.
7. The Planning Commission reviewed the applicant's alternative above-ground detention pond proposal and determined that implementation of this proposal would have significant adverse impacts upon project design, aesthetics, and pedestrian accessibility, and thus was "impracticable." The Commission therefore accepted the applicant's proposed underground detention facility.
8. The Planning Commission determined that the applicant's noise analysis was appropriate and adopted its findings instead of the alternative analysis offered by Acoustical Engineer Albert Duble, which did not address specific noise criteria set forth in the Community Development Code.
9. The Planning Commission determined that the applicant's proposed lot line adjustment was "minor" in nature as set forth in CDC 85.210. The City has consistently treated similar types of lot line adjustments in a similar manner in the past, and has used the input of the County Surveyor to determine when such lot line adjustments are no longer "minor." The County Surveyor has, in the past, approved lot line adjustments similar in size and scope to that proposed by the applicant.

DECISION

Based upon the findings discussed above, a motion was made by Commissioner Jones and seconded by Commissioner Babbitt to approve the proposed design review and natural drainageway permit, with the following conditions of approval.

1. The applicant shall not allow construction of any walls, entryway features, or signs that would impair clear vision at the intersection of Tannler Drive and the access driveway from Tannler Drive pursuant to the standards of Community Development Code (CDC) Chapter 42.
2. The applicant shall provide satisfactory legal evidence establishing joint use of the existing driveway access to Blankenship Road on the adjacent Willamette 205 Corporate Park property (1800 Blankenship Road) to the west. Such evidence shall be in the form of deeds, easements, leases, or contracts to establish joint use, and shall be placed on permanent file with the City.
3. The applicant shall preserve trees #6, #7, and #12 as identified on Sheet C 1.1 and in the arborist's tree inventory along the northern portion of the site adjacent to Tannler Drive. Tree #5 is not significant and may be removed.
4. The applicant shall not remove any of the trees designated as "hazard" trees amongst trees #1-#53 unless approved by the City Arborist through the tree removal provisions of the West Linn Municipal Code.
5. The applicant shall plant 24 caliper inches of replacement trees to mitigate the removal of Pacific Madrone species required by improvements to Tannler Drive on the southeastern portion of the property. Replacement trees are to be planted within the landscaped portions of the site as is shown on the applicant's landscape plan submitted with the application, and not in the northern portion of the site.
6. In accordance with Section 55.100(B)(2)(b), the applicant shall place a tree conservation easement over the significant trees within the northern, undeveloped portion of the site that prohibits any disturbance or improvements without approval of the City of West Linn. Alternatively, the applicant may choose to dedicate this area to the city.
7. Prior to any site development or grading, the applicant shall delineate the southern boundary of the proposed open space area with an anchored chain link fence. The fence shall remain in place until the completion of all site development work.
8. The applicant shall improve the existing pedestrian trail along the northern boundary of the site. The trail shall be a width of eight feet, paved with asphalt. The applicant shall dedicate a fifteen-foot wide pedestrian easement centered on the constructed trail.
9. Prior to occupancy of the lower building on the site, the applicant shall have completed all street and traffic improvements listed as "Phase I mitigation" in the application, particularly, the November 3, 2006 letter from the applicant's traffic engineer, including the recommendations from city traffic consultant Carl Springer in his memorandum dated October 30, 2006). Prior to occupancy of either of the two upper buildings on the site, the applicant shall have completed all improvements listed as "Full Development Mitigation" in the application, as stated in the same letter as above. All improvements must be coordinated with and approved by the City, and ODOT in their areas of responsibility.

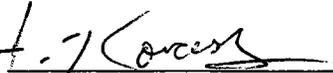
5 (14)

10. The applicant shall complete half-street improvements to Tannler Drive along the property frontage, consisting of sidewalk and planter strip to current city standards. The planter strip may be eliminated in locations where preservation of significant trees is required.
11. The applicant shall submit a street lighting plan and shall install street lights pursuant to that plan along both Blankenship and Tannler to illumination standards of the City of West Linn.
12. The applicant shall construct a bus shelter adjacent to the existing Tri-Met bus stop at the corner of Tannler Drive and Blankenship Road to design specifications of Tri-Met.
13. The underground storm water detention and treatment facility shall be private and shall meet City design standards. The applicant shall execute a maintenance agreement that provides for proper operation of the storm water system, requires annual reports to the city regarding ongoing maintenance and operation of the facility, requires professional certification that the facility is operating to city-prescribed standards, allows for city inspection of the facility upon reasonable notice, and requires and guarantees improvements or repair of the system as directed by the City Engineer or Public Works Operations Manager
14. In the event that the Tenth 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, the following shall occur:
 - a. The Planning director will notify the applicant to schedule a meeting to discuss the condition; and
 - b. if the applicant agrees that the alternative improvement should replace a condition of approval; then
 - c. an application will be processed, at no cost to the applicant, to consider whether a modification to a specific condition of approval should be made.
15. The applicant shall consult with and receive approval from the City Arborist prior to removal or modification of any vegetation or application of any herbicides in the undeveloped area on the northern portion of the site. The City Arborist's approval shall be based upon the impact on the health of the existing trees in this undeveloped area and the integrity of the natural habitat on the site.
16. The improvements associated with the Tenth Street/Salamo Road/Blankenship Road intersection shall allow for future installation of a second left turn lane from Tenth Street onto Blankenship Road without significant removal of recently installed improvements.

The motion was approved, with four in favor (Jones, Babbitt, Bonoff, and Fisher), and none opposed.

4 (15)

This decision will become effective 14 days from the date of mailing of this final decision as identified below. 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 signed in on the attendance sheet at the hearing, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.



JOHN KOVASH, CHAIR
WEST LINN PLANNING COMMISSION

28 Dec 2006
DATE

Mailed this 2nd day of JANUARY, ~~2006~~ ²⁰⁰⁷

Therefore, this decision becomes final at 5 p.m., JANUARY 16th, ~~2006~~ ²⁰⁰⁷

Devrev/Finaldecisions/DR 06-27 Willamette marketplace

5 (16)

BEFORE THE PLANNING COMMISSION

FOR THE CITY OF WEST LINN, OREGON

In the Matter of West Linn Corporate Park II,
LLC's Application for Design Review Approval
of Construction Of Three Office Buildings and a
Parking Structure at the Northwest Corner of
Blankenship Road and Tannler Drive on 11.3 Acres

File No. DR 06-24

TANNER BASIN NEIGHBORHOOD
ASSOCIATION'S MEMORANDUM
IN OPPOSITION DATED 12/7/06

WILLAMETTE 205 CORPORATE CENTER
PHASE II
"TANLER WEST"

To the Planning Commission,

At the December 6, 2006 meeting of the Tanner Basin Neighborhood Association (TBNA), the assembled members voted (11-0) to request that the Planning Commission deny the application as currently submitted. I, Ed Schwarz, residing at 2206 Tannler Drive, was chosen as the designated representative of the TBNA to submit both oral and written testimony in opposition to the application.

The applicant requests Design Review approval of construction of three office buildings and a parking structure. The site is the northwest corner of the Blankenship/Tannler intersection. This is a very busy intersection at the bottom of the hill on Tannler Drive. Many members of the Tanner Basin Neighborhood Association use this intersection daily and are thus rightly concerned about any development application that would make this intersection worse – as this one clearly does. This intersection is already rated Level of Service (LOS) "F" during certain times of the day by the West Linn traffic department.

The application calls for approximately 289,000 sq. ft. of development spread among three similarly-sized, four-story buildings. In addition, there are proposed 835 parking spaces (756 of which would be located in a four-story parking garage).

It is the position of the TBNA that the application has several flaws of such an all-encompassing nature that denial of the application is the only appropriate action on the part of the Planning Commission. These include:

- Lack of adequate traffic mitigation
- Improper lot line adjustment
- Inadequate noise study
- Drainageway/Slope

Additionally, the TBNA also has concerns regarding:

- Project phasing (staging)
- Deferred compliance with approval criteria

- Location of Building A with respect to Blankenship Road
- Conditions of Approval

In the remainder of this document we will describe these concerns in detail.

LACK OF ADEQUATE TRAFFIC MITIGATION

As described in the application, the Blankenship/Tannler intersection is already at Level of Service "F" during certain times of the day. The applicant has submitted an application which calls for a traffic light at the Blankenship entrance/exit to the development immediately across from Albertson's market. We do not agree that installing this traffic light will remedy the numerous problems encountered at the Tannler/Blankenship intersection or the Blankenship/Salamo/Tenth intersection.

West Linn Community Development Code (CDC) 55.100⁽¹⁾(1) states,

"In determining the appropriate sizing of the street in commercial, office, multi-family, and public settings, the street should be the minimum necessary to accommodate anticipated traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare. ... The realignment or redesign of roads shall consider how the proposal meets accepted engineering standards, enhances public safety, and favorably relates to adjacent lands and land uses."

On page 22 of the staff report staff state, "The intersection of Tannler and Blankenship, with the second driveway to the Albertson's shopping center to the south, would operate at level of service "F" during peak hours for cars wanting to enter Blankenship Road from Tannler and the driveway." Staff's reasons for allowing this unacceptable level of service include that the inconvenienced residents living above the development could cut through to Salamo using Greene Street or Bland Circle. If the members of this commission lived on one of those streets would you approve of this plan?

If you review the comments made by members of the Tanner Basin and Willamette Neighborhood Associations during the applicant's presentation on this project, you will see an overwhelming concern for two goals:

- Minimizing the traffic impacts of this development
- Preserving the significant trees on the project site

Everyone knows that the traffic impacts of this development would be huge and hugely negative. Let's face it, the developers have built in this area to the point where any further development, without first providing adequate mitigation and an overall corridor solution, is precluded due to the traffic gridlock that will undoubtedly occur. The developers have built this area to the maximum density it can presently support.

We request that this application be denied based on non-compliance with CDC 55.100(I)1.

IMPROPER LOT LINE ADJUSTMENT

This application proposes taking approximately 0.75 of one acre from the adjoining development (Tax Lot 801, West Linn Corporate Park I) and adding it to the existing site and calling this a "lot line adjustment." (See pages A-30 and A-31 of Exhibit PC-10, Applicant's Revised Submittal.)

Neither the applicant nor staff produce any findings concerning the existing zoning of Tax Lot 801 or any possible conditions of approval for West Linn Corporate Park I. There may, in fact, be zoning or previously existing conditions of approval that would preclude this lot line adjustment. Without an analysis by the applicant or staff it is impossible to know if these conditions exist.

Further, CDC 85.210(A)3 states,

"The lot line adjustment is intended to allow minor lot line deviations, or to consolidate undersized or irregular shaped lots."

Clearly, the application's proposed use of this lot line adjustment conflicts with the intended use as specified in CDC 85.210(A)3. Moving a lot line enough to encompass an additional 0.75 acres is much more than a "minor" deviation. In fact, a significant portion of the proposed parking garage is situated on this "lot line adjustment."

We request that the application be denied on the grounds that it does not meet CDC 85.210(A)3.

INADEQUATE NOISE STUDY

CDC 55.100(D) states,

"Ambient degradation associated with new noise sources. Any new commercial or industrial development to be built on a vacant or previously unused industrial or commercial site shall not cause or permit the operation of a noise source if the noise levels generated, or indirectly caused by that noise source, would increase the ambient statistical noise levels, L50 or L10, by more than 5 dBA in any one hour. In some instances, the ambient degradation standard may establish lower allowable dBA levels than those established in Table 1, and in those instances, the lower level shall apply. Ambient noise levels shall be determined by a licensed acoustical engineer."

This code section is the most stringent requirement dealing with noise generated from a new development in West Linn's code. The applicant's noise study mentions that the development needs to meet this code section as well as other sections dealing with ambient noise. However, it then goes on to state that the ambient degradation rule would not be the controlling criteria for this project—even though it is the most stringent criteria and most certainly does apply to this project.

Nowhere in the noise study does the applicant's acoustical engineer show that noise produced by this development would be less than the maximum 5 dBA increase allowed by CDC 55.100(D). The engineer simply predicts that there would be no change in the ambient noise levels.

Therefore, we request that the application be denied on the grounds that it is inadequate and has not shown compliance with CDC 55.100(D).

DRAINAGEWAY/SLOPE

CDC 55.100(B)3 states,

“The topography and natural drainage shall be preserved to the greatest degree possible.”

The proposal includes significant cutting into the hillside slope and the construction of large retaining walls. Other designs should have been considered to minimize these sorts of construction techniques. The applicant has not demonstrated that any other designs have been considered and that the topography and natural drainage have been preserved to the “greatest extent possible.”

The application does not meet CDC 55.100(B)3 and should be denied.

STAGED DEVELOPMENT

CDC sections 85.110 and 99.125 allow a project to be built in stages. There are certain benefits to staged development including the ability to include conditions of approval which take effect as the project progresses.

This application is not a staged development. There is no staff or applicant discussion that 85.100 or 99.125 are being applied for or met. Also, the applicant’s consultant states on page A-6, “While the construction of the three buildings parking structure will occur separately over time, this application requests Design Review approval of all structures proposed.”

The conditions of approval as proposed by staff include items which address the project as a staged application. As an example, condition of approval #9 specifies street and traffic improvements that are to be met in phases before certain buildings are occupied. In reality, since this is not a staged development, **all conditions of approval should be fully met by the applicant before any of the structures are allowed to be occupied.**

If the applicant wants the benefits of a staged development then he should show compliance with CDC 99.125, otherwise he should accept that **all off-site improvements will be required regardless of when the individual buildings are completed.**

We request that the Planning Commission direct that all conditions of approval be fully met and all off-site improvements be completed before building occupancy is permitted.

DEFERRED COMPLIANCE WITH APPROVAL CRITERIA

Several of the conditions of approval proposed by staff should actually exist within the applicant’s proposal and should be subject to public review prior to approval. Examples include,

- Condition of approval #2, which states that “The applicant shall provide satisfactory legal evidence establishing joint use of the existing driveway access to Blankenship Road on the adjacent Willamette 205 Corporate Park property...to the west.”
- Condition of approval #5, which states, “A plan showing the location and species of these trees shall be reviewed and approved by the City Arborist...”
- Condition of approval #11, which states, “The applicant shall submit a street lighting plan...”

By making these items conditions of approval there is no public scrutiny of the required plans and legal evidence that staff requests.

We request that the Planning Commission direct the applicant and staff that these items be included in the development plan and not added as conditions of approval.

LOCATION OF BUILDING “A” WITH RESPECT TO BLANKENSHIP ROAD

The applicant proposes to locate Building “A” very close to Blankenship Road. Building A is proposed to be built on top of two retaining walls, each of which are several feet high. The result of this combination will be a monolithic building towering above the sidewalk along Blankenship Road.

This situation is very analogous to the Blackhawk building recently completed further down Blankenship from this proposed development. Several Planning Commissioners and City Councilors have expressed concerns about the manner in which that building towers over the sidewalk and surrounding area—Building A will have an even greater impact.

We request that the Planning Commission deny this application and direct the applicant to revise the plans for Building A to reduce the impact it will have on the surrounding area.

CONDITIONS OF APPROVAL

Just yesterday, December 6, 2006, the TBNA received the applicant’s discussion of staff’s recommended Conditions of Approval. Staff has suggested 13 conditions. In the applicant’s discussion of those conditions they accepted 8 outright with no suggested changes. The remaining 5 conditions dealt with:

- Placing a conservation easement over the upper portion of the property or dedicating that portion of the property to the city
- Improving an existing public trail to make it more accessible to residents
- Replacing trees to mitigate for removal of significant trees
- Improving the lower portion of Tannler Drive with a sidewalk and planter strip
- Above-ground vs. underground storm water detention facility

It is interesting to note that four of the five conditions of approval being contested deal directly with benefits to the citizens of West Linn.

Attached to the discussion of the conditions of approval was a memorandum, dated May 18, 2006, from Rhys Conrad a planner with Group Mackenzie, the applicant's consultant. In the memorandum, which discusses a Tannler West site visit with the city arborist, it is noted that the planner asked about the fine for removal of significant trees in West Linn. This concerns us as there has been a history in West Linn of applicants removing trees of all types, significant or not, often before obtaining the proper permits.

In summary, this application, if approved with the applicant's suggested changes to the conditions of approval, provides no benefits to the nearby residents of our community nor to the overall community as a whole.

We request, should this application ultimately be approved, that the four contested conditions of approval dealing with benefits to the community be implemented exactly as originally written by staff. We also request that the city not grant approvals to remove any significant trees and further, that the city make all efforts to ensure that no significant trees are "accidentally" removed during construction.

CONCLUSION

The overarching problem of this application is that no solution is presented to the level of service "F" traffic problems at multiple intersections that it will create. Suggesting that inconvenienced residents further inconvenience other resident by using their residential streets as a cut through is not a solution. This development needs to wait until a solution to the Tenth Street corridor traffic problem is found. Development created this situation and now further development must wait for a solution.

As we have presented above, there are also many additional grounds why this application should be denied.

We urge the Planning Commission to deny this application on the grounds included herein.

We request, as per ORS 197.763, a continuance of the hearing and, further, that the record be held open for an additional 7 days to allow us to submit additional testimony.

Signed: _____
Edward Schwarz
Tanner Basin Neighborhood Association

Date: _____

Tannler West

Dear Mayor King, City Council Members, and Planning Commission Members,

We, the undersigned wish to state our opposition to the WL Corporate Park II-Tannler West; DR-06-24 application. Our opposition is based upon the application's failure to mitigate the traffic that this commercial development will create as well as other non compliance issues. This opposition is based on this application's non-compliance with CDC (Community Development Code) section 55.100 (I)(1) among others which shall be detailed at the hearing(s). We respectfully request that you deny this application.

Edward Schwarz, EDWARD SCHWARZ, 2206 TANNER DR., WL, OR 97068

Robert Schwarz, Roberta Schwarz 2206 Tannler Dr WL OK

Robert H. Lapeyre 2315-5th Ave W-L-97068

Shirley Oregon 2119 GREEN ST Westlinn 97068

Jen Olyn 2119 GREENE ST Westlinn 97068

Joy Kent 18490 LOWER MIDHILL W/L 97068

Christine 18490 Lower Midh. II Dr. WL 97068

Kathie Kella 2600 Umpqua Lane WL 97068

JACK SIMPSON 1671 KILLARNEY DR 97068

Julia Simpson 1671 Killarney Dr. 97068

Ron Ream 2600 UMPQUA LN 97068

Valerie Key 2117 Greene St. 97068

Donald Kemp " " "

Leslie 2125 FINCHES DR. 97068

2505 REMINGTON DR. "

Tom McInday 3045 Deschutes Ln "

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Dear Mayor King, City Council Members, and Planning Commission Members,

We, the undersigned wish to state our opposition to the WL Corporate Park II-Tannler West; DR-06-24 application. Our opposition is based upon the application's failure to mitigate the traffic that this commercial development will create as well as other non compliance issues. This opposition is based on this application's non-compliance with CDC (Community Development Code) section 55.100 (I)(1) among others which shall be detailed at the hearing(s). We respectfully request that you deny this application.

Kathie Hakala 2307 Falcon Dr 97068

MARIE ANN MATTECK 2233 GREEN ST. 97068

Kimberly B Eaton
Kimberly Eaton 2305 ROGUE WAY 97068

Tracy Herbert 2323 HASKINS RD 97068

Vale Baker 2270 CRESTVIEW DR 97068

Ellen McMurtre 1803 BARNES CIRCLE 97068

David Dean 29870 Whittier Hill Dr. 97068

Lois Bailey 1827 Barnes Cir WL 97068

Allen Baillif 1827 Barnes Cir. 97068

Karen Bettin 4975 Summerlinn 97068

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Motion

The Tanner Basin Neighborhood Association opposes the Tannler West application (File No. DR 06-24). Should the West Linn Planning Commission approve the application at its December 7, 2006 meeting then we hereby appeal this decision to the West Linn City Council. This appeal is based on the application's non-compliance with West Linn Community Development Code section 55.100(I)(1) and other issues as described in our presentation to the Planning Commission.

Motion: KEN SNOW

Second: KEN SNOW PRYOR

Vote: 11-0

Date: Dec 6 2006

Signed: David E. Rittenhouse
David Rittenhouse
President

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

In the Matter of West Linn Corporate Park II,
LLC's Application for Design Review Approval
of Construction Of Three Office Buildings and a
Parking Structure at the Northwest Corner of
Blankenship Road and Tannler Drive on 11.3 Acres

WILLAMETTE 205 CORPORATE CENTER
PHASE II
"TANLER WEST"

File No. DR 06-24

TANNER BASIN NEIGHBORHOOD
ASSOCIATION'S MEMORANDUM
IN OPPOSITION DATED 12/21/06

SUPPLEMENTAL SUBMITTAL

To the Planning Commission,

At the December 7, 2006 meeting of the Planning Commission the Tanner Basin Neighborhood Association (TBNA) presented its argument in opposition to the above-referenced application.

It continues to be the position of the TBNA that the application has several flaws of such an all-encompassing nature that denial of the application is the only appropriate action on the part of the Planning Commission. These flaws include:

- Lack of adequate traffic mitigation
- Improper lot line adjustment
- Inadequate noise study
- Drainageway/Slope

Additionally, the TBNA also has concerns regarding:

- Project phasing (staging)
- Deferred compliance with approval criteria
- Location of Building A with respect to Blankenship Road
- Conditions of Approval

At the conclusion of our presentation before the Planning Commission on December 7, 2006, one commissioner asked that we provide proof that the application fails to meet the Community Development Code. Our understanding of this process is that it is the **applicant** who must **prove that the application meets the CDC**. Nevertheless, in the remainder of this document we will respond to the commissioner's request and provide evidence as to the code non-compliance of this application.

LACK OF ADEQUATE TRAFFIC MITIGATION

West Linn Community Development Code (CDC) 55.100(I)(1) states,

Tannler West

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Page 1 of 6

12/21/2006

“In determining the appropriate sizing of the street in commercial, office, multi-family, and public settings, the street should be the minimum necessary to accommodate anticipated traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare. ... The realignment or redesign of roads shall consider how the proposal meets accepted engineering standards, enhances public safety, and favorably relates to adjacent lands and land uses.”

Page 22 of the staff report contains the following statement, “The intersection of Tannler and Blankenship, with the second driveway to the Albertson’s shopping center to the south, would operate at level of service “F” during peak hours for cars wanting to enter Blankenship Road from Tannler and the driveway.” Thus, **by staff’s own admission, the application fails to mitigate for its own added traffic at the corner of Tannler and Blankenship**—thus, the application fails to meet CDC 55.100(I)(1) and should be denied.

On page 23, Staff further states that, **“Users of Tannler from the residential area to the north will be inconvenienced by the lack of signal at Tannler.”** Again, staff admits that the application fails to mitigate for its own added traffic. Staff’s reasons for allowing this unacceptable level of service include that the inconvenienced residents living above the development could cut through to Salamo using Greene Street or Bland Circle. If the members of this commission lived on one of those streets would you approve of this plan?

Everyone knows that the traffic impacts of this development would be huge and hugely negative. Let’s face it, the developers have built in this area to the point where any further development, without first providing adequate mitigation and an overall corridor solution, is precluded due to the traffic gridlock that will undoubtedly occur. The developers have built this area to the maximum density it can presently support.

We request that this application be denied based on non-compliance with CDC 55.100(I)1.

IMPROPER LOT LINE ADJUSTMENT

This application proposes taking approximately 0.75 of one acre from the adjoining development (Tax Lot 801, West Linn Corporate Park I) and adding it to the existing site and calling this a “lot line adjustment.” (See pages A-30 and A-31 of Exhibit PC-10, Applicant’s Revised Submittal.)

Neither the applicant nor staff produce any findings concerning the existing zoning of Tax Lot 801 or any possible conditions of approval for West Linn Corporate Park I. There may, in fact, be zoning or previously existing conditions of approval that would preclude this lot line adjustment. Without an analysis by the applicant or staff it is impossible to know if these conditions exist.

Further, CDC 85.210(A)3 states,

“The lot line adjustment is intended to allow minor lot line deviations, or to consolidate undersized or irregular shaped lots.”

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Clearly, the application's proposed use of this lot line adjustment conflicts with the intended use as specified in CDC 85.210(A)3. Moving a lot line enough to encompass an additional 0.75 acres is much more than a "minor" deviation. In fact, a significant portion of the proposed parking garage is situated on this "lot line adjustment."

We request that the application be denied on the grounds that it does not meet CDC 85.210(A)3.

INADEQUATE NOISE STUDY

CDC 55.100(D) states,

"Ambient degradation associated with new noise sources. Any new commercial or industrial development to be built on a vacant or previously unused industrial or commercial site shall not cause or permit the operation of a noise source if the noise levels generated, or indirectly caused by that noise source, would increase the ambient statistical noise levels, L50 or L10, by more than 5 dBA in any one hour. In some instances, the ambient degradation standard may establish lower allowable dBA levels than those established in Table 1, and in those instances, the lower level shall apply. Ambient noise levels shall be determined by a licensed acoustical engineer."

This code section is the most stringent requirement dealing with noise generated from a new development in West Linn's code. The applicant's noise study mentions that the development needs to meet this code section as well as other sections dealing with ambient noise. However, it then goes on to state that the ambient degradation rule would not be the controlling criteria for this project—even though it is the most stringent criteria and most certainly does apply to this project.

Nowhere in the noise study does the applicant's acoustical engineer show that noise produced by this development would be less than the maximum 5 dBA increase allowed by CDC 55.100(D). The engineer simply predicts that there would be no change in the ambient noise levels.

We have retained Albert G. Duble, a professional engineer and acoustical consultant from Newberg, Oregon, to review the applicant's noise study. Mr. Duble prepared a report which is included at the end of this submittal. In his report, Mr. Duble finds many deficiencies in the noise study prepared by the applicant's engineer.

Specifically, Mr. Duble states that there will be significant noise generated by parking lot sweepers that will be used to clean the development's parking lot. **He notes that the reference noise level used by the applicant's engineers was low.** This noise, which will occur in the early morning hours, will most definitely be heard by the residents living on Summerlinn near this development. He also notes that, should the freeway ambient noise drop a significant amount the sweeper noises could rise above ambient and awaken nearby residents. Our understanding is that the I-205 freeway is scheduled to be overlaid with a much quieter asphalt surface and, therefore, ambient noise levels will indeed be dropping.

Further, Mr. Duble suggests, should these buildings be allowed, that the HVAC package units be oriented so that the end containing the compressors faces the freeway and not the neighbors at the top of the hill.

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Mr. Duple also mentions that, in his professional opinion, the DSA report did not adequately deal with the garbage pickup noise. Garbage pickup usually occurs very early in the morning and can cause early awakening. Those in his field call this the "garbage can reveille."

Mr. Duple closes by stating, "...the noise impact of this development was understated and much annoyance to residents will occur."

Therefore, we request that the application be denied on the grounds that the noise study is inadequate and has not shown the application's compliance with CDC 55.100(D).

DRAINAGEWAY/SLOPE

CDC 55.100(B)3 states,

"The topography and natural drainage shall be preserved to the greatest degree possible."

The proposal includes significant cutting into the hillside slope and the construction of large retaining walls. Other designs should have been considered to minimize these sorts of construction techniques. The applicant has not demonstrated that any other designs have been considered and that the topography and natural drainage have been preserved to the "greatest extent possible."

The application does not meet CDC 55.100(B)3 and should be denied.

STAGED DEVELOPMENT

CDC sections 85.110 and 99.125 allow a project to be built in stages. There are certain benefits to staged development including the ability to include conditions of approval which take effect as the project progresses.

This application is not a staged development. There is no staff or applicant discussion that 85.100 or 99.125 are being applied for or met. Also, the applicant's consultant states on page A-6, "While the construction of the three buildings parking structure will occur separately over time, this application requests Design Review approval of all structures proposed."

The conditions of approval as proposed by staff include items which address the project as a staged application. As an example, condition of approval #9 specifies street and traffic improvements that are to be met in phases before certain buildings are occupied. In reality, since this is not a staged development, **all conditions of approval should be fully met by the applicant before any of the structures are allowed to be occupied.**

If the applicant wants the benefits of a staged development then he should show compliance with CDC 99.125, otherwise he should accept that **all off-site improvements will be required regardless of when the individual buildings are completed.**

We request that the Planning Commission direct that all conditions of approval be fully met and all off-site improvements be completed before building occupancy is permitted.

DEFERRED COMPLIANCE WITH APPROVAL CRITERIA

Several of the conditions of approval proposed by staff should actually exist within the applicant's proposal and should be subject to public review prior to approval. Examples include,

- Condition of approval #2, which states that "The applicant shall provide satisfactory legal evidence establishing joint use of the existing driveway access to Blankenship Road on the adjacent Willamette 205 Corporate Park property...to the west."
- Condition of approval #5, which states, "A plan showing the location and species of these trees shall be reviewed and approved by the City Arborist..."
- Condition of approval #11, which states, "The applicant shall submit a street lighting plan..."

By making these items conditions of approval there is no public scrutiny of the required plans and legal evidence that staff requests.

We request that the Planning Commission direct the applicant and staff that these items be included in the development plan and not added as conditions of approval.

LOCATION OF BUILDING "A" WITH RESPECT TO BLANKENSHIP ROAD

The applicant proposes to locate Building "A" very close to Blankenship Road. Building A is proposed to be built on top of two retaining walls, each of which are several feet high. The result of this combination will be a monolithic building towering above the sidewalk along Blankenship Road.

This situation is very analogous to the Blackhawk building recently completed further down Blankenship from this proposed development. Several Planning Commissioners and City Councilors have expressed concerns about the manner in which that building towers over the sidewalk and surrounding area—Building A will have an even greater impact.

We request that the Planning Commission deny this application and direct the applicant to revise the plans for Building A to reduce the impact it will have on the surrounding area.

CONDITIONS OF APPROVAL

Just yesterday, December 6, 2006, the TBNA received the applicant's discussion of staff's recommended Conditions of Approval. Staff has suggested 13 conditions. In the applicant's discussion of those conditions they accepted 8 outright with no suggested changes. The remaining 5 conditions dealt with:

- Placing a conservation easement over the upper portion of the property or dedicating that portion of the property to the city
- Improving an existing public trail to make it more accessible to residents
- Replacing trees to mitigate for removal of significant trees
- Improving the lower portion of Tannler Drive with a sidewalk and planter strip
- Above-ground vs. underground storm water detention facility

It is interesting to note that four of the five conditions of approval being contested deal directly with benefits to the citizens of West Linn.

Attached to the discussion of the conditions of approval was a memorandum, dated May 18, 2006, from Rhys Conrad a planner with Group Mackenzie, the applicant's consultant. In the memorandum, which discusses a Tannler West site visit with the city arborist, it is noted that the planner asked about the fine for removal of significant trees in West Linn. This concerns us as there has been a history in West Linn of applicants removing trees of all types, significant or not, often before obtaining the proper permits.

In summary, this application, if approved with the applicant's suggested changes to the conditions of approval, provides no benefits to the nearby residents of our community nor to the overall community as a whole.

We request, should this application ultimately be approved, that the four contested conditions of approval dealing with benefits to the community be implemented exactly as originally written by staff. We also request that the city not grant approvals to remove any significant trees and further, that the city make all efforts to ensure that no significant trees are "accidentally" removed during construction.

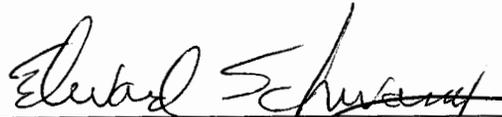
CONCLUSION

The overarching problem of this application is that no solution is presented to the level of service "F" traffic problems at multiple intersections that it will create. Suggesting that inconvenienced residents further inconvenience other resident by using their residential streets as a cut through is not a solution. This development needs to wait until a solution to the Tenth Street corridor traffic problem is found. Development created this situation and now further development must wait for a solution.

As we have presented above, there are also many additional grounds why this application should be denied.

We urge the Planning Commission to deny this application on the grounds included herein.

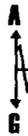
Signed: _____



Edward Schwarz
Tanner Basin Neighborhood Association

Date: _____

12/21/06



ALBERT G. DUBLE, P.E., INC.

ACOUSTICAL CONSULTANT

16905 NE KINGS GRADE, NEWBERG, OREGON 97132 agd931@hevanet.com 503-538-8044 FAX 503-537-8044

MEMBER - INSTITUTE OF NOISE CONTROL ENGINEERING

December 19, 2006

Edward and Roberta Schwarz
2206 Tannler Drive
West Linn, OR 97068

Re: Willamette 205 Corporate Center -Noise Impact

Dear Folks:

I have reviewed the DSA report and found that their reference noise level for the parking lot sweeper was low at 60 dBA. My survey and extensive experience with these machines shows that 70 to 72 dBA at 50 feet is more representative. Using the 72 dBA and octave band levels I recorded for a Schwarze Industries Model 222, 2 yard machine, I calculated the noise at the Summer Linn Apartments with the sweeper operating in the open, at the corner of the parking building on the fourth level. At this point the upper office building does not block the sweeper noise. (At the other hilltop residences the upper two buildings do block noise from the parking structure and the overall dBA level would be lower.

The attached computer output data sheet shows a noise level of 49 dBA or 2 dBA under the lowest ambient noise DSA measured at the Summer Linn Apts at 0400 hours in the early morning (51 dBA). This level meets the noise degradation standard ($51 + 5 = 56$ dBA, West Linn CDC), and the DEQ standard. However, even though this noisier sweeper meets the standards does not mean that it will not be heard by the residents at the two nearest residences. These sweepers operate with two gasoline motors, one for the truck and another with about 35 to 40 HP for the sweeper blower. The blower generates a typical strong pure tone sound at 250 Hz which can easily be heard above background noise and can be very annoying. If the freeway ambient noise drops a significant amount due to a snow storm or other traffic phenomenon, sweeper noise could rise above ambient and awaken nearby residents. The reverberant effect (not mentioned in the DSA report), of the concrete parking structure on the lower building floors could also increase sweeper noise by up to 5 dBA, and also accentuate the 250 Hz blower tonal noise. These parking floors have open sides and will radiate noise easily.

In reading the DA report, I find that they did consider both ambient degradation standards, and also made 24 and 48 hour ambient noise measurements at the three ambient sites. I have no easy way of checking their calculations for mechanical HVAC noise as I have no noise data available to do this. The 10 foot barrier around the equipment is something I have used frequently in the past and it does offer at least an additional 10 dBA or greater attenuation for HVAC noise.

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If the final equipment choice would use twice the horsepower, the total noise level would only increase about 3 dBA and the overall effect would not be noticeable to the neighbors. Fan speeds on the condensing units on top of the equipment cabinets should not increase in speed with the higher horsepower units. **If these buildings are permitted, I would like to suggest one conditional improvement. Ask the mechanical engineer to arrange the rooftop HVAC package units so that the end containing the compressors faces the freeway and not the neighbors at the top of the hill**

I think that the DSA report did show that car door slams (and squealing tires) exhibit very short times of occurrence, and I have to agree that they will probably not effect the overall L10 and L50 noise levels. However again, I must state that these noises, even though they will not raise the exposure noise levels, will occasionally be heard by nearby residents as a new noise source, and this will be annoying to them. These noises although short in time, have much higher sound pressure levels because they are impulse sounds. At 50 feet, they can be 10 to 20 dBA higher than the ambient noise in the parking structure at a busy time. (The difference between the degradation standard levels and impulse noise is that the standards are statistical in nature, relating both time and level, while impulse noise is instantaneous).

I do not feel that the DSA report dealt adequately with the garbage pickup noise. I have personal experience with these hydraulically operated vehicles, and they can exhibit very high impulse levels caused by steel-on-steel contact. The engine noise is also much higher when loading a full dumpster, and the hydraulic noise can also be tonal like the sweeper noise discussed above. Garbage pickup usually takes place very early in the morning and can cause early awakening. Those in my field call this effect the "garbage can reveille".

Overall I feel that the noise impact of this large development was understated and much annoyance to residents will occur.

Call if you have any questions.

Very truly yours,

Albert G. Duble, P.E.
Acoustical Engineer,
Emeritus Mem. INCE

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Date: Sat Dec 16 09:27:01 2006
 Project Name: Willamette Center
 Comments: Parking Lot Sweeper to Summer Linn
 Apts - No Barrier

Project Number: 1089
 Engineer: Duble

Number of sources: 1
 Number of receivers: 1
 Maximum reduction provided by barrier: 24

Temperature: 50
 Humidity: 70

Source	Ref Dist	dBA	dB	63	Reference Levels						
					125	250	500	1k	2k	4k	8k
Sweeper	50	72.6	75.5	44	61	72	69	66	66	63	59

Receiver 1: Sweeper
 Total noise level with barrier(s): 48.7 dBA 52.3 dB
 Total noise level without barrier(s): 48.7 dBA 52.3 dB
 Noise reduction provided by barrier(s): 0.0 dBA 0.0 dB

Source		dBA	dB	63	Level with and without barrier						
					125	250	500	1k	2k	4k	8k
Sweeper	w/out barrier	48.7	52.3	22	38	49	46	43	42	34	29

Receiver	X	Y	Z
Sweeper	650	0	415

Source Name	Source Coordinates			Barrier Coordinates			Trees
	X	Y	Z	X	Y	Z	ft
Sweeper	0	0	281	0	0	0	0

Low ambient = 51 dBA @ 4 AM.
 Sweeper noise is 2 dBA over the ambient.
 Total sound however will still be high!

63



Tannler West

kbettin75@hotmail.com

Printed: Tuesday, December 12, 2006 2:32 AM

From : Karen Bettin <kbettin75@hotmail.com>
Sent : Monday, December 11, 2006 9:50 PM
To : bbrown@ci.west-linn.or.us
CC : lisam@involved.com, roberta.schwartz@comcast.net
Subject : 10th Street Corridor Traffic Plan & Summerlinn Dr.

Dear Bryan:

Thank you for taking my phone call today. Here's my concern about traffic in the 10th street corridor as it relates to Summerlinn Dr.

I live in a condo on Summerlinn Way (just above the Corporate 205 and Tannler West projects). Traffic from the condominium complex only has Summerlinn Dr. as an option to enter or leave the complex which ends on Blankenship. As you know, Summerlinn Drive is between the Corporate 205 complex and the Blackhawk Building.

During the Tannler West presentation at the Dec. 7, 2006 Planning Commission meeting, they proposed to put in a traffic light at Albertson's and also allow movement of cars through the Corporate 205 complex to exit onto Summerlinn Drive. I am writing to you today, because I am concerned that a light at Albertson's could make it even harder than it is at times, to enter and leave Summerlinn Drive at Blankenship. Anything you can do to take this into consideration in regards to the traffic plan for Tannler West would be appreciated.

Also, as the traffic plan for the 10th Street Corridor is being developed, I wanted to make sure the Traffic Planning Special Commission considers the impact traffic decisions will have on residents who use Summerlinn Drive. Since traffic will increase once the Blackhawk building is occupied, I would also suggest the Traffic Planning Special Commission consider the traffic impact to at least Johnson Road, since driving on Blankenship toward Johnson Road in the morning, I notice car back-ups as residents are trying to leave the apartment complex, as well as, the residential area west of the Blackhawk building.

Thank you for forwarding this message to the appropriate persons. I appreciate your receptiveness to receiving input from residents who live in the area.

Sincerely,

Karen Bettin
 4975 Summerlinn Way
 West Linn, OR 97068
 kbettin75@hotmail.com

View Athlete's Collections with Live Search <http://sportmaps.live.com/index.html?source=hmemailtaglinenov06&FORM=MGAC01>

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 before

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

In re DESIGN REVIEW WEST LINN
COPORATE PARK II, NW CORNER OF
TANNER AND BLANKENSHIP,
"TANNER WEST"

File No. DR-06-24

APPLICANT'S MEMORANDUM ON
REBUTTAL

I. INTRODUCTION

During the December 7, 2006, hearing, Tanner Basin Neighborhood Association ("TBNA") submitted "Tanner Basin Neighborhood Association's Memorandum in Opposition Dated 12/7/06" (the "Opposition Memo"). Applicant Blackhawk, LLC ("Applicant") submits this Memorandum on Rebuttal in response to the Opposition Memo and asks that it be included in the record.

TBNA made several arguments in the Opposition Memo and at the hearing. TBNA got it wrong on each argument. Most of the arguments are answered by the fundamental rule that "[a]pproval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance." ORS 227.173. *See also* CDC 55.030(C)(1) ("The * * * Planning Commission * * * shall approve, approve with conditions, or deny the application based on findings related to the applicable criteria set forth in Section 99.110 and this chapter."). Keeping this rule in mind, these are the correct answers:

- **Traffic.** The City Engineer has balanced the factors he was required to consider and, as provided in the Code, chosen a solution. On review, this Commission should uphold that solution because it meets the requirements of CDC 55.100(I)(1), and because Applicant cannot be made to fix

existing deficiencies. TBNA takes a code provision out of context—it governs only driveway and street alignments—and thus reaches a wrong answer. The Commission should not delay its decision for a speculative system-wide solution, because by statute it must make its decision based on current criteria, and it should not impose an illegal moratorium.

- **Lot Line**. The Code itself provides for the type of lot line adjustment Applicant is proposing. TBNA does not cite adequate support for its argument, and, indeed, TBNA's argument is irrelevant.
- **Noise**. TBNA's argument itself admits that Applicant has satisfied the Code.
- **Drainageway/Slope**. TBNA tries to impose the non-existent requirement that Applicant provide an alternatives analysis. But no such requirement exists. As staff found, Applicant met the requirements of the Code as to preservation of drainageways and slopes.
- **Construction Steps**. The proposal is consistent with the requirement that exactions must be roughly proportional to the current impacts of development, and nothing in the Code forbids the type of conditions staff is proposing.
- **Conditions**. As staff has found, Applicant has shown that it is feasible to perform the joint access, lighting and tree planting conditions.
- **Building "A"**. TBNA's argument is wholly without support concerning the location of Building A.

This Memorandum analyzes each of these points in more detail below.

II. TRAFFIC

TBNA makes two arguments regarding traffic. First, TBNA argues that Applicant has not satisfied CDC 55.100(I)(1), because the intersection of Tannler and Blankeship will operate at LOS F after the development. Second, TBNA argues that approval of this application should be denied until the City settles on an overall solution to traffic issues involving 10th Street. Both arguments are wrong.

A. APPLICANT HAS SATISFIED CDC 55.100(I)(1)

To make its first argument, TBNA takes one sentence out of context from a multi-paragraph set of code criteria. That is a mistake, because to determine the meaning of an ordinance provision, the provision must be interpreted as a whole and in context. *PGE v. BOLI*, 317 Or 606 (1986). Examining the structure of CDC 55.100(I)(1) as a whole shows the error in TBNA's argument.

TBNA is apparently relying on the following sentence from CDC 55.100(I)(1) to make its argument: "Road and driveway *alignments* should *consider* and *mitigate* impacts on adjacent properties in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare." (Emphasis added.) On its face, this factor only deals with road and driveway alignments, not other issues. Furthermore, this sentence is part of a larger paragraph that begins, "[i]n determining the appropriate sizing of the street * * *." The paragraph does not answer who is to make the determination. Instead, that is stated in the preceding paragraph, which specifies, "[t]he City Engineer shall determine the appropriate level of street and traffic control improvements to be required * * * based upon the transportation analysis submitted." Putting things back in their proper order, the City Engineer is to decide what street and traffic control improvements are needed, and in that process he or she must "consider and mitigate [road and driveway alignment]

impacts.” In addition, according to the third paragraph the City Engineer must also consider how the design relates to several other factors not raised by TBNA.

The question before this Commission is not whether Applicant has eliminated every impact of the development, but whether the City Engineer in conjunction with the Applicant’s transportation analysis has considered and mitigated impacts of road and driveway alignments. TBNA makes no argument about road alignments, and the staff report makes clear that the City has adequately considered all forms of mitigation.

Mitigate does not mean eliminate. Instead, according to the dictionary it means to reduce or lessen an impact. Webster’s Third New International Dictionary (1993). Here, the staff has made a choice, which is what the application of factors requires, that meets the multi-factor analysis required by CDC 55.100(I)(1). Staff Report pp. 22-23. Staff found that signalizing the intersection would result in gridlock of an even worse nature than not signalizing the intersection. Staff also found that most of the time the intersection will operate properly because of platooned traffic, and little traffic from the project will use the intersection. Albertsons’ customers will tend to use the new signal planned as mitigation, not the subject intersection, and signals would have at least the same effect on the neighborhood, as does this solution.

In reaching the balance required by the code provision, the Commission should also keep in mind, as Mr. Ramis explained, that Applicant cannot be made responsible for fixing deficiencies in the current system. Applicant’s proposal mitigates for the systemic impacts of the development, does not foreclose additional solutions, and is in compliance with the Code. Applicant has met its burden of proof on this issue.

**B. THE COMMISSION SHOULD NOT DENY THE APPLICATION BASED ON
SPECULATION THAT A SYSTEM-WIDE SOLUTION MAY BE FORTHCOMING**

TBNA has suggested that the Commission should deny this application to wait for completion of the study the City is undertaking of traffic issues involving 10th Street. The Commission should reject this suggestion for two reasons. First, no Code criterion would allow the Commission to make a decision on that basis. However, “[a]pproval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance.” ORS 227.173. See also CDC 55.030(C)(1) (“The * * * Planning Commission * * * shall approve, approve with conditions, or deny the application based on findings related to the applicable criteria set forth in Section 99.110 and this chapter.”). Denial of the application to wait for the 10th Street study would violate this provision. Second, denying the application to wait for the study would constitute a moratorium not enacted in accordance with ORS 197.524, and thus the decision would be illegal.

III. LOT LINE ADJUSTMENT

TBNA makes two arguments why a lot line adjustment is not available. First, TBNA speculates that conditions of approval or zoning provisions may exist preventing the adjustment. TBNA does not identify any such provisions or any Code criteria that would make them relevant. Therefore, the argument provides no basis to support denial of the application. See ORS 227.173. See also CDC 55.030(C)(1) (“The * * * Planning Commission * * * shall approve, approve with conditions, or deny the application based on findings related to the applicable criteria set forth in Section 99.110 and this chapter.”). Nor is the argument sufficiently specific to require a response from the Applicant or the Commission.

Second, TBNA claims that Applicant is not proposing a "minor" lot line deviation, but CDC does not so limit lot line adjustments. The entire provision states:

The lot line adjustment is intended to allow minor lot line deviations, or to consolidate undersized or irregular shaped lots. *It can also be used* to change a limited number of property lines up to the point that the County Surveyor would determine a re-plat of the subdivision is in order. A replat is the complete reconfiguration and realignment of a subdivision's lot lines.

(Emphasis added). Since the lot line adjustment can be used to change a limited number of property lines, certainly the adjustment of one lot line is permissible. The word "minor" is not a limit on what the Applicant can do, and TBNA's argument is totally irrelevant.

IV. NOISE

The Memorandum in Opposition essentially admits that the development will meet CDC 55.100(D). That section says that if a development would increase certain sounds by more than a certain amount, then it cannot be allowed. TBNA says that the noise study does not deal with this standard, but then admits that Applicant's engineer, an expert witness, is of the opinion that the project would cause no change in ambient noise levels.¹ This is substantial evidence showing that Applicant has satisfied this standard, because, if there is no increase in noise, it necessarily follows that the development will not exceed the threshold specified in the Code provision. Moreover, Applicant's study

¹ Applicant's noise study makes the following prediction:

Even though the ambient degradation rule will not be the controlling criteria for this project, a prediction was made of the change that would occur in the ambient noise level at the four prediction locations if the project was allowed to be constructed. It was predicted that there would be no change in ambient hourly L10 or L50 noise levels with the construction of the [development].

Noise Study at p. 16.

found that “the noise radiating from the office park will meet all state and city noise regulations during all hours.” Noise Study at p. 1.²

V. DRAINAGEWAY/SLOPE

CDC 55.100(B)(3) requires that “[t]he topography and natural drainage shall be preserved to the greatest degree possible.” TBNA tries to insert into this criterion a requirement for an alternatives analysis showing several different possible developments. But nowhere does the criterion require proof by such an alternatives analysis, and it would be improper to insert such a requirement. ORS 174.010 (in interpreting a statute it is impermissible to insert what has been omitted). As staff found, Applicant has shown it satisfies this criterion:

The applicant proposes significant grading on this site, with a general upward slope from Blankenship Road predominantly within the 15 to 25 percent range. However, the applicant has taken significant steps to ensure that the proposal preserves topography and natural drainage to the maximum extent feasible. The upper half of the site is proposed as natural open space. All three proposed buildings are three stories on the uphill sides and four stories on the downhill sides, thus “daylighting” with the slope. Instead of large graded surface parking lots, the applicant proposes a parking structure between the buildings.

There are no natural drainageways on this site. Drainage on the upper portion of the site will remain as is, and drainage from the southern developed portion will be collected and treated at the bottom of the project site near Blankenship Road.

Given these site design proposals, staff believes that the application satisfies this criterion.

Staff Report pp. 09-10.

² The study also found that the degradation rule in CDC 55.100(D) is less stringent under these circumstances than the other applicable rules. Therefore, the correct comparison is to the maximum allowable hourly statistical sound level limits, which the application satisfies. See Noise Study at pp. 8 and 15-16.

VI. CONSTRUCTION STEPS

The three buildings Applicant is proposing will be built over time, but not in planned phases. Conditions requiring street improvements are tied to when the buildings are constructed. Several improvements are required at the beginning of the project and several are not needed until the end. This is consistent with *Dolan v. City of Tigard*, 512 US 374 (1994), and CDC 55.100(I)(1), which require that exactions (and the timing of exactions) be roughly proportional to the impacts a development will actually have. Moreover, TBNA does not cite a provision forbidding conditions to be timed to the development of buildings without a formal phasing plan, and no such provision exists.

VII. CONDITIONS

TBNA claims that certain items should be part of the application, but Applicant is required only to show that it is feasible to comply with a condition in order to obtain approval. *See, e.g., Stoloff v. City of Portland*, 51 Or. LUBA 560, 565 (2006) (if a condition is feasible it can be used to satisfy the approval criteria). Here, Applicant has shown joint ownership with the neighboring property, demonstrating that joint access is feasible. Application Exhibit N. Applicant has also shown feasibility of the lighting plan. Application Exhibit K. Applicant has also reached consensus with the City Arborist on the tree planting plan. Staff has agreed to and accepted each of these points as sufficient.

VIII. BUILDING "A"

TBNA complains about the location of Building A, but it cites no Code criteria to support its argument. Hence, the argument is without merit. "Approval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance." ORS 227.173. *See also* CDC 55.030(C)(1)

("The * * * Planning Commission * * * shall approve, approve with conditions, or deny the application based on findings related to the applicable criteria set forth in Section 99.110 and this chapter."). Moreover the argument is not sufficiently developed to require a response by the Applicant and the Commission.

IX. CONCLUSION

None of TBNA's arguments have merit. As the staff found, Applicant has met its burden of proof for approval of the application. The Commission should therefore reject TBNA's arguments and enter findings and an order approving the application.

DATE: December 19, 2006

CABLE HUSTON BENEDICT
HAAGENSEN & LLOYD, LLP

By: G. Frank Hammond
G. Frank Hammond, OSB No. 85223
Attorneys for Applicant,
Blackhawk, LLC

Macintosh HD:Users:frankhammond:Documents:Blackhawk:Rebuttal Memorandum 1.doc

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

In re DESIGN REVIEW WEST LINN
CORPORATE PARK II, NW CORNER OF
TANNER AND BLANKENSHIP,
"TANNER WEST"

File No. DR-06-24

APPLICANT'S MEMORANDUM IN
OPPOSITION TO STAFF'S PROPOSED
TRAIL CONDITION NO. 8

I. INTRODUCTION

Applicant Blackhawk LLC ("Applicant") and the City's staff have reached agreement on most of the conditions of approval for this application. Those conditions include millions of dollars of traffic and pedestrian improvements that the City will be exacting from Applicant. But staff continues to insist that Applicant dedicate and improve a pedestrian trail through the northern portion of the site. In particular, proposed Condition 8 provides as follows:

The applicant shall realign the pedestrian trail along the northern boundary of the site, relocating it through the open space area so as to maintain a maximum grade of 12%, with stretches of up to 50 feet at a maximum grade of 15%. The realigned trail may terminate at any point along Tanner Drive within 200 feet of the northeast corner of the property. The trail [sic] shall be a width of eight feet, paved with asphalt. The applicant shall dedicate a twenty-foot wide pedestrian easement centered on the constructed trail.

Besides the value of the real property to be taken by the trail, it would cost applicant \$65,000 to \$75,000 to build the trail according to these specifications.

Applicant has not agreed to the staff's proposed condition. Instead, Applicant suggests that the Planning Commission should impose the following more reasonable condition:

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The applicant shall improve the existing pedestrian trail along the northern boundary of the site. The trail shall be a width of eight feet, paved with asphalt. The applicant shall dedicate a fifteen-foot wide pedestrian easement centered on the constructed trail.

The Planning Commission should accept Applicant's alternative, and not impose staff's condition for two reasons.

First, the code does not call for this type of pedestrian trail. But state law and the CDC require that conditions be based on such criteria.

Second, the City has not and cannot show that the imposition of the staff's condition would be roughly proportional to the impacts of the development, and it would thus violate the Takings Clause of the Constitution of the United States, which provides, "nor shall private property be taken for public use without just compensation." The primary purpose of the Takings Clause is to "bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole." *Dolan v. City of Tigard*, 512 U.S. 374, 384 (1994) (quoting *Armstrong v. United States*, 364 U.S. 40, 49 (1960)).

II. THE COMMISSION SHOULD NOT IMPOSE STAFF CONDITION 8

A. THE CODE DOES NOT SUPPORT IMPOSITION OF SUCH A CONDITION

The decision to approve or deny an application must be based on standards and criteria found in the Community Development Code ("CDC"). *See* ORS 227.173. *See also* CDC 55.030(C)(1) ("The * * * Planning Commission * * * shall approve, approve with conditions, or deny the application based on findings related to the applicable criteria set forth in Section 99.110 and this chapter."). Following from this rule, a condition of approval must be based on a standard or criterion found in the development

code. See *Sellwood Harbor Condominium Association v. City of Portland*, 16 Or LUBA 505 (1988).

Here no CDC provision calls for or provides for a trail. CDC 55.100 I 1 deals with street improvements, but does not authorize a pedestrian trail of the type staff is proposing. The Planning Commission should strike proposed Condition 8. Applicant continues to be prepared, however, to improve the existing trail in accordance with its previously proposed condition, although that would not be required under the CDC.

B. THE CITY HAS NOT SHOWN COMPLIANCE WITH *DOLAN v. CITY OF TIGARD*

Dolan v. City of Tigard presented facts remarkably similar to those at issue here. In *Dolan*, Mrs. Dolan proposed a moderate expansion of her plumbing and electrical store. Tigard approved the application with a condition that Mrs. Dolan build and dedicate a bicycle path that went along the top bank of a creek that was behind the store. Tigard argued that the path might mitigate some of the increased traffic that the larger store would generate.

The Supreme Court of the United States found the demand to be unconstitutional under the Taking Clause of the Constitution of the United States. The Court reasoned that the exaction would have been a taking but for the expansion of the store. The Court went on to hold that Tigard therefore bore the burden of showing that the exaction was roughly proportional to the impacts of the development. While precision was not required, some quantification of impacts was necessary in order for Tigard to meet its burden of proof. Because Tigard provided no such quantification, saying only that the path might provide some mitigation, Tigard did not justify the exaction, which the Court then found to be unconstitutional: "[T]he city must make some effort to quantify its findings in support of the dedication for the pedestrian bicycle pathway beyond the

conclusory statement that it *could* offset some of the traffic demand generated."512 U.S. at 395-96 (emphasis added).

Here the City is using much the same type of findings as those relied on by Tigard. Without citing a supporting Code provision, the City essentially argues that the path is a good idea, and that the development "can be expected" to attract some unspecified number of employees and customers who might be deterred by the condition of the existing trail. No attempt is made to quantify how many employees and customers might use the path. Nor is any attempt made to specify and quantify the impact that the path supposedly is reducing. The findings only recite the benefits the trail might "encourage." But the findings admit that the "amount of pedestrian traffic from the north will be a small part of the overall transportation impacts." A condition is nevertheless justified in the staff's view because the extent of the condition is "small in relation to the overall project." But that is not the correct legal standard,¹ and the costs of land and improvements are substantial here.

How do the small traffic impact, and any mitigation of that impact from the trail, compare to the \$65,000 to \$75,000 cost of the trail? Nowhere is there even an attempt to answer that question.

The difficulty is that the * * * findings do not make the [required] comparison at all, or at least not with the specificity that *Dolan* requires. They simply posit the relationship between * * * traffic and the need for the improvements.

J.C. Reeves, 131 Or. App. at 622.

¹ The correct legal standard compares the impacts of the development with the nature and extent of the exaction. *J.C. Reeves Corp. v. Clackamas County*, 131 Or. App. 615, 622 (1994).

Staff also justifies the condition by saying that ordinarily a half-street improvement of Greene Street would be required, but it provides no rough proportionality analysis to determine if such a condition could be imposed here.

The staff's findings do not meet the requirements of *Dolan*. Instead, they are very similar to the findings found inadequate in that case. The Planning Commission should therefore reject staff's proposed Condition No. 8 because it does not meet constitutional standards.

Under the well-settled doctrine of "unconstitutional conditions," the government may not require a person to give up a constitutional right - here the right to receive just compensation when property is taken for a public use - in exchange for a discretionary benefit conferred by the government where the benefit sought has little or no relationship to the property.

Dolan, 512 U.S. at 384. Where the government requires a person to cede property, there is "no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or Fourth Amendment, should be relegated to the status of a poor relation." *Id.* at 392.

III. CONCLUSION

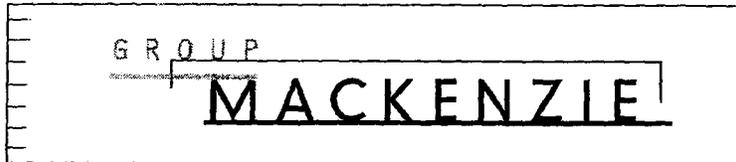
The Planning Commission should impose Applicant's proposed Condition 8. No standards or criteria support exaction of the trail, and exacting the trail would be unconstitutional.

DATE: December 19, 2006

CABLE HUSTON BENEDICT
HAAGENSEN & LLOYD, LLP

By: Frank Hammond
G. Frank Hammond, OSB No. 85223
Attorneys for Applicant,
Blackhawk, LLC

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December 21, 2006

City of West Linn
Attention: Gordon Howard
22500 Salamo Rd #1000
West Linn, OR 97068

Re: **Willamette 205 Corporate Center Phase II**
Rebuttal Statement
Project Number 2060016.00

Dear Gordon:

The following outlines the current status of the City staff's recommended conditions of approval for the subject project, based upon our continued coordination efforts since the last hearing. In addition, the attachment will outline specific points that we would like to highlight during our rebuttal portion of the upcoming hearing.

CONDITIONS OF APPROVAL

All conditions of approval as proposed by staff, and further modified by our letters dated December 4th December 7th, are acceptable except as follows.

Condition 5. The applicant shall plant 24 196 caliper inches of replacement trees to mitigate the removal of Pacific Madrone species significant trees required by improvements to Tannler Drive on the southeastern portion of the property. A plan showing the location and species of these trees shall be reviewed and approved by the City Arborist, and the trees shall be planted or a bond posted guaranteeing their planting prior to occupancy of any structures. Replacement trees are to be planted within the landscaped portions of the site as is shown on the applicant's landscape plan, and not among the northern portion of the site.

Comment: Based on recent communication with staff and the City Arborist, it has been agreed upon that the proposed plantings associated with the project (approximately 408 caliper inches of trees) will be adequate to mitigate the removal of 24" of Pacific Madrone species.

0690 SW Bancroft St | PO Box 69039 | Portland, OR 97239-0039
Tel: 503.224.9560 Web: www.gipmack.com Fax: 503.228.1285

Group
Mackenzie,
Incorporated

Group
Mackenzie
Engineering,
Incorporated

Locations:

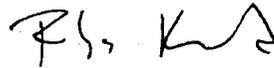
City of West Linn
Willamette 205 Corporate Center Phase II
Project Number 2060016.00
December 21, 2006
Page 2

Condition 6. In accordance with Section 55.100.B.2.b, (t)he applicant shall place a general conservation easement over significant trees within the northern, undeveloped portion of the site that prohibits any disturbance or improvements without approval of the City of West Linn. (Alternatively, the applicant may choose to dedicate this area to the city.)

Comment: Coordination with staff since the previous hearing has lead to acceptance of this condition of approval as revised in the December 7th letter, with the understanding that conservation easements will be provided over healthy significant trees in the upper portion of the site. Specifically trees numbered 1 and 2 (not on property included in this application); 10, 11, 13, 17, 25, 32, 36, 37, 38, 40 and 45 as described in the applicant's tree inventory, will not have easements placed over them as these trees are all identified as having major defects, and recommended as a hazard and either to be removed or not to preserve by the project arborist. Staff and the City Arborist have agreed upon these findings.

We want to thank you again for your efforts regarding this project.

Sincerely,



Rhys Konrad, Planner

Enclosures: Applicant's Memorandum in Opposition (Frank Hammond, Attorney)
Applicant's Memorandum on Rebuttal (Frank Hammond, Attorney)
Summary of Applicant's Rebuttal to Hearing Testimony (Group Mackenzie)

c: Jeff Parker, Bill Wilt, Rod Livesay – Blackhawk Development
Frank Hammond – Cable Huston Benedict Haagensen & Lloyd LLP
Bob Thompson, Tom Wright – Group Mackenzie

Howard, Gordon

From: Trang Medlin [Trang@bethanyvillage.com]
Sent: Thursday, December 21, 2006 9:08 AM
To: Howard, Gordon
Cc: Brown, Bryan
Subject: Testimony for Tonight's meeting

To; West Linn Planning Commissioners;
Re; Tannler West

We have reviewed the application and the staff report for referenced development proposal. We respectfully request that you review the traffic mitigation improvements proposed by Tannler West application and confirm that they do not adversely impact the access or any other traffic or development opportunities of the Tannler East property.

Thank you.
Roy Kim
RKm Development

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**CITY OF WEST LINN
 PLANNING COMMISSION PUBLIC HEARING
 DATE: DECEMBER 7, 2006**

FILE NO.: DR-06-24

REQUEST: CONSTRUCTION OF THREE OFFICE BUILDINGS AND A PARKING STRUCTURE AT THE NORTHWEST CORNER OF BLANKENSHIP ROAD AND TANNLER DRIVE

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**City of West Linn
PLANNING & BUILDING
DEPT.
LAND USE ACTION**

TO: West Linn Planning Commission
FROM: West Linn Planning Staff (Gordon Howard, Senior Planner)
DATE: December 7, 2006
FILE NO: DR 06-24
SUBJECT: CONSTRUCTION OF THREE OFFICE BUILDINGS AND A
PARKING STRUCTURE AT THE NORTHWEST CORNER OF
BLANKENSHIP ROAD AND TANNER DRIVE

Planning Director's Initials *Beh* City Engineer's Initials *idw*

SPECIFIC DATA

OWNER/APPLICANT:

Blackhawk LLC, 2020 SW 8th Ave., West Linn, OR 97068

ARCHITECT'S REPRESENTATIVE:

Group MacKenzie, P.O. Box 69039, Portland, OR 97239

SITE LOCATION: Northwest corner, Blankenship Road and Tanner Drive

SITE SIZE: 11.3 acres

LEGAL

DESCRIPTION: 2S 1E 35C, Tax Lots 100, 102, and 2500

COMP PLAN

DESIGNATION: Commercial

ZONING: OBC Office Business Commercial

APPROVAL

CRITERIA: CDC Chapter 55, Design Review

120-DAY RULE: The application was deemed complete on November 3, 2006.
Therefore, the City must exhaust all local review by March 3, 2007
per the 120-day rule.

PUBLIC NOTICE: Mailed public notice to property owners within 500 feet on November 15, 2006. The property was posted on November 20, 2006. Therefore, the public notice requirements of the West Linn Community Development Code have been met.

SPECIFIC PROPOSAL

The applicant proposes a three-building office complex on this 11.3 acre site. The buildings would be each three to four stories on the sloping site, each of approximately the same size. The total square footage for the three buildings is 289,000 square feet. One of the buildings would be located facing Blankenship Road, while the other two would be in the middle of the site.

The applicant also proposes a terraced parking structure of three levels on the sloping site between the building in the front and the other two buildings. The structure and surface parking lots would have a total of 835 spaces.

The applicant has purchased the adjacent Willamette 205 Corporate Park to the west, and is proposing an integration of parking and access between the two sites. Primary access to and from the site would be via the existing driveway to the Willamette 205 Corporate Park site, which would have a traffic signal installed. The intersection of Tannler Drive and Blankenship Road would remain unsignalized. Access to the site from Tannler Drive would be from a driveway that would prohibit left turns out onto Tannler Drive (up the hill).

Approximately one-half of the site on the north end of the property would be preserved as open space, adjacent to existing residential development to the north. The applicant proposes to remove only those significant trees on the site that are adjacent to the Tannler Drive right of way or which have been identified as diseased or hazardous (and thus, in effect, not significant).

MAJOR ISSUES

Traffic

Traffic issues are discussed fully under Finding No. 37 below in the Staff Report Addendum.

Storm Drainage

Storm Drainage issues are discussed Fully under Finding No. 38 below in the Staff Report addendum.

Site Design

The proposal is the largest commercial development ever proposed within the city of West Linn in terms of building size. The Commission must consider closely each of the

design review approval criteria set forth in the Staff Addendum when considering whether this project should be approved. Please review the specific staff recommendations on each approval criterion within the Addendum.

In summary, staff believes that the applicant has met the burden of proof and that the application as proposed, and with the proposed conditions of approval, satisfies all of the approval criteria.

RECOMMENDATION

Staff recommends that Planning Commission adopt the applicant's findings, as supplemented by staff, and that the Commission approve the application as proposed, with the following conditions of approval.

1. The applicant shall not allow construction of any walls, entryway features, or signs that would impair clear vision at the intersection of Tannler Drive and the access driveway from Tannler Drive pursuant to the standards of Community Development Code (CDC) Chapter 42.
2. The applicant shall provide satisfactory legal evidence establishing joint use of the existing driveway access to Blankenship Road on the adjacent Willamette 205 Corporate Park property (1800 Blankenship Road) to the west. Such evidence shall be in the form of deeds, easements, leases, or contracts to establish joint use, and shall be placed on permanent file with the City.
3. The applicant shall preserve trees #6, #7, and #12 as identified on Sheet C 1.1 and in the arborist's tree inventory along the northern portion of the site adjacent to Tannler Drive. Tree #5 is not significant and may be removed.
4. The applicant shall not remove any of the trees designated as "hazard" trees amongst trees #1-#53 unless approved by the City Arborist through the tree removal provisions of the West Linn Municipal Code.
5. The applicant shall plant 196 caliper inches of replacement trees to mitigate the removal of significant trees required by improvements to Tannler Drive on the southeastern portion of the property. A plan showing the location and species of these trees shall be reviewed and approved by the City Arborist, and the trees shall be planted or a bond posted guaranteeing their planting prior to occupancy of any structures.
6. The applicant shall place a general conservation easement over the northern, undeveloped portion of the site that prohibits any disturbance or improvements without approval of the City of West Linn. Alternatively, the applicant may choose to dedicate this area to the city.
7. Prior to any site development or grading, the applicant shall delineate the southern boundary of the proposed open space area with an anchored chain link fence. The fence shall remain in place until the completion of all site development work.
8. The applicant shall realign the pedestrian trail along the northern boundary of the site, relocating it through the open space area so as to maintain a maximum grade of 12%, with stretches of up to 50 feet at a maximum grade of 15%. The

realigned trail may terminate at any point along Tannler Drive within 200 feet of the northeast corner of the property. The trail shall be a width of eight feet, paved with asphalt. The applicant shall dedicate a twenty-foot wide pedestrian easement centered on the constructed trail.

9. Prior to occupancy of the lower building on the site, the applicant shall have completed all street and traffic improvements listed as "Phase I mitigation" in the application (particularly, the November 3, 2006 letter from the applicant's traffic engineer, including the recommendations from city traffic consultant Carl Springer in his memorandum dated October 30, 2006. Prior to occupancy of either of the two upper buildings on the site, the applicant shall have completed all improvements listed as "Full Development Mitigation" in the application (as stated in the same letter as above). All improvements must be coordinated with and approved by the City (and ODOT in their areas of responsibility).
10. The applicant shall complete half-street improvements to Tannler Drive along the property frontage, consisting of sidewalk and planter strip to current city standards. The planter strip may be eliminated in locations where preservation of significant trees is required.
11. The applicant shall submit a street lighting plan and shall install street lights pursuant to that plan along both Blankenship and Tannler to illumination standards of the City of West Linn.
12. The applicant shall construct a bus shelter adjacent to the existing Tri-Met bus stop at the corner of Tannler Drive and Blankenship Road to design specifications of Tri-Met.

ALTERNATIVE STORM DRAINAGE CONDITIONS

13. The applicant shall provide an above-ground storm detention and treatment system built to city standards with specific design approved by the City Engineer. The revised application shall show adjustments to the area around the lower building as necessary.
13. The underground storm water detention and treatment facility shall be private and shall meet City design standards. The applicant shall execute a maintenance agreement that provides for proper operation of the storm water system, requires annual reports to the city regarding ongoing maintenance and operation of the facility, requires professional certification that the facility is operating to city-prescribed standards, allows for city inspection of the facility upon reasonable notice, and requires and guarantees improvements or repair of the system as directed by the City Engineer or Public Works Operations Manager

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ADDENDUM

APPROVAL CRITERIA AND FINDINGS

DR 06-24

Staff recommends adoption of the findings for approval, along with those contained within the applicant's submittal:

55.100 APPROVAL STANDARDS - CLASS II DESIGN REVIEW

A. *The provisions of the following chapters shall be met:*

1. *Chapter 33, Storm Water Quality and Detention*

FINDING NO. 1:

The applicant has provided a storm water report, which the City Engineer has determined, meets all of the requirements set forth in Chapter 33. Therefore, the application satisfies this criterion.

2. *Chapter 34, Accessory Structures.*

FINDING NO. 2:

No accessory structures are proposed. Therefore, this criterion is irrelevant.

3. *Chapter 38, Additional Yard Area Required.*

FINDING NO. 3:

The applicant does not propose any exceptions, projections, etc., nor is additional yard area required. Therefore, this criterion is irrelevant.

4. *Chapter 40, Building Height Limitations and Exceptions.*

FINDING NO. 4:

All proposed building projections above the height limit allowed are not for human habitation (HVAC units), and thus are permitted. Therefore, the application satisfies this criterion.

5. *Chapter 42, Clear Vision Areas.*

FINDING NO. 5:

The application satisfies the required clear vision areas for the corner of Tannler and Blankenship. While the applicant has not demonstrated that the clear vision requirement for the intersection of Tannler and the access driveway has been met, the site plan shows only graded areas adjacent to this intersection. Therefore, with the imposition of condition of approval # 1, the application satisfies this criterion.

6. *Chapter 44, Fences & Screening Outdoor Storage.*

FINDING NO. 6:

No fences are proposed within the setback areas. No outdoor activities other than solid waste facilities are proposed. Therefore, this criterion is irrelevant.

7. Chapter 46, Off-Street Parking and Loading.

FINDING NO. 7:

The applicant has thoroughly addressed all parking issues in the submittal.

In response to staff concerns, the applicant has supplied information on phasing of the proposed parking structure to match the phasing of the proposed buildings. The concern is that the site not be "over-parked" or "under-parked" as the three buildings are built at different times. The applicant has supplied two alternative methods to accomplish this, either of which is appropriate. The applicant wishes to choose one of the two methods at the building permit stage when construction costs are more definite. Staff sees no reason to object to this request, as each alternative fully implements the proposed plan.

The application satisfies this criterion.

8. Chapter 48, Access.

FINDING NO. 8:

The applicant's site plan addresses most aspects of the provisions in Chapter 48 relating to private site access. However, the following issue remains:

CDC 48.020(E) states that when owners of two or more parcels of land agree to utilize jointly the same access and egress, they must provide satisfactory legal evidence that such joint use is established and cannot be revoked. The applicant proposes shared use of an existing driveway on the Willamette 205 Corporate Park site to the west, and thus must provide this agreement. Since the applicant owns the adjacent site, such an agreement is easily obtainable. Therefore, with the imposition of condition of approval # 2, the application satisfies this criterion.

9. Chapter 52, Signs.

FINDING NO. 9:

The applicant has submitted a sign plan (sheet C 2.2) showing a proposed monument sign consistent with the requirements of CDC Chapter 52. Future individual building signs shall be subject to subsequent sign permits. Therefore, the application satisfies this criterion.

10. Chapter 54, Landscaping.

FINDING NO. 10:

The application contains a detailed analysis of compliance with the provisions of this CDC chapter, and staff concurs with this analysis. Therefore, the application satisfies this criterion.

B. Relationship to the natural and physical environment.

- 1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the Municipal Code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction.**

FINDING NO. 11:

No heritage trees are located on this site. Therefore, this criterion is irrelevant.

2. ***All heritage trees, as defined in the Municipal Code, all trees and clusters of trees (cluster is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections 2(a-f) below. In cases where there is a difference of opinion on the significance of a tree or tree cluster, the City Arborist's findings shall prevail. It is important to acknowledge that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.***
 - a. ***Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by either the dedication of these areas or establishing tree conservation easements. Development of Type I and II lands shall require the careful layout of streets, driveways, building pads, lots, and utilities to avoid heritage trees and significant trees and tree clusters, and other natural resources pursuant to this code. The method for delineating the protected trees or tree clusters ("dripline + 10 feet") is explained in subsection (b) below. Exemptions of subsections (c), (e), and (f) below shall apply.***
 - b. ***Non-residential and residential projects on non-Type I and II lands shall set aside up to 20 percent of the area to protect trees and tree clusters that are determined to be significant, plus any heritage trees. Therefore, in the event that the City Arborist determines that a significant tree cluster exists at a development site, then up to 20 percent of the non-Type I and II lands shall be devoted to the protection of those trees, either by dedication or easement. The exact percentage is determined by establishing the driplines of the trees or tree clusters that are to be protected. In order to protect the roots which typically extend further, an additional 10-foot measurement beyond the dripline shall be added. The square footage of the area inside this "dripline plus 10 feet" measurement shall be the basis for calculating the percentage (see figure below). The City Arborist will identify which tree(s) are to be protected. Development of non-Type I and II lands shall also require the careful layout of streets, driveways, building pads, lots, and utilities to avoid significant trees, tree clusters, heritage trees, and other natural resources pursuant to this code. Exemptions of subsections (c), (e), and (f) below shall apply. Please note that in the event that more than 20 percent of the non-Type I and II lands comprise significant***

trees or tree clusters, the developer shall not be required to save the excess trees, but is encouraged to do so.

- c. Where stubouts of streets occur on abutting properties, and the extension of those streets will mean the loss of significant trees, tree clusters, or heritage trees, it is understood that tree loss may be inevitable. In these cases, the objective shall be to minimize tree loss. These provisions shall also apply in those cases where access, per construction code standards, to a parcel is blocked by a row or screen of significant trees or tree clusters.*
- d. For both non-residential and residential development, the layout shall achieve at least 70 percent of maximum density for the developable net area. The developable net area excludes all Type I and II lands and up to 20 percent of the remainder of the site for the purpose of protection of stands or clusters of trees as defined in CDC Section 55.100(B)(2).*
- e. For arterial and collector street projects, including Oregon Department of Transportation street improvements, the roads and graded areas shall avoid tree clusters where possible. Significant trees, tree clusters, and heritage tree loss may occur, however, but shall be minimized.*
- f. If the protection of significant tree(s) or tree clusters is to occur in an area of grading that is necessary for the development of street grades, per City construction codes, which will result in an adjustment in the grade of over or under two feet, which will then threaten the health of the tree(s), the applicant will submit evidence to the Planning Director that all reasonable alternative grading plans have been considered and cannot work. The applicant will then submit a mitigation plan to the City Arborist to compensate for the removal of the tree(s) on an "inch by inch" basis (e.g., a 48-inch Douglas Fir could be replaced by 12 trees, each 4-inch). The mix of tree sizes and types shall be approved by the City Arborist.*

FINDING NO. 12:

The applicant has provided a complete inventory of trees on the site as well as some trees on the adjacent property to the west and in the Tannler Drive right of way. The applicant has also provided an analysis by an arborist of all 123 identified trees on the site. The City Arborist has reviewed the applicant's report and concurs with its findings, except has detailed below.

Trees on this site can be divided into three general clusters. Trees #1-#53 are located in the northern portion of the site, the portion proposed for preservation as open space. 38 of these trees are Oregon White Oaks, an important species in this area. The applicant proposes to remove trees located immediately adjacent to Tannler Drive, which the applicant contends are not significant, and also proposes to remove several "hazard" trees within the site.

Staff does not agree with the applicant's proposal to remove trees along Tannler Drive within this open space area, because the street is not being widened and another part of the overall plan proposes a curb-tight sidewalk along this portion of Tannler so as to preserve these very trees. Staff proposes a condition of approval requiring the applicant to preserve these trees – such a condition would not impact the applicant's project design, since this portion of the site will be preserved as open space.

Staff also does not completely concur with the applicant's proposal to remove hazard trees within the open space area. While any hazard tree should be removed if it poses a danger to life or property, several of the hazard trees within this area may, if they fall, not damage property or endanger persons using adjacent streets, trails, or buildings. Therefore, staff proposes a condition of approval that requires specific City Arborist approval for removal of any hazard trees within this area, pursuant to the provisions of the West Linn Municipal Code for tree protection.

Trees #54-#73 are located along the lower western property boundary. They consist of small landscaping trees, and are not significant. They are proposed for removal as part of the application.

Trees #74-#123 are located along the lower eastern boundary of the property, adjacent to Tannler Drive. While some of these trees are individually significant, they will all be impacted by the necessary improvements to Tannler Drive associated with the project. Therefore, they fall under the exception of CDC 55.100(B)(2)(f) recited above, and may be removed. However, the applicant will need to mitigate for the loss of these trees with the planting of new trees on site on an inch by inch basis. There are total of 619 caliper inches of trees within this area, but not all of the trees are significant. Limiting significant trees to those that are both rated in "good" health and have no major or non-correctible defects, the caliper inches of significant trees in this area drops to 196. Therefore, the applicant must plant 196 caliper inches of replacement trees on the site, of a species, size, and location approved by the City Arborist.

The applicant will also need to provide a secure protection measure for the significant trees on the northern portion of the site during construction, and must place a conservation easement over the area of significant trees to ensure long-term preservation.

Therefore, with the imposition of conditions of approval # 3, #4, #5, #6, and #7, the application satisfies this criterion.

3. *The topography and natural drainage shall be preserved to the greatest degree possible.*

FINDING NO. 13:

The applicant proposes significant grading on this site, with a general upward slope from Blankenship Road predominantly within the 15 to 25 percent range. However, the applicant has taken significant steps to ensure that the proposal preserves topography and natural drainage to the maximum extent feasible. The upper half of the site is proposed as natural open space. All three proposed buildings are three stories on their uphill sides and four stories on their downhill sides, thus "daylighting" with the slope. Instead of large graded surface parking lots, the applicant proposes a parking structure between the buildings.

There are no natural drainageways on this site. Drainage on the upper portion of the site will remain as is, and drainage from the southern developed portion will be collected and treated at the bottom of the project site near Blankenship Road.

Given these site design proposals, staff believes that the application satisfies this criterion.

4. ***The structures shall not be located in areas subject to slumping and sliding. The Comprehensive Plan Background Report's Hazard Map, or updated material as available and as deemed acceptable by the Planning Director, shall be the basis for preliminary determination.***

FINDING NO. 14:

The West Linn Comprehensive Plan considers lands in excess of 25% slope to have “physical limitations” relating to potential slumping and sliding of soil. While this site has some natural slopes over 25%, they are all in the upper portion of the site proposed to remain as open space. The city has no information indicating a particular slumping or sliding soils hazard on this particular site. Therefore, the application satisfies this criterion.

5. ***There shall be adequate distance between on site buildings and on site and off site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection.***

FINDING NO. 15:

The site plan separates proposed buildings and structures with open areas. Distances between buildings are at least forty feet, and the closest off-site building has 49 feet of separation. The Tualatin Valley Fire & Rescue District has reviewed the plans and expressed no objections. Therefore, the application satisfies this criterion.

6. **Architecture.**
 - a. ***The predominant architecture of West Linn identified in the West Linn vision process was contemporary vernacular residential designs emphasizing natural materials: wood with brick and stone detail. Colors are subdued earth tones: greys, brown, off-whites, slate, and greens. Pitched roofs with overhanging eaves, decks, and details like generous multi-light windows with oversized trim are common. Also in evidence are the 1890s Queen Anne style homes of the Willamette neighborhood. Neo-traditional homes of the newer subdivisions feature large front porches with detailed porch supports, dormers, bracketed overhanging eaves, and rear parking for cars. Many of these design elements have already been incorporated in commercial and office architecture.***

FINDING NO. 16:

The proposed buildings and parking structure cannot be characterized as “contemporary vernacular residential designs.” They could be more appropriately characterized as “contemporary vernacular office building design.” However, it should be noted that this particular code section does not include a requirement that all structures within the city conform to “contemporary vernacular residential design.” Since there is no prescriptive

aspect to this approval criterion, staff believes that the city must look to the other architectural design review approval criteria for guidance in analyzing the particular architectural approach of this application. Therefore, the criterion is, if not irrelevant, then not applicable in a prescriptive manner.

- b. *The proposed structure(s) scale shall be compatible with the existing structure(s) on site and on adjoining sites. Contextual design is required. Contextual design means respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing, materials and colors of surrounding buildings in the proposed structure.***
- c. *While there has been discussion in Chapter 24 about transition, it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, or fit, adjacent existing buildings. This transition can be accomplished by selecting designs that "step down" or "step up" from small to big structures and vice versa. Transitions may also take the form of carrying building patterns and lines (e.g., parapets, windows, etc.) from the existing building to the new one.***
- d. *Contrasting architecture shall only be permitted when the design is manifestly superior to adjacent architecture in terms of creativity, design, and workmanship, and/or it is adequately separated from other buildings by distance, screening, grade variations, or is part of a development site that is large enough to set its own style of architecture.***

FINDING NO. 17:

The three proposed buildings are similar in size and scale to existing office buildings located along the north side of Blankenship Road between Tenth Street and Debok Road. The site immediately to the west has two office buildings, one of which is very similar in size and scale to the proposed buildings. Further to the west is a newly constructed office building, the Summerlinn Center, also of similar size and scale to the proposed buildings. The site to the east, subject of a recently denied application, is also zoned Office Business Commercial and can reasonably or at least plausibly be expected to propose buildings of similar size and scale as part of a future application.

While the office buildings existing and proposed in this area are of similar size and scale, they are not of the same design. Unlike other clusters of large office buildings, perhaps most notably along Meadows Road and Kruse Way in Lake Oswego, the existing office buildings on the Willamette 205 Corporate park site and the Summerlinn Center site have different styles, colors, and materials. The style, color, and materials of the three proposed buildings on this site are dissimilar to that of the existing buildings. Thus, when viewing the buildings in succession from Blankenship Road, or viewing them together at a distance, from I-205 or points south, the viewer will see buildings of similar size and scale, but varying style, color, and materials. Although design preferences are certainly subjective, staff believes that the overall perspective of these office buildings is in context with their surroundings, will be a net benefit to the perception of West Linn, and will certainly not be detrimental enough to justify a negative finding regarding these criteria.

Additionally, it should be noted that the Albertson's grocery building, between Blankenship Road and I-205 is also a large building, but its back presents a monolithic, monotonous appearance from I-205. In contrast, this building is placed against a hillside (and does not tower above it), and has numerous variations and architectural features making a positive design statement.

As for the context with residential properties to the north, this site is set well below them, with several hundred feet of intervening wooded open space. In addition, there is approximately 60 feet of elevation difference between the top of the upper site buildings and the ground elevations of the nearest residential properties to the north. This wide separation precludes the need to have an architectural transition between the proposed office buildings and residences to the north.

The application satisfies these criteria.

- e. Human scale is a term that seeks to accommodate the users of the building and the notion that buildings should be designed around the human scale (e.g., his/her size and the average range of their perception). Human scale shall be accommodated in all designs by, for example, multi-light windows that are broken up into numerous panes, intimately scaled entryways, visual breaks (exaggerated eaves, indentations, ledges, parapets, awnings, engaged columns, etc.) in the facades of buildings, both vertically and horizontally.*

The human scale is enhanced by bringing the building and its main entrance up to the edge of the sidewalk. It creates a more dramatic and interesting streetscape and improves the "height and width" ratio referenced in this section.

FINDING NO. 18:

The proposed buildings are located on an uphill-sloped site, which poses potential problems for providing "human scale" to the buildings from Blankenship Road, and from within the project site. The view of the proposed buildings from "up hill" is not a problem, because the buildings will appear shorter from this angle because they are built into the hillside. Along Blankenship, the applicant proposes to place the building as close to the street as topography permits. The building façade along Blankenship would be broken up with differing window treatments, use of balconies, building indentations, and terraced retaining walls. While the building will have a strong physical presence on Blankenship, staff believes that this presence is not too overpowering, and will in fact make this suburban traffic artery a more attractive and inviting place for pedestrians. Within the site, the applicant proposes to break up imposing visages on both the proposed parking structure and on the two proposed upper buildings with similar treatments. The buildings also mute their presence along Tannler because they are "daylighted" into the hillside, and thus will mimic the upward slope along this street. Therefore, the application satisfies this criterion.

- f. The main front elevation of commercial and office buildings shall provide at least 60 percent windows or transparency at the pedestrian level to create more interesting streetscape and window shopping opportunities. One side elevation shall provide at least 30 percent transparency. Any additional side or rear*

elevation, which is visible from a collector road or greater classification, shall also have at least 30 percent transparency. Transparency on other elevations is optional. The transparency is measured in lineal fashion. For example, a 100-foot long building elevation shall have at least 60 feet (60% of 100) in length of windows. The window height shall be, at minimum, three feet tall. The exception to transparency would be cases where demonstrated functional constraints or topography restrict that elevation from being used. When this exemption is applied to the main front elevation, the square footage of transparency that would ordinarily be required by the above formula shall be installed on the remaining elevations at pedestrian level in addition to any transparency required by a side elevation, and vice versa. The rear of the building is not required to include transparency. The transparency must be flush with the building elevation.

FINDING NO. 19:

The proposed buildings contain windows on all elevations in excess of the required transparency standards. The proposed parking structure includes open areas instead of glazing, which conforms with the intent of this standard when considering the proposed use of the building. Therefore, the application satisfies this criterion.

- g. Variations in depth and roof line are encouraged for all elevations. To vary the otherwise blank wall of most rear elevations, continuous flat elevations of over 100 feet in length should be avoided by indents or variations in the wall. The use of decorative brick, masonry, or stone insets and/or designs is encouraged. Another way to vary or soften this elevation is through terrain variations such as an undulating grass area with trees to provide vertical relief.*

FINDING NO. 20:

The proposed buildings include the following provisions to avoid monotony: 1) a curved, rather than straight façade is proposed for all three office buildings, 2) indentations and variations in building facades include use of masonry, balconies, and projections, 3) for the parking structure, use of vertical greenery elements and masonry to break up facades. Therefore, the application satisfies this criterion.

- h. Consideration of the micro-climate (e.g., sensitivity to wind, sun angles, shade, etc.) shall be made for building users, pedestrians, and transit users, including features like awnings.*

FINDING NO. 21:

The applicant proposes use of canopies and shades for excessive sun days and to increase energy efficiency in the buildings. Therefore, the application satisfies this criterion.

- i. The Vision Statement identified a strong commitment to developing safe and attractive pedestrian environments with broad sidewalks, canopied with trees and awnings.*

- j. ***Sidewalk cafes, kiosks, vendors, and street furniture are encouraged. However, at least a four foot wide pedestrian accessway must be maintained per Chapter 53, Sidewalk Use.***

FINDING NO. 22:

The applicant proposes new sidewalks be placed on both Blankenship Road and Tannler Drive. Interior to the site, walkways run adjacent to the buildings and between the buildings. The sidewalks and walkways are adjacent to proposed landscaping. All sidewalks shall have at least six feet of unobstructed width. Therefore, the application satisfies this criterion.

7. ***Transportation Planning Rule (TPR) compliance. The automobile shall be shifted from a dominant role, relative to other modes of transportation, by the following means:***

- a. ***Commercial and office development shall be oriented to the street. At least one public entrance shall be located facing an arterial street; or, if the project does not front on an arterial, facing a collector street; or, if the project does not front on a collector, the local street with highest traffic levels. Parking lots shall be placed behind or to the side of commercial and office development. When a large and/or multi-building development is occurring on a large undeveloped tract (3+ acres), it is acceptable to focus internally; however, at least 20 percent of the main adjacent right-of-way shall have buildings contiguous to it unless waived per CDC Section 55.100(B)(7)(c). These buildings shall be oriented to the adjacent street and include pedestrian-oriented transparencies on those elevations.***

For individual buildings on smaller individual lots, at least 30 lineal feet or 50 percent of the building must be adjacent to the right-of-way unless waived per CDC Section 55.100(B)(7)(c). The elevations oriented to the right-of-way must incorporate pedestrian-oriented transparency.

FINDING NO. 22:

The application proposes a large multi-building development on a site greater than three acres in size. Therefore, internal orientation is allowed, and no public entrance must face either Blankenship Road or Tannler Drive. Despite this, the applicant does propose a direct stairway access from Blankenship Road to the lower building. The main adjacent right of way to this site is Blankenship Road, and the lower building is contiguous to this right of way for more than 20 percent of this frontage. Transparencies from the proposed office buildings face both Blankenship and Tannler. The proposed parking structure is placed between the lower building and the two upper buildings on the site, and is not in front of any of these buildings in relation to Blankenship or Tannler. Therefore, the application satisfies this criterion.

- b. ***Multi-family projects ...***

FINDING NO. 23:

Since this project is commercial in nature, this criterion is irrelevant.

- c. ***Commercial, office, and multi-family projects shall be built as close to the adjacent main right-of-way as practical to facilitate safe pedestrian and transit access. Reduced frontages by buildings on public right-of-ways (a, b, c, above) may be allowed due to extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations, not just inconveniences or design challenges.***

FINDING NO. 24:

Despite the significant grade difference, the proposed lower building adjacent to Blankenship Road has direct pedestrian access from Blankenship via a stairway. Also, this building is directly connected to Tannler Drive, which is topographically feasible. A pedestrian on Blankenship Road will have short walk up Tannler to a pedestrian connection to this building. The site also has three other direct pedestrian connections to Tannler Drive. The two buildings adjacent to Tannler Drive are close to the street right of way. Therefore, the application satisfies this criterion.

- d. ***Accessways, parking lots, and internal driveways shall accommodate pedestrian circulation and access by specially textured, colored, or clearly defined foot paths at least six feet wide. Paths shall be eight feet wide when abutting parking areas or travel lanes. Paths shall be separated from parking or travel lanes by either landscaping, planters, curbs, bollards, or raised surfaces. Sidewalks in front of storefronts on the arterials and main store entrances on the arterials identified in CDC Section 85.200(A)(3)(e) shall be 12 feet wide to accommodate pedestrians, sidewalk sales, sidewalk cafes, etc. Sidewalks in front of storefronts and main store entrances in commercial/OBC zone development on local streets and collectors shall be eight feet wide.***
- e. ***Paths shall provide direct routes that pedestrians will use between buildings, adjacent rights-of-way, and adjacent commercial developments. They shall be clearly identified. They shall be laid out to attract use and to discourage people from cutting through parking lots and impacting environmentally sensitive areas.***

FINDING NO. 25:

Proposed pedestrian pathways connect the buildings and the parking structure, and in addition connect all of the buildings on this site to the existing office development to the west. Therefore, the application satisfies this criterion.

- f. ***At least one entrance to the building shall be on the main street, or as close as possible to the main street. The entrance shall be designed to identify itself as a main point of ingress/egress.***

FINDING NO. 26:

Despite the significant topographic differential, the applicant proposes a stairway entrance to the lower building from Blankenship Road, the main street adjacent to the site. Therefore, the application satisfies this criterion.

- g. Where transit service exists, or is expected to exist, there shall be a main entrance within a safe and reasonable distance of the transit stop. A pathway shall be provided to facilitate a direct connection.**

FINDING NO. 27:

Tri-Met Route 154 runs on Blankenship Road. There is a transit stop adjacent to the project site. The application proposes easy access to the lower building from either Blankenship or Tannler, and direct pedestrian access up Tannler to the upper buildings from the transit stop. Therefore, the application satisfies this criterion.

- h. Projects shall bring at least part of the project adjacent to, or near the main street right-of-way in order to enhance the height-to-width ratio along that particular street. (The height-to-width ratio is an architectural term that emphasizes height or vertical dimension of buildings adjacent to streets. The higher and closer the building is, and the narrower the width of the street, the more attractive and intimate the streetscape becomes.) For every one foot in street width, the adjacent building ideally should be one to two feet higher. This ratio is considered ideal in framing and defining the streetscape.**

FINDING NO. 28:

The lower building is as close to the Blankenship street right of way as is topographically feasible. The height to width ratio is approximately one to one. Therefore, the application satisfies this criterion.

- i. These architectural standards shall apply to public facilities.**
- j. Parking spaces at trailheads shall be located so as to preserve the view of, and access to, the trailhead entrance from the roadway. The entrance apron to the trailhead shall be marked: "No Parking," and include design features to foster trail recognition.**

FINDING NO 29:

No public facilities are proposed, and no trail heads are proposed. Therefore, these criteria are irrelevant.

C. Compatibility between adjoining uses, buffering, and screening.

- 1. In addition to the compatibility requirements contained in Chapter 24, buffering shall be provided between different types of land uses; for example, buffering between single-family homes and apartment blocks. However, no buffering is required between single-family homes and duplexes or single-family attached units. The following factors shall be considered in determining the adequacy of the type and extent of the buffer:**
 - a. The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier.**
 - b. The size of the buffer required to achieve the purpose in terms of width and height.**

- c. *The direction(s) from which buffering is needed.*
 - d. *The required density of the buffering.*
 - e. *Whether the viewer is stationary or mobile.*
2. *On-site screening from view from adjoining properties of such things as service areas, storage areas, and parking lots shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:*
- a. *What needs to be screened?*
 - b. *The direction from which it is needed.*
 - c. *How dense the screen needs to be.*
 - d. *Whether the viewer is stationary or mobile.*
 - e. *Whether the screening needs to be year around.*

FINDING NO. 30:

The proposed development is located two to four hundred feet horizontally and eighty feet vertically from the nearest incompatible development –residential development to the north of the site. This area also has significant oak trees on it, providing further buffer. Therefore, the application satisfies this criterion.

- 3. *Roof top air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.*

FINDING NO. 31:

The applicant proposes decorative coverings for rooftop equipment on the proposed buildings. Therefore, the application satisfies this criterion.

D. Privacy and noise.

- 1. *Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view by adjoining units.*
- 2. *Residential dwelling units shall be placed on the site in areas having minimal noise exposure to the extent possible. Natural appearing sound barriers shall be used to lessen noise impacts where noise levels exceed the design standards of Table 1 below.*
- 3. *Structures or on site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in accordance with the standards in Section 55.100(C) where applicable. Businesses or activities that can reasonably be expected to generate noise shall undertake and submit appropriate noise studies and mitigate as necessary. (See Sections 55.110(B)(11) and 55.120(M).)*

To protect the health, safety, and welfare of the citizens of West Linn, the following design standards are established in Tables 1 and 2. In the case of land uses that are expected to be close to adopted noise standards, follow-up studies in the first year of operation may be

required by a conditional of approval or required by the Planning Director as appropriate in order to monitor compliance.

TABLE 1

Allowable Sound Levels Within 25 Feet of a Dwelling

Type of Sound	7 a.m. - 7 p.m.	7 p.m. - 7 a.m.
Statistical Noise	L50 = 55 dBA	L50 = 50 dBA
	L10 = 60 dBA	L10 = 55 dBA
	L1 = 75 dBA	L1 = 60 dBA
Impulse Sound	100 dB	80 dB

TABLE 2

Center Frequency	Unweighted Sound Level	
	7 a.m. - 7 p.m.	7 p.m. - 7a.m.
31.5 Hz	68 dB	65 dB
63 Hz	65 dB	62 dB
125 Hz	61 dB	56 dB
250 Hz	55 dB	50 dB
500 Hz	52 dB	46 dB
1000 Hz	49 dB	43 dB
2000 Hz	46 dB	40 Db
4000 Hz	43 dB	37 dB

Ambient degradation associated with new noise sources. Any new commercial or industrial development to be built on a vacant or previously unused industrial or commercial site shall not cause or permit the operation of a noise source if the noise levels generated, or indirectly caused by that noise source, would increase the ambient statistical noise levels, L50 or L10, by more than 5 dBA in any one hour. In some instances, the ambient degradation standard may establish lower allowable dBA levels than those established in Table 1, and in those instances, the lower level shall apply. Ambient noise levels shall be determined by a licensed acoustical engineer.

FINDING NO. 32:

The applicant's noise analysis demonstrates compliance with these standards. Therefore, the application satisfies these criteria.

- E. Private outdoor area. This section only applies to multi-family projects...***
- F. Shared outdoor recreation areas. This section only applies to multi-family projects and projects with 10 or more duplexes ...***

FINDING NO. 33:

This is not a residential project. Therefore, this criterion is irrelevant.

G. Demarcation of public, semi-public, and private spaces. *The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas, and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, to provide for crime prevention, and to establish maintenance responsibility. These areas may be defined by:*

- 1. *A deck, patio, fence, low wall, hedge, or draping vine;***
- 2. *A trellis or arbor;***
- 3. *A change in level;***
- 4. *A change in the texture of the path material;***
- 5. *Sign; or,***
- 6. *Landscaping.***

Use of gates to demarcate the boundary between a public street and a private access driveway is prohibited.

FINDING NO. 34:

The application proposes a clear demarcation between the public streets and the private realm of the office development. The public trail on the north end of the site is separated from proposed development by a large open space area.

However, staff foresees one potential issue – the placement of a signal light at the shared driveway with Albertson’s and the existing office development to the west may tempt “cut through” traffic from Tannler Drive to the signal light, either to avoid the unsignalized intersection of Tannler and Blankenship, or to gain more convenient access to off-site uses to the west. Once the development is constructed, this issue will be the applicant’s to resolve through enforcement mechanisms if necessary or desirable – staff does not recommend any conditions of approval or site redesign regarding this potential issue. Therefore, the application satisfies this criterion.

H. Public transit.

- 1. *Provisions for public transit may be required where the site abuts an existing or planned public transit route. The required facilities shall be based on the following:***
 - a. *The location of other transit facilities in the area.***
 - b. *The size and type of the proposed development.***
 - c. *The rough proportionality between the impacts from the development and the required facility.***
- 2. *The required facilities shall be limited to such facilities as the following:***
 - a. *A waiting shelter with a bench surrounded by a three-sided covered structure, with transparency to allow easy surveillance of approaching buses.***

- b. *A turnout area for loading and unloading designed per regional transit agency standards.*
 - c. *Hard-surface paths connecting the development to the waiting and boarding areas.*
 - d. *Regional transit agency standards shall, however, prevail if they supersede these standards.*
3. *The transit stop shall be located as close as possible to the main entrance to the shopping center, public or office building, or multi-family project. The entrance shall not be more than 200 feet from the transit stop with a clearly identified pedestrian link.*
 4. *All commercial business centers (over 3 acres) and multi-family projects (over 40 units) may be required to provide for the relocation of transit stops to the front of the site if the existing stop is within 200-400 yards of the site and the exaction is roughly proportional to the impact of the development. The commercial or multi-family project may be required to provide new facilities in those cases where the nearest stop is over 400 yards away. The transit stop shall be built per 8(b) above.*
 5. *If a commercial business center or multi-family project is adjacent to an existing or planned public transit, the parking requirement may be reduced by the multiplier of .9 or ten percent. If a commercial center is within 200 feet of a multi-family project, with over 80 units and pedestrian access, the parking requirement may be reduced by ten percent or by a .90 multiplier.*
 6. *Standards of Section 85.200(D), "Transit Facilities," shall also apply.*

FINDING NO. 35:

There is an existing Tri-Met bus stop for Route 154, the weekday-only Willamette Shuttle service, at the corner of Blankenship Road and Tannler Drive. While the bus service is minor in nature, it may in the future provide better bus service to the site. The site has significant potential for bus transit to and from the office buildings and the surrounding area. Therefore, the applicant should be required to construct a bus shelter at this location to Tri-Met's specifications for such shelters. The application includes sidewalks to the main building entrances for all three buildings. The building closest to Blankenship has an entrance less than 200 feet from the transit stop. The current transit stop is appropriately located in relation to the proposed development. No parking reduction is proposed. Therefore, with the imposition of condition of approval #12, the application satisfies this criterion.

I. Public facilities.

1. *Streets. Sufficient right-of-way and slope easement shall be dedicated to accommodate all abutting streets to be improved to City's Improvement Standards and Specifications. The City Engineer shall determine the appropriate level of street and*

traffic control improvements to be required, including any off-site street and traffic control improvements based upon the transportation analysis submitted. The City Engineer's determination of developer obligation, the extent of road improvement and City's share, if any, of improvements and the timing of improvements shall be made based upon the City's systems development charge ordinance and capital improvement program, and the rough proportionality between the impact of the development and the street improvements.

In determining the appropriate sizing of the street in commercial, office, multi-family, and public settings, the street should be the minimum necessary to accommodate anticipated traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare.

The realignment or redesign of roads shall consider how the proposal meets accepted engineering standards, enhances public safety, and favorably relates to adjacent lands and land uses. Consideration should also be given to selecting an alignment or design that minimizes or avoids hazard areas and loss of significant natural features (drainageways, wetlands, heavily forested areas, etc.) unless site mitigation can clearly produce a superior landscape in terms of shape, grades, reforestation, and is fully consistent with applicable code restrictions regarding resource areas.

Streets shall be installed per Chapter 85 standards. City Engineer has the authority to require that street widths match adjacent street widths. Sidewalks shall be installed per Section 85.200(A)(3)(e) for commercial and office projects, and Sections 85.200(A)(16) and 92.010(H) for residential projects, and applicable provisions of Chapter 55, Design Review.

FINDING NO. 36:

Traffic Issues

The applicant has presented a comprehensive traffic analysis of the impacts of the proposed project on the surrounding street system, commonly known as the "Tenth Street Corridor" area. The applicant has presented a comprehensive and thorough analysis of traffic issues, and staff wishes to add the following findings to that analysis:

The applicant's proposed traffic mitigation measures include significant street widening and reconfiguration through the entire Tenth Street corridor, from the project site south and east to the intersection of Tenth Street with Eighth Avenue/Eighth Court. At the same time, the city is preparing an update of our Transportation System Plan and is looking at a comprehensive transportation solution for the same corridor.

In a perfect world, the city would prepare a plan for this corridor, and the applicant (and other developers) would then get a development proposal approved that would implement that plan. However, the city does not have the option to do so. The City must consider the applicant's proposed application and traffic mitigation measures based upon the city's current plans and community development code provisions. If the applicant's proposal complies with those provisions, and does not preclude the ability of future projects to also comply with those provisions, the city cannot deny the application based upon traffic issues.

Therefore, the key issues relating to this application are 1) does the applicant's proposed traffic mitigations adequately mitigate traffic impacts from this project? 2) do the applicant's proposed mitigations preclude a future comprehensive solution to the Tenth Street corridor traffic problems to be developed by the city? and 3) do the applicant's proposed mitigations preclude other developers in the area, most notably a future developer of the "Tannler East" property, from mitigating their traffic impacts?

1) Adequate Traffic Mitigation?

The applicant's traffic analysis shows traffic impacts with a proposed signal light at the intersection of Tannler Drive and Blankenship Road. Based upon staff input, the applicant has revised the proposal to move the proposed signal light to the intersection of Blankenship Road and the new combined access driveway from this site and the existing office development to the west. The rationale for this switch, strongly supported by the Oregon Department of Transportation, is that the signal at Tannler and Blankenship is too close to the Blankenship/Salamo/10th Street intersection, and queues from that intersection would inevitably back up into Tannler/Blankenship. A signal at the intersection further away from Blankenship/Salamo/10th would not have the same problem. It would also provide a signalized outlet for both the existing office park and proposed office park to the north, and the Albertson's shopping center to the south.

The intersection of Tannler and Blankenship, with the second driveway to the Albertson's shopping center to the south, would operate at level of service "F" during peak hours for cars wanting to enter Blankenship Road from Tannler and the driveway. The applicant and staff do not propose to restrict any traffic movements at this intersection, as was contemplated with the "Tannler East" project considered earlier this year by the City. While this is not ideal, it should be accepted for the following reasons:

- With queuing cars from the Blankenship/Salamo/10th intersection, this intersection would be impacted and would operate at an unacceptable level of service even if signalized. Additionally, cars waiting in the other direction would queue into the signalized intersection to the east, resulting in even greater traffic gridlock.
- During non-peak hours (and to some extent during peak hours as well) traffic entering Blankenship at this unsignalized intersection will be able to do so with acceptable difficulty because the two lights on either side will result in "platooned" traffic and gaps for left and right turns.
- With a signalized intersection at the west end of the project, very little project traffic will choose to use the Tannler/Blankenship intersection to enter and leave the site, reducing traffic volumes at this intersection.

- Visitors to the Albertson's shopping center will have the option of entering and exiting the center via either a signalized or an unsignalized intersection. The shopping center owners may choose to reconfigure their parking and driveways adjacent to the signalized intersection to maximize ingress and egress, but that is a private decision for the owner to make.
- Users of Tannler from the residential area to the north will be inconvenienced by the lack of a signal at Tannler. But, they would also be inconvenienced by a gridlocked situation due to signals being placed too close to each other along Blankenship. They also have alternative routes to exit their neighborhood from Greene Street and Bland Circle onto Salamo Road.

2) Preclusion of comprehensive solution?

The applicant's proposed traffic mitigations for the Tenth Street corridor and Blankenship Road will result in significant street widening and traffic realignment. Meanwhile, the city is studying the corridor for presentation of a long-range plan to solve traffic issues in the corridor. The transportation engineer preparing the update to the City's Transportation System Plan has reviewed the applicant's proposals, and recommended (and the applicant concurred) moving the proposed signal light from the Tannler Blankenship intersection to the office driveway intersection further west. With this change, the city staff believes that the applicant's proposed mitigations will most likely complement the eventual traffic solution for the Tenth Street corridor..

3) Impact on undeveloped properties:

The applicant's proposed mitigation measures will impact development of future projects in the area. For residential projects far removed from the site these impacts will be minor. The Willamette Marketplace project, currently under appeal to the City Council of the Planning Commission's decision to approve, would not be impacted, and in fact the traffic situation on the south side of I-205 on Tenth Street would be improved with addition of a second southbound lane between the I-205 on/off ramp and Eighth Court.

The project site most impacted by the proposed mitigation measures is "Tannler East," approximately 20 acres on the northeast corner of Tannler and Blankenship, where a mixed use commercial project was denied by the city earlier this year. That project proposed a signal light at Tannler and Blankenship. Under the applicant's plan, there would not be a future signal at this intersection. However, staff believes that the omission of such a signal does not preclude development on the "Tannler East" site with a future project consistent with its Office Commercial zoning, for the following reasons:

- The placement of a signal at Tannler and Blankenship would have the same queuing issues already discussed, issues that would be worse with traffic generated from the "Tannler East" site.
- The "Tannler East" site also has the option of exploring two other access possibilities; reworking of the Tannler/Blankenship/Salamo signal into a four-way signal, and placement of an access on Salamo Road up the hill from the Tannler/Blankenship/Salamo intersection.
- The "Tannler East" project was denied in part because it proposed too much development on the site for the amount of parking provided. So, a future proposal

on this site is likely to be less intensive in use and traffic generation than the proposal denied by the city earlier this year.

- If widening is required on Blankenship or Salamo Roads, it can be accommodated by improvements along the “Tannler East” frontage and directly under the control of the property owner and applicant.

Therefore, with the imposition of conditions of approval # 9, #10, and #11, the application satisfies this criterion.

Pedestrian Issues

The site is bounded on the north by an existing pedestrian trail along the partially vacated Greene Street right of way. The trail as constructed eight years ago travels along the existing right of way (never built because of steep grades) and, as a result has steep up and down sections. If the trail were realigned into the open space area of this property, so as not to eliminate or disturb any significant trees, it would provide a more usable trail with reasonable grades. With the new sidewalk being placed upon the site’s Tannler Drive frontage, the trail will provide pedestrian access from this site to the 435 Summerlinn apartments and condominiums to the northwest.

The exaction of a new trail alignment and improvement is justified by the following facts:

1. To encourage pedestrian activity, it is an objective of the city to provide safe and convenient pedestrian routes, including improvement of pedestrian “short-cuts” that avoid conflicts with automobile traffic and provide advantages to pedestrian traffic over vehicular traffic. See West Linn Comprehensive Plan Pedestrian Policies 1 and 2, in Chapter 12 – Transportation.
2. The current pedestrian trail along the Greene Street right of way was built in a straight line, and has grades in excess of 15%. It is also gravel in many places. If it were realigned in part through the open space area on the northern portion of this site, it would be more usable by pedestrians.

The proposed development includes 289,000 square feet of office space. This office space can be expected to attract employees and customers from residential areas northwest of the site in the Summerlinn apartment/condominium complex, with 435 total residential units. Additionally, trails from the Summerlinn complex connect northerly to residential areas along Bland Circle and Killarney Street with over 100 additional single-family residences. Those wishing to go back and forth between this proposed development and those residences will be deterred from doing so by the condition of the existing trail along Greene Street, and the need to use a more circuitous route along city streets to reach the site by foot otherwise.

3. The proposed trail realignment will allow these potential pedestrian users to more easily go to and from the offices in the project site and these residences. It will thus encourage pedestrian activity, with resulting benefits including reduced automobile traffic, greater community health, and greater options for those without access to automobiles.
4. The amount of pedestrian traffic from the north will be a small part of the overall transportation impacts from this project site. But the proposed exaction is also small in relation to the overall project. The applicant will be required to dedicate a pedestrian

easement and construct a realigned pedestrian trail for approximately 500 lineal feet. The trail need be only eight feet wide, paved. It will be constructed through an open space area, so it will not have any negative impacts upon the applicant's proposed development plan.

Additionally, a portion of Greene Street right of way exists on the northern boundary of the site. Pursuant to CDC 55.100(I), an applicant must normally make half-street improvements of all public streets abutting a site. However, this small portion of Greene Street does not go anywhere, and the topography is such that its improvement would require significant grading. Therefore, the applicant shall be excused from making this half-street improvement, but in return must accommodate pedestrian users who would benefit from such a street construction by realignment the existing pedestrian path through this right of way to a more accessible route.

Given these factors, proposed condition of approval # 8 is roughly proportional to the impacts of the proposed development, and with its imposition, the application satisfies this criterion.

2. ***Drainage.*** *A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine off site impacts from a 25-year storm. The City Engineer shall adjust storm drainage facilities for applications which contain permeable parking surfaces based upon a quantitative analysis of the increased water retention and water quality characteristics of the permeable parking surface.*

Catch basins shall be installed and connected to pipelines leading to storm sewers or drainageways. All plans will then be reviewed by the City Engineer.

FINDING NO. 37

The applicant proposes a private underground detention and treatment facility. The City Engineer, noting that the public works design standard for allowing underground storm detention and treatment is that alternative above-ground ponds and trenches are "impracticable," recommends imposition of a condition of approval requiring the applicant's above-ground storm detention facility be required.

The applicant has presented information as to what such a facility would look like. It would be located at the southeast corner of the site, adjacent to the intersection of Tannler and Blankenship. It would require creation of a retaining wall along Blankenship, because of the slope gradient of the site. The Planning Commission has, in the past, with the Summerlinn Center further west on Blankenship, used aesthetics as a measure of "practicability" and, in that situation, approved an underground detention facility.

Therefore, with the imposition of either alternative condition of approval # 13, the application satisfies this criterion.

3. ***Municipal water.*** *A registered civil engineer shall prepare a plan for the provision of water which demonstrates to City Engineer's*

satisfaction, the availability of sufficient volume, capacity, and pressure to serve the proposed development's domestic, commercial, and industrial fire flows. All plans will then be reviewed by the City Engineer.

FINDING NO. 38:

The application has demonstrated sufficient water availability for the site. However, the city has determined that water transmission is satisfactory to meet the needs of the buildings proposed for the site, but city water storage for full buildout of the city's current comprehensive plan is not available. The City has a limited number of water meters available that are being issued on a "first come first served" basis. Despite this issue, the applicant has satisfied this criterion.

4. ***Sanitary sewers. A registered civil engineer shall prepare a sewerage collection system plan which demonstrates sufficient on-site capacity to serve the proposed development. The City Engineer shall determine whether the existing City system has sufficient capacity to serve the development.***

FINDING NO. 39:

The applicant has demonstrated a satisfactory plan for sanitary sewer disposal from the site. Therefore, the application satisfies this criterion.

5. ***Solid waste and recycling storage areas. Appropriately sized and located solid waste and recycling storage areas shall be provided. Metro standards shall be used.***

FINDING NO. 40

The application proposes appropriate solid waste and recycling storage areas, one for the lower building and one for the upper buildings. Therefore, the application satisfies this criterion.

J. Crime prevention and safety/defensible space.

1. ***Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.***
2. ***Interior laundry and service areas shall be located in a way that they can be observed by others.***
3. ***Mail boxes, recycling, and solid waste facilities shall be located in lighted areas having vehicular or pedestrian traffic.***
4. ***The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.***
5. ***Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps, and abrupt grade changes.***
6. ***Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person. All commercial, industrial, residential, and public facility projects undergoing design review shall use low or high***

pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional. Omni-directional lights of an ornamental nature may be used in general commercial districts only.

7. *Lines of sight shall be reasonably established so that the development site is visible to police and residents.*
8. *Security fences for utilities (e.g., power transformers, pump stations, pipeline control equipment, etc.) or wireless communication facilities may be up to eight feet tall in order to protect public safety. No variances are required regardless of location.*

FINDING NO. 41

The numerous windows throughout the three office buildings and the open views from the sides of the parking structure provide for "eyes on the street." Interior loading areas are also adjacent to the building and easily observable from the building. Lighting is proposed for the outdoor service areas, which are near the buildings. The site is proposed to be evenly and securely lighted, including all vulnerable areas. Fixtures are proposed to be appropriately designed. Lines of sight are available from Tannler Drive into the site. No security fences are proposed or necessary for hazardous equipment. Therefore, the application satisfies these criteria.

K. Provisions for persons with disabilities.

1. *The needs of a person with a disability shall be provided for. Accessible routes shall be provided between all buildings and accessible site facilities. The accessible route shall be the most practical direct route between accessible building entries, accessible site facilities, and the accessible entry to the site. An accessible route shall connect to the public right-of-way to at least one on-site or adjacent transit stop (if the area is served by transit). All facilities shall conform to, or exceed, the Americans with Disabilities Act (ADA) standards, including those included in the Uniform Building Code.*

FINDING NO. 42:

Proposed accessible parking spaces are adjacent to each building, providing direct access. An accessible route is available from both the lower building and the upper buildings to Tannler Drive and via the sidewalk proposed for Tannler Drive to Blankenship Road. The Tannler sidewalk also provides a convenient accessible route between the upper buildings and lower building. Therefore, the application satisfies this criterion.

L. Signs.

1. *Based on considerations of crime prevention and the needs of emergency vehicles, a system of signs for identifying the location of each residential unit, store, or industry shall be established.*
2. *The signs, graphics, and letter styles shall be designed to be compatible with surrounding development, to contribute to a*

sense of project identity, or, when appropriate, to reflect a sense of the history of the area and the architectural style.

3. *The sign graphics and letter styles shall announce, inform, and designate particular areas or uses as simply and clearly as possible.*
4. *The signs shall not obscure vehicle driver's sight distance.*
5. *Signs indicating future use shall be installed on land dedicated for public facilities (e.g. parks, water reservoir, fire halls, etc.).*
6. *Signs and appropriate traffic control devices and markings shall be installed or painted in the driveway and parking lot areas to identify bicycle and pedestrian routes.*

FINDING NO. 43:

The applicant's proposed sign at the corner of Tannler and Blankenship provides appropriate identification to the entire site. While the applicant has not provided details as to address signs and the like, there are no identifiable issues related to such signage. All future signage will be subject to the provisions of CDC Chapter 52. Therefore, the application satisfies this criterion.

- M. Utilities. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting, and cable television, shall be placed underground, as practical. The design standards of Tables 1 and 2 above, and of sub-section 5.484(C) of the West Linn Municipal Code relative to existing high ambient noise levels shall apply to this section.***

FINDING NO. 44:

All private utilities are available to the site. The applicant proposes to have underground utilities within and adjacent to the site. Therefore, the application satisfies this criterion.

- N. Wireless Communication Facilities (WCF).***

FINDING NO. 45:

No wireless communications facilities are proposed. Therefore, this criterion is irrelevant.

**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, 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 envisioning 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 a decrease 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 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

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For Council: February 15, 2007

Department: Planning
Dept. Head Initials: *ACB*

Subject: Appeal of the Planning Commission Approval of a Proposed Office Development on the Northwest Corner of Blankenship Road and Tannler Lane (AP 07-01)

City Manager's Initials: _____

Attachments:
Staff Memorandum
Appeal
Correspondence re: Appeal
P.C. Final Decision
P.C. Draft Minutes
P.C. Hearing Materials
Staff Report to PC

Budget Impact: None

Expenditures	Amount	Appropriation
Required \$ -0-	Budgeted \$ -0-	Needed \$ -0-

Summary:

On December 21, 2006, the West Linn Planning Commission approved DR 06-24, a proposed office development on 11.3 acres at the northwest corner of Blankenship Road and Tannler Drive. The applicant proposes three buildings with a total of 289,000 square feet of office space and a parking structure and surface parking for 839 vehicles. On January 3, 2007, the Tanner Basin Neighborhood Association filed an appeal of the Planning Commission's decision.

Recommended Action:

Uphold the Planning Commission decision and approve the proposed project..

Council Action Taken:

Approved:

Denied:

Continued:

p:/devrvw/agenda bills2007-MIS 07-01 Tannler West

①

January 31, 2007

TO: CHRIS JORDAN, CITY MANAGER

FROM: GORDON HOWARD, SENIOR PLANNER

SUBJECT: AP 07-01, APPEALS OF THE PLANNING COMMISSION DECISION TO APPROVE AN OFFICE DEVELOPMENT AT THE CORNER OF TANNER AND BLANKENSHIP ("TANNER WEST")

PURPOSE

The City Council must consider an appeal filed by the Tanner Basin Neighborhood Association of the Planning Commission's approval of the "Tanner West" project, consisting of three buildings and a parking structure on 11.3 acres at the northwest corner of Blankenship Road and Tanner Drive.

BACKGROUND

The site in question is zoned for Office Business-Commercial uses. The applicant's three buildings total 289,000 square feet of new office space, and would be the largest commercial development in West Linn, except for the paper mill complex. The applicant's four-level parking structure, along with surface parking, would provide space for 835 vehicles. The site plan shows one of the three buildings on the north frontage of Blankenship Road. The parking structure would be behind this building on the upward sloping property. Above the parking structure would be the two remaining office buildings. All three proposed buildings would be approximately the same size, with four stories of space. The northern half of the site would remain as open space.

The site is adjacent to the existing Willamette 205 Corporate Park, with two buildings totaling 90,000 square feet, to the east. The applicant has purchased this project, built in 1999, and proposes to combine access to the two projects onto the main exit for the existing project onto Blankenship Road. Two ancillary access points would be located on Tanner Drive, with left-turn restrictions prohibiting traffic exiting the development from turning north into residential areas. As mitigation for increased traffic impacts, the applicant proposes significant street improvements, discussed more fully below.

DISCUSSION

The following significant issues were raised at the Planning Commission hearing:

1. Traffic

The applicant has presented a comprehensive traffic analysis of the impacts of the proposed project on the surrounding street system, commonly known as the "Tenth Street Corridor" area

(2)

The project as approved by the Planning Commission requires the applicant to construct 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. The rationale for a light at this location instead of at the intersection of Tannler and Blankenship, strongly supported by the Oregon Department of Transportation, is that a signal at Tannler and Blankenship would be too close to the Blankenship/Salamo/10th Street intersection, and queues from that intersection would inevitably back up into Tannler/Blankenship. A signal at the intersection further away from Blankenship/Salamo/10th would not have the same problem. It would also provide a signalized outlet for both the existing office park and proposed office park to the north, and the Albertson's shopping center to the south. A representative of Albertson's testified at the Planning Commission in support of this proposed signal.

The intersection of Tannler and Blankenship, with the second driveway to the Albertson's shopping center to the south, would operate at level of service "F" during peak hours for cars wanting to enter Blankenship Road from Tannler and the driveway. The Planning Commission, based upon the staff and applicant recommendation, did not propose any restrictions on traffic at this intersection, as was contemplated with the "Tannler East" project considered in 2006 by the City (although Tannler Drive will include an exclusive left turn lane at Blankenship). While this is not ideal, it should be accepted for the following reasons:

- With queuing cars from the Blankenship/Salamo/10th intersection, this intersection would be impacted and would operate at an unacceptable level of service even if signalized. Additionally, cars waiting in the other direction would queue into the signalized intersection to the east, resulting in even greater traffic gridlock.
- During non-peak hours (and to some extent during peak hours as well) traffic entering Blankenship at this unsignalized intersection will be able to do so with acceptable difficulty because the two lights on either side will result in "platooned" traffic and gaps for left and right turns.
- With a signalized intersection at the west end of the project, very little project traffic will choose to use the Tannler/Blankenship intersection to enter and leave the site, reducing traffic volumes at this intersection.
- Visitors to the Albertson's shopping center will have the option of entering and exiting the center via either a signalized or an unsignalized intersection. The shopping center owners may choose to reconfigure their parking and driveways adjacent to the signalized intersection to maximize ingress and egress, but that is a private decision for the owner to make.
- Users of Tannler from the residential area to the north will be inconvenienced by the lack of a signal at Tannler. But, they would also be inconvenienced by a gridlocked situation due to signals being placed too close to each other along Blankenship. They also have alternative routes to exit their neighborhood from Greene Street and Bland Circle onto Salamo Road.

The applicant's proposed traffic mitigations for the Tenth Street corridor and Blankenship Road will result in significant street widening and traffic realignment. This widening includes adding a new lane for traffic even on the south side of the intersection, between I-205 and 8th Court. Meanwhile,

the city is studying the corridor for presentation of a long-range plan to solve traffic issues in the corridor. The transportation engineer preparing the update to the City's Transportation System Plan has reviewed the applicant's proposals, and recommended (and the applicant concurred) moving the proposed signal light from the Tannler Blankenship intersection to the office driveway intersection further west.

The Oregon Department of Transportation has recommendations for additional measures for traffic mitigation. However, staff and the Planning Commission inadvertently omitted several of ODOT's recommendations for mitigation. Therefore, staff recommends that Condition of Approval #9 in the Planning Commission's decision be amended to include the additional ODOT mitigation measures. They consist of:

- The addition of an additional 250' queuing lane on the southbound off-ramp for I-205
- Inclusion of a pedestrian island at the southwest corner of the intersection of 10th Street and Blankenship Road at the time a second westbound right lane is added.

With the addition of language requiring improvements consistent with ODOT's November 21, 2006 letter to the Planning Commission, ODOT is satisfied with the proposed improvements.

2. Building Location

The applicant proposes three buildings. One of these buildings is located directly adjacent to Blankenship Road. The appellants have objected to the location and size of this building, believing that it will change the existing streetscape along Blankenship Road to a more undesirable urban character.

However, the appellants apparently do not realize that it is the precise goal of West Linn's Community Development Code to give commercial streets such as Blankenship a more urban, pedestrian friendly character, as opposed to a sprawling suburban commercial environment dominated by automobiles and parking areas. The following factors in the Community Development Code lead to this conclusion:

CDC 21.070(A)(7) allows a height limit of up to 3 ½ stories or 45 feet for buildings in the Office Business Commercial zoning district. The applicant's proposed buildings comply with this standard.

CDC 55.100(B)(7) states, "the automobile shall be shifted from a dominant role, relative to other modes of transportation." Subsection (a) requires new office development to be oriented toward the street, with a public entrance facing the street. Even when internal orientation is allowed for a multi-building development, at least 20% of the street frontage must have buildings oriented toward the street. Subsection (c) requires new office development to be built as close to the adjacent main right-of-way as is practical to facilitate safe pedestrian and transit access. Subsection (f) requires at least one primary building entrance to be facing the main street. Subsection (g) requires safe access from any adjacent transit stop, and Blankenship Road contains transit stops for the Tri-Met Route 154 line. Subsection (h) states the projects must bring buildings close to the street to provide a ratio

of approximately 1:1 in terms of height and street width. The applicant's proposed building satisfies this ratio.

To summarize, the proposed building shall change the character of Blankenship Road. However, such a change is considerable desirable by the City, as is evidenced by the West Linn Community Development Code.

3. Surface Water Detention and Treatment

The applicant proposes underground detention and treatment for storm water from the site. In response to concerns from the City Engineering Department, the applicant provided the Planning Commission evidence that an alternative above-ground detention and treatment pond would, because of site terrain, have to be located along the Blankenship Road frontage of the property. This would result in significant conflicts with all of the building placement and site design issues described above, including moving the building farther away from Blankenship, removing the building's main entrance along Blankenship, and replacing an attractive entryway along Blankenship with a large retaining wall holding a storm detention pond. Additionally, the Planning Commission found that the proposed underground detention and treatment facility would be maintained and operated by a single commercial property owner, not an undefined future homeowners' association. For these reasons, the Planning Commission accepted the applicant's proposal for underground storm water detention and treatment.

4. Other Issues

While other issues were raised during the Planning Commission hearing, the Planning Commission resolved them, and the discussion of these issues is contained within the record of the case.

RECOMMENDATION

Staff recommends that the City Council uphold the decision of the Planning Commission, with the following amendment to Condition of Approval #9:

9. Prior to occupancy of the lower building on the site, the applicant shall have completed all street and traffic improvements listed as "Phase I mitigation" in the application, particularly, the November 3, 2006 letter from the applicant's traffic engineer, including the recommendations from city traffic consultant Carl Springer in his memorandum dated October 30, 2006) **and the recommendations of the Oregon Department of Transportation (ODOT) contained in their letters of November 21, 2006.** Prior to occupancy of either of the two upper buildings on the site, the applicant shall have completed all improvements listed as "Full Development Mitigation" in the application, as stated in the same letter as above, **and as modified or amended by the recommendations of Carl Springer and ODOT.** All improvements must be coordinated with and approved by the City, and ODOT in their areas of responsibility.

Motion

We wish to ratify our December 6, 2006 resolution. We are, therefore, resolving that the Tanner Basin Neighborhood Association opposes the Tannler West application (File No. DR 06-24). We hereby appeal to the West Linn City Council the decision of the West Linn Planning Commission to approve this application. This appeal is based on the application's non-compliance with West Linn Community Development Code Sections 55.100(I)(1) (Traffic), 55.100(D) (Noise), 85.210(A)(3) (Improper Lot Line Adjustment), 55.100(B)(3) (Drainageway/Slope Issues), and other issues brought up at the Planning Commission hearing.

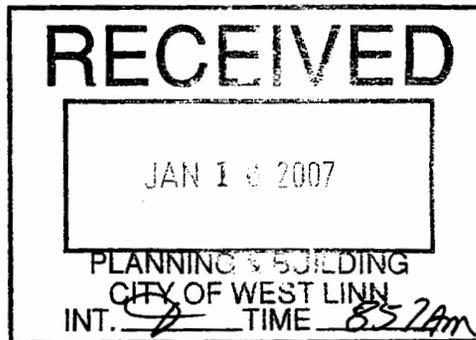
Motion: KEN PRYOR

Second: RON REAMS

Vote: 13 YES - 0 NO

Date: January 3 2006

Signed: David E. Rittenhouse
David Rittenhouse
President



(6)

Motion

The Tanner Basin Neighborhood Association opposes the Tannler West application (File No. DR 06-24) as it is presently proposed. Should the West Linn City Council approve this application in its upcoming hearing on our appeal of the Planning Commission's decision, then we hereby authorize an appeal of the City Council's decision to the Land Use Board of Appeals. This appeal is based on the application's non-compliance with West Linn Community Development Code Sections which may include 55.100(I)(1) (Traffic), 55.100(D) (Noise), 85.210(A)(3) (Improper Lot Line Adjustment), 55.100(B)(3) (Drainageway/Slope Issues), and other issues brought up at the Planning Commission hearing.

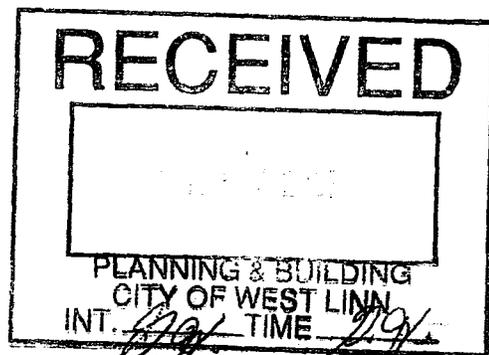
Motion: FD SCHWARZ

Second: KEN PRYOR

Vote: 10-0

Date: 1/23/07

Signed: David Rittenhouse
David Rittenhouse
President



Howard, Gordon

From: Wright, Dennis
Sent: Wednesday, January 24, 2007 11:40 AM
To: Howard, Gordon
Subject: FW: West Linn Corporate Park (Additional) Mitigation
Follow Up Flag: Follow up
Due By: Wednesday, January 24, 2007 10:00 AM
Flag Status: Flagged

Gordon,
This is the info from ODOT regarding their desires for Tannler West application.
Thanks.
Dennis

-----Original Message-----

From: GRASSMAN Jason M [mailto:Jason.M.GRASSMAN@odot.state.or.us]
Sent: Wednesday, January 24, 2007 10:49 AM
To: Wright, Dennis; SPRINGER Carl
Cc: KAZEN Sonya B; JENSVOLD Martin R
Subject: West Linn Corporate Park (Additional) Mitigation

Dennis and Carl;

Here is a summary of the mitigation needs not addressed by the West Linn PC and Group Mackenzie regarding the West Linn Corporated Park. The planning commission accepted the applicant's traffic analysis and proposed mitigation. The proposed mitigation was outlined in Group Mackenzie's November 3, 2006 letter to Gordon Howard.

ODOT can accept the proposed mitigation with the following exceptions:

1. Group Mackenzie recommended either a signal at Tannler/Blankenship or at the West Albertson's driveway. The PC's decision does not specify which one will be conditioned. ODOT and the City's consultant, Carl Springer, P.E of DKS, recommend installing the signal at the West Albertson's driveway which is farther away from the signal at 10th/Blankenship. If a signal is conditioned at Tannler then ODOT recommends that an additional westbound thru/right lane be installed at Tannler to accommodate the anticipated queues which could back up into the 10th St/Blankenship intersection.
2. Applicant not conditioned to provide additional storage on the southbound off-ramp to accommodate a 250' 95th percentile queue (This requires pavement widening) . This should be conditioned as part of Phase 1. This is important; vehicles exiting the freeway need adequate distance to safely decelerate prior to stopping at the ramp terminal.
3. Applicant not conditioned to provide storage for a 300' queue on Salamo

James & Marisol Ohnemus
2285 Tannler Drive
West Linn, OR 97068
January 21, 2007

07 JAN 22 PM 1:43
CITY OF WEST LINN

Norm King, Mayor
City of West Linn
2250 Salamo Road
West Linn, Oregon 97068

Dear Mayor King:

We are writing to urge you to reject the Tannler West development proposal in its current form. The size of the project and the added traffic it will generate are our main concerns.

The current proposal does not adequately mitigate the extra traffic generated by the development. The proposed plan calls for a traffic light at the Albertson's entrance, but no light at the Tannler and Blankenship intersection. Tannler Street is proposed to only get left and right turn lane markings, which will not make it any easier or safer to turn left onto Blankenship. Frustrated motorists who are unable to safely turn left from Tannler onto Blankenship will instead be forced to turn right onto Blankenship and then loop through the Alberston's parking lot before finally turning right onto Blankenship. The Tannler and Blankenship intersection desperately needs a traffic light.

The size of the Tannler West development is also a cause for concern. The project would be more amenable to the neighborhood if it was scaled back in size by 20-25%. The building closest to the corner of Tannler and Blankenship is especially troubling due to its size and location. This building would harmonize better with the neighborhood if it was set back farther from the street and reduced in height from four stories down to three stories. Tannler Street is the gateway to our neighborhood and we do not think it is appropriate to have a large office building abutting the street corner at the entrance to our neighborhood.

We thank you for considering our input on the community and hope you will help preserve the livability of our neighborhood.

Thank you,

James Ohnemus
Marisol Morales-Ohnemus

James & Marisol Ohnemus

(10)

westbound. This should be of concern to the city.

4. Applicant not specifically conditioned to provide the pedestrian island at the southwest corner of the 10th/Blankenship intersection when adding second eastbound right. ODOT recommends that any modifications to this intersection provide adequate access for pedestrians and will have to be approved by the State Traffic Engineer.

Sincerely,

Jason Grassman, P.E.
ODOT Region 1
Development Review Team Leader
123 NW Flanders Street
Portland, OR 97209-4012
Office: 503.731.8221
Fax: 503.731.8259

9



Oregon

Theodore R. Kulongoski, Governor

Oregon Department of Transportation
ODOT Region 1
123 NW Flanders St
Portland, OR 97209 - 4037
Telephone (503) 731-8200
FAX (503) 731-8259

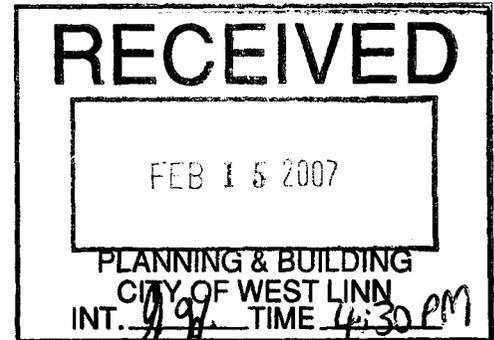
ODOT Case No: 2257

February 9, 2007

City of West Linn
Mayor Norm King & City Councilors
22500 Salamo Rd #1000
West Linn, OR 97068

Attn: Gordon Howard, Sr. Planner

Re: **AP 07-01 (DR06-24): West Linn Corporate Park**
City Council Hearing on Appeal



Dear Mayor King and City Councilors,

ODOT supports the applicant's proposed revisions to Condition 9 of the Planning Commission approval

Condition 9: Prior to occupancy of the lower building on the site, the applicant shall have completed all street and traffic improvements listed as "Phase I mitigation" in the application, particularly, the November 3, 2006 letter from the applicant's traffic engineer, including the recommendations from city traffic consultant Carl Springer in his memorandum dated October 30, 2006) and the recommendations of the Oregon Department of Transportation (ODOT) contained in their letters of November 21, 2006. Prior to occupancy of either of the two upper buildings on the site, the applicant shall have completed all improvements listed as "Full Development Mitigation" in the application, as stated in the same letter as above, and as modified or amended by the recommendations of Carl Springer and ODOT dated October 30, 2006 and November 21, 2006 respectively. All improvements must be coordinated with and approved by the City, and ODOT in their areas of responsibility.

We request City Council impose Revised Condition 9 if they choose to uphold the design review approval.

Unfortunately, the ODOT November 21, 2006 memorandum to Planning Commission did not clearly separate those ODOT-recommended improvements which were in addition to those proposed by the applicant's traffic consultant. As a result, West Linn staff and the Planning Commission did not consider these recommendations in the Planning Staff staff report or PC hearing deliberations, respectively.

We appreciate the City's reconsideration of ODOT recommendations, and the applicant's willingness to accept responsibility to provide this mitigation.

The following provides clarification of the ODOT recommendations in our November 21, 2006 letter.

I-205-10th Street Southbound Off-Ramp

"Applicant shall extend the I-205/10th Street southbound off-ramp to provide queue storage of 250 feet."

We derived this queue storage on the Simtraffic computer model simulation we based on the Synchro analysis provided by the applicant's traffic consultant, Group MacKenzie. 250 feet is the amount of queue storage for the right turn lane which will be needed to provide for the anticipated 95% queue during the weekday peak hour. Currently the southbound off ramp is a single exit lane, which splits into a through-left and a right-turn only lane approximately 310 feet from the ramp intersection this include queue storage plus deceleration distance) at 10th Street. Therefore, the applicant would need to provide approximately an additional 175 feet of widening and lane extension to provide the necessary 485 foot total queue storage plus deceleration distance. (See *ODOT standard drawing RD 225, attached.*)

ODOT's primary safety concern at interchanges is the potential for accidents when vehicles extend from the off-ramp into the high-speed through travel lane. The provision of the additional queue storage on the off-ramp is necessary to mitigate for the applicant's traffic impacts and prevent a potential unsafe condition from developing.

Westbound Salamo at 10th Street

"Applicant shall modify the Salamo approach to 10th Street to provide a shared westbound through/left turn lane with 300 feet of queuing and split phasing at the traffic signal."

ODOT is recommending that the westbound left-turn lane be extended to provide for 300 foot of vehicle queuing. The improvement would need to provide for the queue storage plus deceleration distance plus taper. The existing lane (includes queue, deceleration and taper) is only 300 feet, so would need to be extended. Our recommendation is based on our Simtraffic modeling of the applicant's Synchro analysis

file. Salamo Road is a City street, therefore, the City can apply their accepted roadway standard for the improvement.

The existing 300 foot westbound through/left turn lane does not provide adequate vehicle queue storage length to accommodate the additional site-generated traffic. Failure to lengthen this turn lane would result in operational and potential safety issues on Salamo Road.

Eastbound Blankenship at 10th

"If adding the second right turn lane results in the removal of the pedestrian island at the southwest corner of the intersection, then the signal phasing must be modified and further analysis would be necessary."

This is a "what if" recommendation to ensure that impacts to pedestrian movements at the intersection will be evaluated when the second eastbound right-turn lane on Blankenship Road is designed and if removal of the existing pedestrian island is considered. The objective is that the City and ODOT evaluate the proposed design to ensure that the final design safely provides for pedestrian crossing at the west leg of the Blankenship-10th intersection.

Proportionate Mitigation

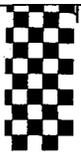
We believe that the ODOT-recommended improvements are necessary to mitigate for the proposal's traffic impacts to the affected state and city transportation facilities. The City SDC ordinance has provisions which would allow the City to collect proportionate shares from subsequent development which benefits from the improvements, and provide partial reimbursement to the applicant, Blackhawk LLC.

Please let me know if you have questions regarding this matter. Please provide a copy of the decision with conditions when it has been issued. Thank you.

Sincerely,

Sonya Kazen, Senior Planner

Cc: Brent Ahrend, Group MacKenzie
Rian Windscheimer, P&D Manager, ODOT R1



January 4, 2007 07 JAN -4 PM 4: 50
CITY OF WEST LINN

West Linn City Council
c/o Norm King, Mayor
22250 Salamo Road
West Linn OR 97068

Re: Tonight's Tannler West Development

Dear City Council:

Few new projects and developments will do more damage to the already overcrowded area of Blankenship/10th Street than the Tannler West Development on your agenda tonight. I apologize that a previous commitment precludes me from attending your meeting, thus I am writing to express my views.

In my 18 years living in the city on Johnson Road, I have seen tremendous growth—more than 50% in overall population in the city and major projects—Albertson's et al and office buildings—on Blankenship. The resulting congestion has created dangerous traffic situations. For example, when I am leaving the Albertson's development I now only use the west exit. It is many times safer than the east one at Tannler and much less congested.

Putting a stop light at the west exit is senseless. Adding hundreds of in/out motorists on that little stretch of Blankenship, plus the increase in rush hour traffic, will be ridiculous. A stop light will only exacerbate a worsening situation, especially when combined with the recently approved stoplight just south of I-205 at 8th Street. Coordinating these lights, along with left turn on-ramp lanes, will be a nightmare. How many other cities have (what would be) five stoplights in a less than half-mile stretch? The notion boggles the mind. The rush hour back ups will be horrendous and intolerable.

The developer's job is to maximize his dollar. Your job, it seems to me, is to balance his legitimate zeal with the more than equal protection and concern for the impact of the developer's activities on our city's residents. After all, when it comes down to it, are you serving the developer or the greater good of the community? Is your master the developer or the citizens you are sworn to represent in their best interests?

Please do the right thing, not only for our current residents, but for those yet to come.

Thank you for your attention, your thoughtful consideration, and your public service.

Sincerely, 

Peter Toll
23373 SW Johnson Road
West Linn OR 97068

(11)

WEST LINN PLANNING COMMISSION

FINAL DECISION NOTICE

DR 06-24

IN THE MATTER OF THE CONSTRUCTION OF THREE OFFICE BUILDINGS AND A PARKING STRUCTURE AT THE NORTHWEST CORNER OF BLANKENSHIP ROAD AND TANGLER DRIVE

At a special meeting of December 7, 2006 and a special meeting of December 21, 2006, the West Linn Planning Commission held a public hearing to consider the request by Blackhawk LLC to approve the development of the property at northwest corner of Blankenship Road and Tannler Drive, known as the West Linn Corporate Park II, or "Tannler West." The proposal would result in 289,000 square feet of office space in three buildings, along with a proposed parking structure and surface parking totaling 839 spaces. The approval criteria for the design review application are found within Chapter 55 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 Bryan Brown, Planning Director. The applicant provided a presentation, represented by Group MacKenzie (Bob Thompson, Rhys Konrad, Dick Spies, Matt Butts, Brent Ahrend, Dan Jenkins, and Tom Wright). Alice Richmond and Gordon Root testified in support of the application. Speaking in opposition to the project were Ed Schwarz and Roberta Schwarz. Speaking as neutral parties were Andrew Stamp and Alice Johansson. The Commission also received written testimony in opposition from Ken Pryor. The hearing was continued to December 21, 2006.

On December 21, 2006, the Commission received additional testimony from in opposition from Ken Pryor, Kathie Halicki, Roberta Schwarz, and Ed Schwarz. Alice Richmond and Andrew Stamp offered testimony in support. Providing neutral testimony were Ruth Offer and Alice Johansson of the Willamette Neighborhood Association. Finally, the applicant offered rebuttal testimony, represented in addition to the Group MacKenzie staff by Frank Hammond and Bill Wilt. The Commission received additional written testimony from Ed Schwarz, acoustical engineer Albert Duple, Roy Kim, and Karen Bettin.

FINDINGS

The Planning Commission adopted the findings as proposed by staff and the applicant, with the following exceptions and additions:

1. The Planning Commission determined that Condition # 2, relating to legal agreements for shared access with the property to the west, were sufficiently non-discretionary in character as to be acceptable, and was easily met because the applicant controls both properties.
2. The Planning Commission determined, based upon a review by the City Arborist, that only 24 caliper inches of significant trees were being removed for road improvements at the southeast corner of the site, and that the applicant's landscape plan submitted as part

X (12)

of the application provided more than enough mitigation trees as required by CDC 55.100(B)(2)(f).

3. The Planning Commission determined that CDC 55.100(B)(2)(b) required the applicant to place tree conservation easements to preserve significant trees in the northern portion of the site. The Commission also determined that a condition of approval was appropriate to ensure that vegetation removal, new landscaping, or herbicide application throughout the northern portion of the site did not impact the scattered significant oak and other trees within this area.
4. The Planning Commission determined that the applicant had successfully argued that the proposed condition of approval requiring realignment of the trail on the northern boundary of the site was not roughly proportional to the impacts upon pedestrian usage generated by the proposed development, and that the applicant's offer to pave the existing trail was appropriate.
5. The Planning Commission accepted the applicant's traffic analysis and proposed mitigation, and found that the phasing of the mitigation was appropriate to match the phasing of traffic impacts related to the proposed site development. The Commission recognized that the soon to begin Tenth Street Corridor study analysis might come forward with different recommendations for improvements than those proposed by the applicant, and thus that some flexibility needed to be built into consideration of street improvements related to subsequent phases of the project. Therefore, the Commission determined that a condition of approval allowing for consensual reconsideration of traffic improvements related to later phases of the project was appropriate.
6. The Planning Commission was concerned that the proposed development not preclude additional improvements that might be necessary to mitigate other proposed applications, such as on the "Tannler East" site on the northeast corner of Tannler Drive and Blankenship Road. The Commission therefore thought a condition of approval that ensured traffic improvements associated with this project did not unnecessarily frustrate a future second left turn lane from Tenth Street onto Blankenship Road was appropriate.
7. The Planning Commission reviewed the applicant's alternative above-ground detention pond proposal and determined that implementation of this proposal would have significant adverse impacts upon project design, aesthetics, and pedestrian accessibility, and thus was "impracticable." The Commission therefore accepted the applicant's proposed underground detention facility.
8. The Planning Commission determined that the applicant's noise analysis was appropriate and adopted its findings instead of the alternative analysis offered by Acoustical Engineer Albert Duble, which did not address specific noise criteria set forth in the Community Development Code.
9. The Planning Commission determined that the applicant's proposed lot line adjustment was "minor" in nature as set forth in CDC 85.210. The City has consistently treated similar types of lot line adjustments in a similar manner in the past, and has used the input of the County Surveyor to determine when such lot line adjustments are no longer "minor." The County Surveyor has, in the past, approved lot line adjustments similar in size and scope to that proposed by the applicant.

✓ (13)

DECISION

Based upon the findings discussed above, a motion was made by Commissioner Jones and seconded by Commissioner Babbitt to approve the proposed design review and natural drainageway permit, with the following conditions of approval.

1. The applicant shall not allow construction of any walls, entryway features, or signs that would impair clear vision at the intersection of Tannler Drive and the access driveway from Tannler Drive pursuant to the standards of Community Development Code (CDC) Chapter 42.
2. The applicant shall provide satisfactory legal evidence establishing joint use of the existing driveway access to Blankenship Road on the adjacent Willamette 205 Corporate Park property (1800 Blankenship Road) to the west. Such evidence shall be in the form of deeds, easements, leases, or contracts to establish joint use, and shall be placed on permanent file with the City.
3. The applicant shall preserve trees #6, #7, and #12 as identified on Sheet C 1.1 and in the arborist's tree inventory along the northern portion of the site adjacent to Tannler Drive. Tree #5 is not significant and may be removed.
4. The applicant shall not remove any of the trees designated as "hazard" trees amongst trees #1-#53 unless approved by the City Arborist through the tree removal provisions of the West Linn Municipal Code.
5. The applicant shall plant 24 caliper inches of replacement trees to mitigate the removal of Pacific Madrone species required by improvements to Tannler Drive on the southeastern portion of the property. Replacement trees are to be planted within the landscaped portions of the site as is shown on the applicant's landscape plan submitted with the application, and not in the northern portion of the site.
6. In accordance with Section 55.100(B)(2)(b), the applicant shall place a tree conservation easement over the significant trees within the northern, undeveloped portion of the site that prohibits any disturbance or improvements without approval of the City of West Linn. Alternatively, the applicant may choose to dedicate this area to the city.
7. Prior to any site development or grading, the applicant shall delineate the southern boundary of the proposed open space area with an anchored chain link fence. The fence shall remain in place until the completion of all site development work.
8. The applicant shall improve the existing pedestrian trail along the northern boundary of the site. The trail shall be a width of eight feet, paved with asphalt. The applicant shall dedicate a fifteen-foot wide pedestrian easement centered on the constructed trail.
9. Prior to occupancy of the lower building on the site, the applicant shall have completed all street and traffic improvements listed as "Phase I mitigation" in the application, particularly, the November 3, 2006 letter from the applicant's traffic engineer, including the recommendations from city traffic consultant Carl Springer in his memorandum dated October 30, 2006). Prior to occupancy of either of the two upper buildings on the site, the applicant shall have completed all improvements listed as "Full Development Mitigation" in the application, as stated in the same letter as above. All improvements must be coordinated with and approved by the City, and ODOT in their areas of responsibility.

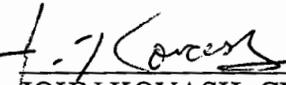
8 (14)

10. The applicant shall complete half-street improvements to Tannler Drive along the property frontage, consisting of sidewalk and planter strip to current city standards. The planter strip may be eliminated in locations where preservation of significant trees is required.
11. The applicant shall submit a street lighting plan and shall install street lights pursuant to that plan along both Blankenship and Tannler to illumination standards of the City of West Linn.
12. The applicant shall construct a bus shelter adjacent to the existing Tri-Met bus stop at the corner of Tannler Drive and Blankenship Road to design specifications of Tri-Met.
13. The underground storm water detention and treatment facility shall be private and shall meet City design standards. The applicant shall execute a maintenance agreement that provides for proper operation of the storm water system, requires annual reports to the city regarding ongoing maintenance and operation of the facility, requires professional certification that the facility is operating to city-prescribed standards, allows for city inspection of the facility upon reasonable notice, and requires and guarantees improvements or repair of the system as directed by the City Engineer or Public Works Operations Manager
14. In the event that the Tenth 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, the following shall occur:
 - a. The Planning director will notify the applicant to schedule a meeting to discuss the condition; and
 - b. if the applicant agrees that the alternative improvement should replace a condition of approval; then
 - c. an application will be processed, at no cost to the applicant, to consider whether a modification to a specific condition of approval should be made.
15. The applicant shall consult with and receive approval from the City Arborist prior to removal or modification of any vegetation or application of any herbicides in the undeveloped area on the northern portion of the site. The City Arborist's approval shall be based upon the impact on the health of the existing trees in this undeveloped area and the integrity of the natural habitat on the site.
16. The improvements associated with the Tenth Street/Salamo Road/Blankenship Road intersection shall allow for future installation of a second left turn lane from Tenth Street onto Blankenship Road without significant removal of recently installed improvements.

The motion was approved, with four in favor (Jones, Babbitt, Bonoff, and Fisher), and none opposed.

4 (15)

This decision will become effective 14 days from the date of mailing of this final decision as identified below. 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 signed in on the attendance sheet at the hearing, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.



JOHN KOVASH, CHAIR
WEST LINN PLANNING COMMISSION

28 Dec 2006
DATE

Mailed this 2nd day of JANUARY, 2007
~~2006~~

Therefore, this decision becomes final at 5 p.m., JANUARY 16th, 2007
~~2006~~.

Devrev/Finaldecisions/DR 06-27 Willamette marketplace

16

5

**CITY OF WEST LINN
CITY COUNCIL SPECIAL MEETING**

TESTIMONY FORM

February 15, 2007

Council Rules require anyone who wishes to address the Council to complete this form. Please place this form in the tray entitled "Testimony Sheets" prior to the beginning of the meeting. [Note: After the meeting has started, please give your form to a member of City staff who will pass it to the Council President.] Please limit your remarks to five minutes, unless the Council decides prior to that item to allocate more or less time.

*Representative
for TBNA*

Please print clearly

Name: Ed Schwarz

Address: 2206 Tanner

Telephone: (503) 723-5015

I wish to speak on Agenda Bill 07-02 -08

In Support *of Appeal*

Neutral

In Opposition *to development App*

All remarks should be addressed to Council as a body. Questions shall be asked of and through the Mayor, who has the authority to preserve order. Anyone who makes personal, offensive or slanderous remarks while addressing Council is subject to removal. (Council Rules and Attorney General's Public Records and Meetings Manual)

1

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Please print clearly

Name: Roberta Schmitt

Address: 2206 Tanager WC

Telephone: (503) 723-5015

I wish to speak on Agenda Bill 07-02 -08

In Support of appeal

Neutral

In Opposition to development app

All remarks should be addressed to Council as a body. Questions shall be asked of and through the Mayor, who has the authority to preserve order. Anyone who makes personal, offensive or slanderous remarks while addressing Council is subject to removal. (Council Rules and Attorney General's Public Records and Meetings Manual)

Mr Mayor and City Council Members,

We are signing this petition because we oppose the current application for Tannler West (Willamette 205 Corporate Center Phase II). We request that the application be denied on the grounds that it does not meet the requirements of the City of West Linn Community Development Code including:

Traffic CDC 55.100(I)(1)
Noise CDC 55.100(D)

Improper Lot Line Adjustment CDC 85.210(A)(3)
Drainage/Slope Issues CDC 55.100(B)(3)

We also have concerns about:

Project Phasing (Staging)
Deferred Compliance with approval criteria
Conditions of Approval

Location of Building A with respect
to Blankenship Rd

Additional non-compliance issues will be presented by Neighborhood representatives at the City Council Hearing on this matter

Name (Signed)	Name (Printed)	Address
<i>Don Trax</i>	Don Trax	1270 FARRVIEW CT
<i>Charles Buchanan</i>	Charles Buchanan	1260 FARRVIEW CT
<i>Regina Buchanan</i>	REGINA BUCHANAN	1260 FARRVIEW CT.
<i>Michael Trax</i>	Michael Trax	4614 Bittner St
<i>John W. Jones</i>	JOHN W. JONES	1290 FARRVIEW CT.
<i>Lwella J. Jones</i>	Lwella J. Jones	1290 FARRVIEW CT
<i>Metc</i>		1287 FARR VIEW CT WEST LINN OR 97068

2

Dear Mayor King, City Council Members, and Planning Commission Members,

We, the undersigned wish to state our opposition to the WL Corporate Park II-Tannler West; DR-06-24 application. Our opposition is based upon the application's failure to mitigate the traffic that this commercial development will create as well as other non compliance issues. This opposition is based on this application's non-compliance with CDC (Community Development Code) section 55.100 (I)(1) among others which shall be detailed at the hearing(s). We respectfully request that you deny this application.

We jointly deny the attached application for development due to applicants failure to mitigate traffic impacts as a result thereof.

Robert D. Humphrey

Lisa Humphrey

2539 Lexington Dr.
West Linn, OR

Kindly return this petition to your neighbor at 2206 Tannler Dr.. It's at the corner of Tannler Dr. and Bland Cr.. You can just put it under the front door mat. Thank you so much for caring.

2

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Jeffrey Walters

April Walters

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9

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Name (Signed)	Name (Printed)	Address
<i>Archie Lachner</i>	Archie Lachner	837 Wendy Ct.
<i>Mindy Lachner</i>	Mindy Lachner	837 Wendy Ct.
<i>Jason Oliver</i>	Jason Oliver	2309 Falcon
<i>Judy Zic</i>	JUDY ZIC	2311 FALCON
<i>Michael Zic</i>	MICHAEL ZIC	2311 FALCON
<i>Michael Halicki</i>	MICHAEL HALICKI	2307 FALCON DR
<i>Sara Manson</i>	SARA MANSON	2307 Falcon Dr.
<i>John Halicki</i>	John Halicki	2307 Falcon Dr.
<i>Jim Halicki</i>	Jim Halicki	2307 Falcon Dr.

signed by spouse

SIGNED BY SPOUSE

3

Mr Mayor and City Council Members,

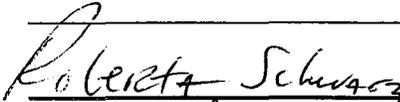
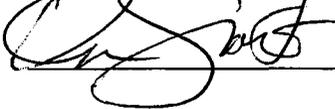
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 - Deferred Compliance with approval criteria
 - Conditions of Approval
 - Location of Building A with respect to Blankenship Rd
- Additional non-compliance issues will be presented by Neighborhood representatives at the City Council Hearing on this matter

Name (Signed)	Name (Printed)	Address
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	Roberta Schwarz	2206 Tannler Dr W/L 10
	EDWARD SCHWARZ	2206 TANNLER DR., WE 97068
	KEN SNOW	2125 FINCHEST DR. 97068

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Name (Signed)	Name (Printed)	Address
---------------	----------------	---------

<i>Kathie Halicki</i>	Kathie Halicki	2307 Falcon Dr.
<i>Regina Johnson</i>	Regina Johnson	2215 Carson Dr.
<i>Mike Johnson</i>	Mike Johnson	2215 Carson
<i>Kevin Edwards</i>	Kevin Edwards	2812 Beacon Hill Dr.
<i>Jason Price</i>	JASON PRICE	2308 Falcon Dr
<i>Lisa Price</i>	Lisa Price	2308 Falcon Dr.
<i>Laurie Wallace</i>	DAVID WALLACE	2304 Falcon Dr
<i>Laurie Wallace</i>	Laurie Wallace	2304 Falcon Dr
<i>Thomas Frank</i>	Thomas Frank	2303 Falcon Dr.
<i>Emily Oliver</i>	Emily Oliver	2309 Falcon

2

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Ed Pickett 1945 Hall St. West Linn.

Blada Pickett 1945 Hall St West Linn

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4
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Name (Signed)	Name (Printed)	Address
<i>Norine Baillif</i>	Norine Baillif	1827 Barnes Circle
<i>Allen K Baillif</i>	ALLEN K BAILLIF	West Linn OR 97068
<i>Margaret Seewerker</i>	Margaret Seewerker	1835 Barnes Circle W.L. 97068
<i>Frederick F Seewerker</i>	FREDERICK F. SEEWERKER	1835 BARNES CIRCLE West Linn, OR 97068

2

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Kathryn Elliot - 2355 Tannler Dr.
John A Elliot 2355 Tannler Drive.

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Name (Signed)

Name (Printed)

Address

<i>Dawn Adams</i>	Dawn Adams	2310 Century Ln.
<i>Bob Adams</i>	Bob Adams	2310 Century Lane
<i>Bob Thomas</i>		2563 Publico Drive

2

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Name (Signed)	Name (Printed)	Address
	Toby Kolstad	2115 Greene St
	Linda Kolstad	2115 Greene St

2

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Danae Damian 3492 Ponderosa Loop
West Linn OR 97068

Tom Damian 3492 Ponderosa Loop
West Linn OR 97068

Multiple horizontal lines for additional signatures.

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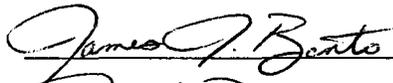
Location of Building A with respect
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Name (Signed)

Name (Printed)

Address

	Bents, James	2109 Greene St. West Linn
	Johanna Bents	2109 Greene St, WL

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Name (Signed)

Name (Printed)

Address

James Ohnemus JAMES OHNEMUS 2285 TANNER DR

Marisol Morales Ohnemus Marisol Morales-Ohnemus 2285 Tanner Dr

Dear Mayor King, City Council Members, and Planning Commission Members,

10

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Kathie Halicki 2307 Falcon Dr. 97068

MARCO AND MATTIE NECK 2233 Greenest. 97068

Kimberly B. Eaton
Kimberly Eaton 2305 ROGUE WAY 97068

Tracy Herbert 2323 HASKINS RD 97068

Val Baker 2270 CRESTVIEW DR 97068

Ellee McMurtrei 1803 BARNES CIRCLE 97068

David Dean 22870 Whittier Hill Dr. 97068

Flourne Bailey 1827 Barnes Cir WL 97068

Allen Baillif 1827 Barnes Cir. 97068

Karen Bettin 4975 Summerlinn 97068

Tanner West

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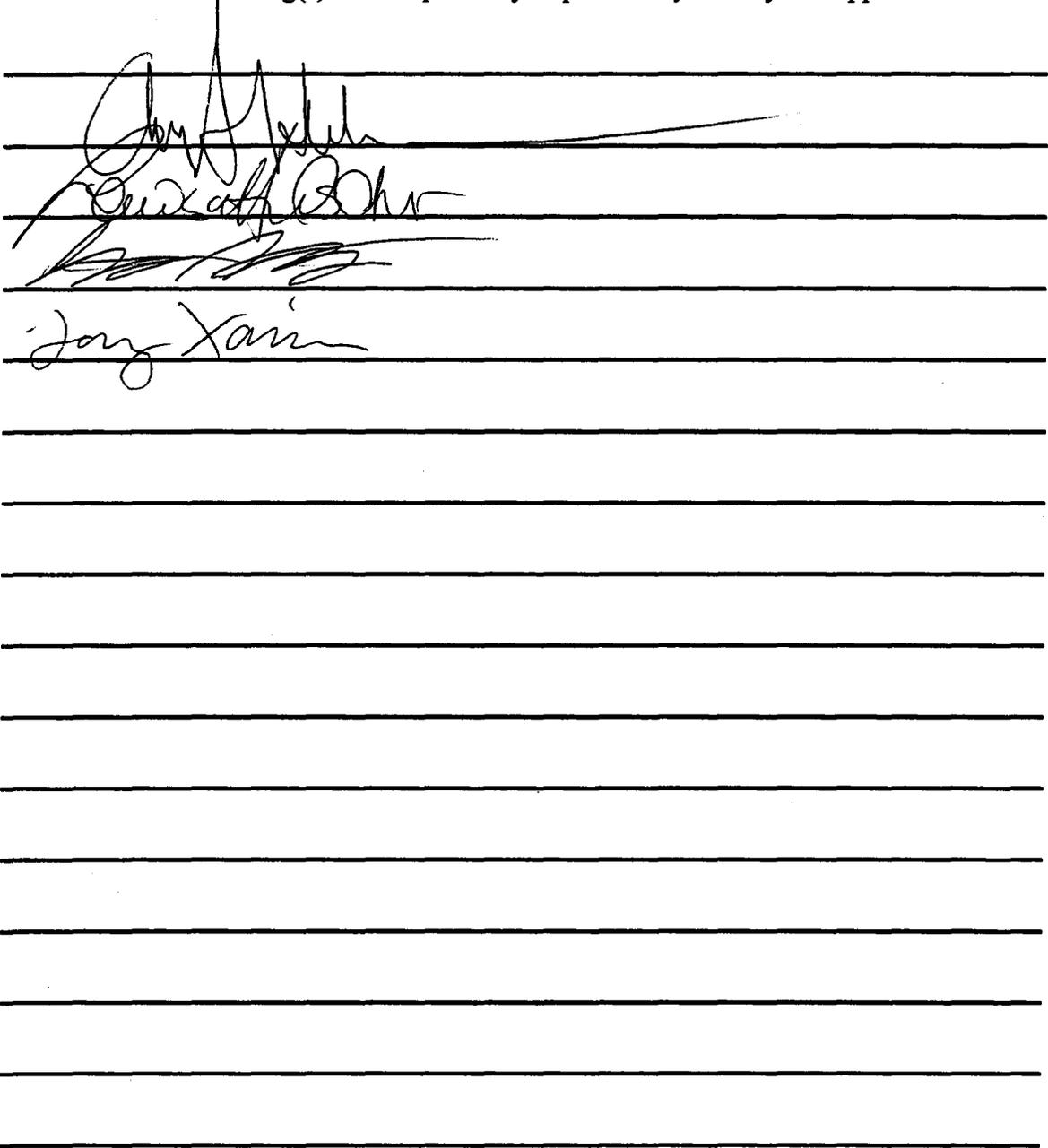
13

- ✓ Edward Schwarz, EDWARD SCHWARZ, 2206 TANNER DR., WL, OR 97068
- ✓ Robert Schwarz, Roberta Schwarz 2206 Tanner Dr WL OR
- ✓ Roberta L. Lapeyre 2315-5th W. W. 97068
- ✓ Shirley O'Keefe 2119 Green St. Westlinn 97068
- ✓ Jan O'Keefe 2119 GREENE ST Westlinn 97068
- ✓ Joy Kent 18490 LOWER MIDHILL W/L 97068
- ✓ Christ Schum 18490 Lower Midh. II Dr WL 97068
- ✓ Katie Kella 2600 Umpqua Lane WL 97068
- ✓ JACK SIMPSON 1671 KILLARNEY DR 97068
- ✓ Julia Simpson 1671 Killarney Dr. 97068
- ✓ Kon Keam 2600 UMPQUA LN 97068
- ✓ Valerie Kony 2117 Greene St. 97068
- ✓ Donald Kony " " " "

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Location of Building A with respect to Blankenship Rd

Name (Signed)

Name (Printed)

Address

<i>Barb Crampton</i>	Barb Crampton	2238 St. Moritz Ln.
<i>Jeffrey n DePasc</i>	Jeffrey n DePasc	2226 St Moritz Ln.
<i>Elizabeth B. Rogney</i>	ELIZABETH B. ROONEY	2213 ST MORITZ LN

8

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Location of Building A with respect to Blankenship Rd

WEST LINN

Name (Signed)	Name (Printed)	Address
<i>[Signature]</i>	NOELLE HAGERTY	2537 ST. MORITZ LP
<i>[Signature]</i>	Ron Hawk	2276 St. Moritz Lp.
<i>[Signature]</i>	SARA NEWTON	2220 St. Moritz Loop
<i>[Signature]</i>	Edward Jorgensen	2262 St. Moritz Lp
<i>[Signature]</i>	Judith A Timings	2204 St Moritz Lp.
<i>[Signature]</i>	Janet L Umbra	2212 St. Moritz Loop
<i>[Signature]</i>	DARIA LINDSEY	2241 St Moritz Lp.
<i>[Signature]</i>	Connie DePaula	2226 St Moritz LP



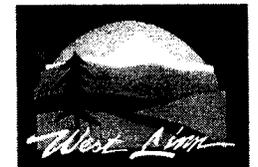
Plander Strip

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West Linn Planning Department

West Linn City Council Meeting

February 15, 2007



BEFORE THE CITY COUNCIL

FOR THE CITY OF WEST LINN, OREGON

In the Matter of West Linn Corporate Park II,
LLC's Application for Design Review Approval
of Construction Of Three Office Buildings and a
Parking Structure at the Northwest Corner of
Blankenship Road and Tannler Drive on 11.3 Acres

File No. DR 06-24

TANNER BASIN NEIGHBORHOOD
ASSOCIATION'S MEMORANDUM
IN OPPOSITION DATED 2/15/07

WILLAMETTE 205 CORPORATE CENTER
PHASE II
"TANLER WEST"

SUPPLEMENT TO PLANNING COMMISSION SUBMITTAL

To the City Council,

At the December 21, 2006 meeting of the Planning Commission the Tanner Basin Neighborhood Association (TBNA) presented its argument in opposition to the above-referenced application. In this document we present additional information which bears on the application and supports our request that it be denied. We are also submitting over 100 signatures from neighborhood residents opposing this application. Please remember that, although they cannot all be here tonight, their signature is the request for denial.

It continues to be the position of the TBNA that the application has several flaws of such an all-encompassing nature that denial of the application is the only appropriate action on the part of the Planning Commission. We have previously discussed these flaws in our submittal to the Planning Commission and they are certainly still valid. You should have copies of this submittal in your packets. These flaws include:

- Lack of adequate traffic mitigation [CDC 55.100(I)(1)]
- Improper lot line adjustment [CDC 85.210(A)(3)]
- Inadequate noise study [CDC 55.100(D)]
- Drainageway/Slope [CDC 55.100(B)(3)]

Additionally, the TBNA also has concerns regarding:

- Project phasing (staging)
- Deferred compliance with approval criteria
- Location of Building A with respect to Blankenship Road
- Conditions of Approval

Since the Planning Commission decision on December 21, 2006, several additional pieces of information which apply to this application have arisen. They include:

- Tanner Basin Neighborhood Association has approved its Neighborhood Plan,
- Additional traffic information from a Portland metro-area municipal transportation engineer with over 25 years of public agency experience, including over 15 years with ODOT, and
- Probable traffic pattern once Tannler Drive intersection degrades due to traffic from this development.

In the balance of this document we will describe each of these in more detail.

Tanner Basin Neighborhood Plan

Recently, the Tanner Basin Neighborhood Association passed its Neighborhood Plan which sets forth goals and action items which were viewed as critical to the health of the neighborhood and the city. The plan includes the following applicable Goals and Policies:

Goal 1: Improve the transportation system, including the pedestrian network.

POLICY 1.1: Improve traffic flow on 10th Street corridor.

POLICY 1.2: Improve traffic flow on Salamo and Blankenship Roads.

Goal 2: Ensure well-planned, sustainable growth in Tanner Basin that preserves and enhances neighborhood character.

POLICY 2.1: Ensure adequate infrastructure, including roads, is in place prior to development.

POLICY 2.2: Ensure compatible commercial design within Tanner Basin and neighboring areas.

Work with interested parties to ensure commercial development does not exceed the infrastructure's ability to provide, at a minimum, "C" level, or better, engineering criteria at key intersections

POLICY 2.5: Reduce noise and light pollution.

This application does not meet the Goals and Policies of the Tanner Basin Neighborhood Plan. This application was not submitted to the city until well after our Neighborhood Plan was in progress and the applicant should have worked more closely with the Neighborhood Association to ensure that their proposal met the Goals and Policies of the Neighborhood Plan.

As this development will significantly impact our neighborhood, we request that the application be denied for the reasons stated elsewhere in this document as well as those listed in the previous document we submitted to the Planning Commission. We then hope that the applicant will work closely with our Neighborhood Association to ensure that any subsequent development proposal more closely aligns itself with the Goals and Policies of the Tanner Basin Neighborhood Plan.

Additional Traffic Information

At our request, this application has been reviewed by a Portland metro-area municipal transportation engineer with over 25 years of public agency experience, including over 15 years with ODOT. He concurs with our contention that the application does not mitigate for the additional traffic it will create on Tannler Drive and at the Tannler Drive/Blankenship Road intersection. This is further evidence of the application's lack of compliance with CDC 55.100(I)(1).

Probable Tannler Drive Traffic Pattern

It has been brought to the attention of the TBNA by several of our residents that, were this development to be built as proposed in the application, there would most likely be a new traffic pattern that would develop at the foot of Tannler Drive at its intersection with Blankenship Road.

We have diagrammed this new traffic pattern in our PowerPoint presentation. It basically consists of traffic turning right at the foot of Tannler onto Blankenship, then making a left turn into the Albertson's entrance, passing through the Albertson's parking lot, and then turning right onto Blankenship at the exit to the parking lot across from the foot of Tannler Drive. This circuitous route will occur when traffic backs up at the foot of Tannler trying to make a left-hand turn onto Blankenship.

This will cause, among other things, a dangerous condition at the entrance to the Albertson's store as there will be significantly increased traffic flows in this area. It will also decrease the performance of the other exit from this parking lot as there will most likely be more vehicles queued there to turn onto Blankenship.

Obviously, the TBNA opposes any application which would cause these sorts of traffic patterns to occur without attempting any sort of remediation at the corner of Tannler Drive and Blankenship Road.

CONCLUSION

The overarching problem of this application is that no solution is presented to the level of service "F" traffic problems at multiple intersections that it will create. The applicant makes no attempt whatsoever to mitigate any of the traffic that this development will place on Tannler Drive and at the Tannler Drive/Blankenship Road intersection. The West Linn Community Development Code specifically requires that a development mitigate its traffic. Therefore, this application does not meet West Linn codes and should be denied.

Further, this application suggests that residents who live on the hill above and find that coming down Tannler is now virtually impossible due to increased traffic caused by this development instead cut through the neighborhood on Greene Street. Suggesting that inconvenienced residents further inconvenience other residents by using their residential streets as a cut through is not a solution. This development needs to wait until a solution to the Tenth Street corridor traffic problem is found. Development created this situation and now further development must wait for a solution.

As we have presented above, there are also many additional grounds why this application should be denied.

We urge the City Council to deny this application on the grounds included herein.

We request, as per ORS 197.763, a continuance of the hearing and, further, that the record be held open for an additional 21 days to allow us to submit additional testimony.

Signed: _____
Edward Schwarz
Tanner Basin Neighborhood Association

Date: _____

Willamette Corporate Park II “Tannler West” Development

File: DR 06-24

Tanner Basin Neighborhood Association
Presentation to the West Linn City Council

February 15, 2007

Tannler West -- Summary

- 289,000 sq. ft. of space in three buildings
 - All buildings are four stories
 - Office/Business/Commercial zoning
- Four story parking garage
 - 756 parking spaces in garage
 - 79 additional surface parking spaces
- Entrances/Exits on Tannler and Blankenship

2/15/2007

Tannler West

2

Areas of Concern

- Traffic [CDC 55.100(I)(1)]
- Improper Lot Line Adjustment [DC 55.100(I)(1)]
- Inadequate Noise Study [DC 55.100(D)]
- Drainageway/Slope [DC 55.100(I)(1)]
- Staged Development [CDC 55.100(I)(1)(2)]
- Deferred Compliance with Conditions of Approval
- Proximity of Building "A" to Blankenship Road
- Catch Basin

2/15/2007

Tanner West

3

Traffic

CDC 55.100(I)(1) requires that traffic improvements be made to mitigate for the impact of new traffic from a development.

This application will subject the Tanner Drive/Blankenship Road intersection to a level of service "F" rating.

There are no proposed mitigations for the traffic that this development will place on Tanner Drive or at the Tanner Drive/Blankenship Road intersection.

Staff suggests that inconvenienced residents simply cut through to Salamo using Greene Street or Bland Circle.

If you lived on one of these streets would that be your proposed solution?

- The application fails to meet CDC 55.100(I)(1) and should be denied.

2/15/2007

Tanner West

4

New Tannler Traffic Pattern?



2/15/2007

Tannler West

5

Improper Lot Line Adjustment

- CDC 85.210(A)(3) allows only "minor lot line deviations"
- This lot line adjustment encompasses moving 3/4 of one acre from Tax Lot 801 to this development
- This is not a "minor lot line deviation"
- No supporting information is provided regarding any conditions of approval that may exist on Tax Lot 801 and which may preclude this adjustment
- This application does not meet CDC 85.210(A)(3) and should be denied

2/15/2007

Tannler West

6

Inadequate Noise Study

- CDC 55.100(D) requires a less than 5 dBA increase in ambient noise as a result of new development on previously undeveloped land
- The application's noise study merely predicts that this project meets this standard—no proof is offered of this prediction
- The noise study does not show that the application satisfies CDC 55.100(D)
- The application does not meet CDC 55.100(D) and should be denied

2/15/2007

Tanner West

7

Drainageway/Slope

- CDC 55.100(B)(3) "The topography and natural drainage shall be preserved to the greatest degree possible"
- The proposal includes significant cutting into the hillside slope and the construction of retaining walls
- Other designs should have been considered to minimize these sorts of construction techniques
- The application does not present evidence that any other designs were considered
- The applicant has not demonstrated that these elements have been preserved to the "greatest degree possible"
- The application does not meet CDC 55.100(B)(3) and should be denied

2/15/2007

Tanner West

8

Lot (cleanup not past 9 PM)

Tannler meandering sidewalk & planter strip -

Sidewalk on driveway

Stairway to signal light

Landscaped islands on Tannler

Bvs Stop at Tri-Met suggested location

re-landscape
strip
- feathered
banks,
not
retaining
wall

Carson #14 take out "at a later stage"
added

Burgess - add sidewalk along driveway
out of parking structure

added

- HVAC designed to ~~direct noise~~ ^{directing so as to} ~~so as to~~
minimize noise toward residences

Staged Development

- Applicant requests to complete off-site improvements in stages as building are occupied
 - But, this project is not a staged development
 - Applicant's consultant states that the "...application requests Design Review approval of all structures proposed"
- No discussion of CDC sections 85.110 or 99.125 which allow projects to be built in stages
 - All off site improvements should be completed before any building occupancy permits are issued
 - See, specifically, COA #9 regarding traffic mitigation and street improvements

2/15/2017

Tannier West

6

Deferred Compliance with COA

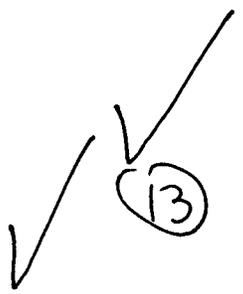
- Several conditions of approval should actually exist within the application and not be COAs
 - This allows for public scrutiny of all documents and plans
 - Examples include:
 - COA #2, legal evidence establishing joint use of the existing driveway access
 - COA #5, a plan showing location and species of replacement trees
 - COA #11, street lighting plan

2/15/2017

Tannier West

10

12 Height limitations do not include non-habitable projections
- HVAC ~~around~~^{toward} Blankenship
COA maybe



13 Require landscaped islands on Tannler

14 Traffic up Tannler from office -
out signal, LT lane to Tannler

15 L.T. prohibition not required by staff



16 Bus Shelter COA #12 - modify to put where Tri-Met agrees.

17

~~Chris tax revenues~~

-- Agree w/applicant's 80-20 split
- remember ^{35%} 9:5 PM peak trips

18

COA #14 - 10th St. corridor working mitigated by staging/platooning -
dedicated LT lane.

~~19~~

~~Property Tax Revenues Chris~~

19 Timing 3 yrs. to begin

20

Property Tax Revenues - Chris

Building “A” and Blankenship

- Building “A” is proposed to be located very near to Blankenship Road
- Building “A” is proposed at 55 feet tall – the maximum allowed by code
- It will sit atop a 24 foot multi-level retaining wall
- The result will be a nearly 80 foot tall structure (effectively 7 stories) that towers over Blankenship Road
- Worse than the already existing “Blackhawk” building on Blankenship

2/15/2007

Tanner West

11

Catch Basin

- The application calls for a covered catch basin
- City preference is for an open catch basin
- Open catch basins are easier to monitor and maintain
- An open catch basin could easily be designed into this project
- We request that you require an open catch basin for this project

2/15/2007

Tanner West

12

7

Upper Tannler

- 3 trees are significant
- possible COA to meander sidewalk around trees, have 6' planter strip otherwise



8

Summerlin Center

- 18-25' away from street
- no planter strip
- 5' higher - height variance
- this project - 40' - 60' from street

9

Building Location

- our code calls for it - 55.100 B.7.C. B.7. h. 1:1 or 2:1
- similar to W.L. Corp. Park Med Bldg. (10' lower)
- On Tannler - from 4 stories to 3 stories
- no "noise bounce" to Albertson's, not residence

~~10~~

~~tax over~~

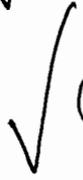
10

Sidewalk up existing driveway - good idea 6' up to parking structure entrance



11

Revise entry stairway to signal at driveway, not Tannler/Blankenship



Open Catch Basin Example



2/15/2007

Tannler West

13

Summary -- Areas of Concern

- Traffic [C.D.C. 36.100 (1) (4)]
- Lot Line Adjustment [C.D.C. 36.100 (1) (4)]
- Inadequate Noise Study [C.D.C. 58.000 (1) (3)]
- Drainageway/Slope [C.D.C. 36.100 (1) (4)]
- Staged Development [C.D.C. 36.100 (1) (4)]
- Deferred Compliance with Conditions of Approval
- Proximity of Building "A" to Blankenship Road
- Catch Basin

2/15/2007

Tannler West

14

① Deferred conditions

trees - landscape plan (Arborist OK)

joint use - not there, no project
reasonable - applicant

Street lighting - common to look at
engineering issue

②

Lot Line Adjustment

- Separate action - city tentative approval

- ample precedent

- applicant can abolish lot lines
without city review

③

Noise

- garbage truck, sweeper screened by building

- 200-600' buffer

- meets criteria re: applicant's noise study

④

Staged Development

- rough proportionality requires staged development

- key, does each phase meet standards individually

⑤

Slope - A Heintz pg. 100-03

No Natural Drainageway on the site

⑥

Storm Detention - Pg. 412-13

- Site is not flat - L.O. example not practical

- Ample precedent - aesthetics are pre-practical

-- LOS

Summerlin Center

- Strategy aimed at res. underground w/ hOa
no initial commercial/institutional maintenance

**CITY OF WEST LINN
PLANNING COMMISSION MINUTES
SPECIAL PUBLIC MEETING**

Thursday, December 7, 2006

Members present: Vice Chair Michael Jones and Commissioners Gary Stark, Michael Bonoff and Michael Babbitt.

Staff present: Bryan Brown, Planning Director; and Timothy Ramis, Ramis Crew Corrigan, LLP, City Attorney.

Members absent: Chair John Kovash and Commissioners Gary Hitesman and Paul Fisher.

CALL TO ORDER

Vice Chair Jones called the Planning Commission meeting to order at 7:30 p.m.

PUBLIC COMMENTS

Alice Richmond, 3939 Parker Road, indicated that the Commission was doing a good job helping to complete the City of West Linn as it grew.

PUBLIC HEARINGS

(Note: Full copies of the staff reports and all related documents for the hearings on the agenda are available for review through the Planning Department.)

DR-06-24, Design Review West Linn Corporate Park II, NW corner of Tannler and Blankenship "Tannler West"

Vice Chair Jones opened the public hearing, explained the applicable criteria and procedure, and announced the time limits for testimony. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contacts (including site visits). The only declarations were that Commissioners Babbitt, Stark and Vice Chair Jones each reported they had made a site visit. When invited by the Vice Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

Staff Report

Bryan Brown, Planning Director, presented the staff report (see Planning & Building Department Staff Report dated December 7, 2006). He said the applicant proposed three large office buildings, a parking structure, and some surface parking spaces. He pointed out nearly half of the site was to be Open Space protected in a Conservation Easement. He observed that the site owner also owned the existing adjacent corporate office park. He reported that the applicant had modified the application so a variance was no longer necessary. He pointed out there would be a single entrance to the development from Tannler Drive, and the other connections would be through the adjacent corporate park onto Blankenship. He advised the Comprehensive Plan indicated the area of the site was appropriate for commercial development and the Zoning Map allowed office use. He discussed issues related to the proposal. He

reported that the City's traffic consultant and Engineering Department staff had reviewed the applicant's professional traffic studies, analysis and conclusions related to mitigation and found them to be adequate. However, he advised that a policy decision related to timing of the mitigation would need to be made because a City task force was working on developing an ultimate solution to congestion in the 10th Street corridor. He said the City's traffic consultant and the staff believed the proposed mitigation would likely be necessary under any scenario at build out of the development and would not likely affect the City's final solution to the corridor. He advised the right-of-way where an exiting pedestrian trail would be improved was too steep and unnecessary for a street, and the staff and the applicant differed about whether the easement should be 15 or 20 feet wide and how much of it should be relocated. He pointed out the applicant had submitted a November 1, 2006 Memorandum in which they clarified they requested underground storm water detention facilities for aesthetic reasons: An above ground facility would require high retaining walls near the intersection. He recalled the City had approved underground facilities at the nearby Blackhawk development. He discussed the staff recommended conditions of approval. He said the applicant had agreed to most of them, except they wanted Condition 5 modified to specify 24 inches of replacement trees were to mitigate removal of Madrone trees and to allow the applicant to work with the City Arborist to verify that some "significant trees" to be replaced were actually significant trees. They wanted Condition 6 to only require a Conservation Easement over significant trees in the northern half of the site, and not over that entire half of the site. They wanted Condition 8 to require a 15-foot wide pedestrian easement and allow them to leave the trail at the northern edge of the site, where it was currently located, because it would be costly to relocate it. He said the staff agreed with the applicant's suggestion to reword Condition 10 to say the half street improvements were to be to current City standards. He pointed out the staff report offered a choice of alternatives for Condition B, depending upon whether the Commissioners chose above or underground detention.

During the questioning period, Mr. Brown clarified that either alternative for water detention would adequately detain water, so the determination would be based on what the Commissioners found was practicable. He agreed to research and report what the approval of underground facilities for the adjacent office park was based on and to create a map that showed how much difference there would be between the general Conservation Easement area required in the recommended conditions and a Conservation Easement limited to around significant trees that had been requested by the applicant. He advised that activity and landscaping were more restricted in a Conservation Easement than in Open Space. He clarified that although the Comprehensive Plan and the zoning allowed the proposed use, the Code required the applicant to mitigate impacts so the development would not make existing traffic conditions any worse or adversely affect the development potential of other nearby properties. He reported the City's traffic consultant concluded the applicant's mitigation plan might change the options available to a developer of "Tannler East," but it did not eliminate their options. He said the City had not yet received another proposal for that site.

Applicant

Bob Thompson, Group MacKenzie, 0690 SW Bancroft, Portland, Oregon, 97239, said the site was zoned for an office business center and was next to three other office buildings

18

developed or owned by the applicant, Blackhawk, LLC. He pointed out the site was very steep. He testified the applicant had met with the Willamette Neighborhood Association, the abutting Tanner Basin Neighborhood Association and the Oregon Department of Transportation (ODOT) as they designed the project. He pointed out the applicant had submitted two letters suggesting revised wording of some staff recommended conditions. He noted the staff and the City's traffic consultant recommended approval of the application, and it met all City standards.

Dick Spies, Director of Design, Group MacKenzie, 0690 SW Bancroft, Portland, Oregon, 97239, testified that the applicant had revised their design in order to benefit the neighborhood. He showed the earliest and the latest project concept models. He recalled neighbors had been concerned about saving trees and the scale of the buildings. He said the applicant had responded by compacting and reducing the size of the project so that two-thirds of it would be in landscaping. He said the proposed project's density was lower than a typical project of its type. He said the four-story garage was now three stories and the upper buildings had been moved farther downhill to make a larger Open Space, save trees, and offer a better view from residences above the site. He pointed out entrance design, garage circulation patterns, materials and colors to be used, and architectural eyebrow details that hid the HVAC equipment. He said the façade had been broken up wherever possible to give the development a more pedestrian scale.

Dan Jenkins, Group MacKenzie, 0690 SW Bancroft, Portland, Oregon, 97239, presented the landscape plan. He said the applicant was saving all significant White Oak trees and would plant over 200 trees on the lower half of the site. He said the front of the parking structure would feature vegetated screens, and vegetation would cascade down the retaining walls at the corner of Tannler and Blankenship if the applicant could install them, instead of having to install an above ground water detention facility there.

Brent Ahrend, Group MacKenzie, 0690 SW Bancroft, Portland, Oregon, 97239, pointed out how the site was accessed and where traffic mitigation improvements would be made. He explained a raised median would only allow right turns onto Blankenship. He advised that it was the closely spaced intersections that caused congestion. He said the proposed mitigation had been reviewed by the City traffic consultant and ODOT and the applicant had changed two aspects of their traffic mitigation plan to incorporate their suggestions. He said the proposed mitigation plan added more capacity to the transportation system than the applicant's project actually used, and much of the mitigation had been necessary in order to make closely spaced intersections function well together. He said it was consistent with the City's current plans for the transportation system.

Bill Wilt, 27050 Petes Mountain Rd., who represented Blackhawk, LLC, testified the proposed mitigation addressed the community's concern about traffic and it would actually improve the traffic situation because at full build-out of the project, the traffic situation would be better than it was currently. He said the project would add significant revenue to the City. He anticipated the project would be built over six years. He said the applicants had not yet identified a major company that might occupy it. He asked for approval.

During the questioning period Mr. Ahrend clarified that there was room and it was in the City's and ODOT's plans to expand to five lanes under the freeway. **Matt Butts, Director of Civil**

Engineering, Group MacKenzie, 0690 SW Bancroft, Portland, 97232, explained that because the applicants had moved the buildings farther down the hillside to save northern trees, there was not enough flat area at the bottom to maintain an above ground detention pond. Mr. Wilt explained that “practicability” was not a Code criterion, but a term the City Engineer used. He said the City preferred above ground storm water detention facilities because when the City took responsibility for them, above ground facilities were easier to check and maintain. He explained that the applicant had agreed to be responsible for maintaining an underground facility at another development they had just completed. He said it was more expensive, but preferable for practical, aesthetic and safety reasons to have underground facilities and not an above ground pond with steep walls. He said the piping would be under the landscaping, and the applicant would agree to maintain it. He assured the Commissioners that there were to be lids to open to examine the system to be certain it was working, and the applicant was required to report its condition to the City on a regular basis. Mr. Wilt also explained that the applicant wanted the Conservation Easement to be configured around individual significant trees so they could control blackberries and maintain the rest of the Open Space. Mr. Butts explained the applicant preferred to improve the trail in its existing location rather than relocate it to where they would have to make larger cuts in the hillside that would disturb trees. The applicant’s representatives also clarified they planned to incorporate as many sustainable (“green”) building features as they could, but they did not plan to apply for LEADS certification due to the cost. They clarified that they planned upper level terraces that could hold vegetation, but they would not have a “green roof.” Vice Chair Jones announced a ten- minute break in the hearing and reconvened it at 9:10 p.m.

Proponents

Alice Richmond, 3939 Parker Rd., reminded the Commissioners that a City task force had anticipated traffic from future commercial centers in the vicinity at the time Tanner Basin was developed, and that Tanner Basin residential area generated most of the traffic past the site. She advised the underground detention was the trend because open ponds were ugly, hazardous and attracted mosquitoes. She indicated that she approved of the plan to incorporate sustainable features, such as special windows, and she advised that sustainability was more than just putting green plants on a roof. She advised that New York City sidewalks were only 15 feet wide. She said the development would economically benefit the City.

Gordon Root, 2413 Remington Dr., said he favored the proposal because the traffic mitigation measures would help improve failing intersections, the project was good use of the City’s commercial land, and he applauded the applicant’s plan to keep so much of the site in Open Space and landscaping.

Andrew Stamp, 4248 Galewood St., Lake Oswego, 97035, stated he was a land use attorney and represented New Albertsons, Inc. and West Linn Associates, LLC, owners of the River Falls Shopping Center. He said his clients were not opposed to the application, and it appeared to them that any impacts to their center could be worked out, but he asked that the record be kept open in order to allow their experts to analyze its impact.

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Alice Johansson, 1207 Orchard St., Co-chair of the Willamette Neighborhood Association, asked that the hearing be continued to allow the Association time to discuss it at a meeting the following Wednesday.

Ed Schwarz, 2206 Tannler Dr., testified on behalf of the Tanner Basin Neighborhood Association. He reported the Association had voted 11 to 0 to oppose the project. He noted it was larger than what had been proposed for Tannler East, and it would generate more traffic. He explained that residents also saw tree preservation and the aesthetics of the buildings as primary issues. He said they believed the applicant was not mitigating traffic impacts at Tannler and Blankenship and it would make them worse and cause drivers to opt to cut through the neighborhood. He said they did not want to see any more development in the area until the new traffic task force found an overall solution to 10th Street corridor traffic problems. He questioned how the applicant could move three-quarters of an acre of land from an adjacent lot to the site without affecting conditions of approval of the adjacent development. He advised the noise study did not show the development would meet CDC 55.100(D) that there was to be less than 5-decibel increase in noise when a development was proposed on undeveloped land. He said the applicants had offered no evidence that they had examined alternative layout of buildings that might better maintain the topography and natural drainage patterns (as called for in the Code). He said that although the applicants did not propose staged development, recommended Condition 9 phased traffic mitigation as if the project were phased. He held all mitigation should be installed before any building was occupied. He said that a driveway joint use agreement, a map and species list of replacement trees, and a street lighting plan should be presented during the hearing and not just be conditions of approval. He said Building A was too close to Blankenship and would appear from the street to be a monolithic structure, like the Blackhawk building. He said the recent memorandums from the applicant regarding conditions of approval showed they did not accept four conditions that offered the most public benefit, including dedicating the Open Space to the City; replacement trees; an improved hiking trail; and planter strips. He requested that the hearing be continued to address unresolved issues. During the questioning period, he confirmed the applicant had changed some materials at the request of the Association. However, he held that their most important concerns about traffic and trees and their request for more retail had not been adequately addressed. He confirmed to Commissioner Stark that the Association wanted all aspects of traffic congestion to be fully mitigated before any development were allowed that would increase traffic, so no one was worse off as a result of the development. City Attorney Ramis clarified that the standard was that mitigation was to ensure the *system* operated as well as it did before the development.

Roberta Schwarz, 2206 Tannler Dr. testified on behalf of Neighbors for a Livable West Linn. She reported they opposed the application for the same reasons listed by the Tanner Basin Neighborhood Association. She stressed that the proposed large development would generate a level of traffic that would not be mitigated by the proposed plan. She said development of the site should be postponed until the new City traffic task force had worked out a comprehensive solution to 10th Street corridor traffic problems in April 2007. She recalled experts had advised the City Council that above ground water detention was preferable to underground detention. She asked that the hearing be continued to beyond her group's scheduled meeting a week hence. She advised the group had enlisted the help of a traffic expert to prepare a report. She stressed

that although the proposed development was anticipated to provide 10% of the City's commercial tax base, which was 30% of the tax base, residents paid 70%.

When asked, the applicant agreed to extend the 120-day rule period by the interval between the current hearing and December 21, 2006. When Vice Chair Jones polled the Commissioners they asked the staff to respond to testimony that any development that increased the traffic problem should be put on hold. They asked the staff to interpret whether increased traffic impact was that which affected any person, or that which affected the system. They asked for written testimony showing ODOT supported the proposed traffic mitigation. They asked if the City could protect the area the staff proposed as a Conservation Easement as well as the applicant. They asked the applicant to provide evidence of a legally binding agreement related to joint use of a driveway access, to clarify how close to the sidewalk the buildings would be, to clarify the species of mitigation trees, and to provide a street lighting plan. They asked opponents to provide professional evidence that traffic problems would be worsened by the mitigated project and that the application did not meet noise standards. They asked the staff to clarify CDC lot line adjustment criteria. The staff clarified that it was a set of public works standards, not the Code, which called for above ground storm water detention. Vice Chair Jones asked them to discuss that and the pathway at the next hearing.

Commissioner Babbitt moved to continue DR-06-24 to December 21, 2006 and leave the record open to allow written and oral testimony at that time. Commissioner Bonoff seconded the motion and it passed 3:0.

ITEMS OF INTEREST FROM STAFF (None)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION (None)

ADJOURNMENT

There being no other business, Vice Chair Jones adjourned the Planning Commission meeting at 9:55 p.m.

APPROVED:

Michael Jones, Chair

Date

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**CITY OF WEST LINN
PLANNING COMMISSION MINUTES**

**Special Meeting
Thursday, December 21, 2006**

Members present: Chair John Kovash, Vice Chair Michael Jones and Commissioners Gary Stark, Michael Bonoff, Michael Babbitt and Paul Fisher.

Staff present: Bryan Brown, Planning Director; Gordon Howard, Senior Planner; Dennis Wright, Acting City Engineer, and William Monahan, Ramis Crew Corrigan, LLP, City Attorney.

Members absent: Commissioners Gary Stark and Gary Hitesman.

CALL TO ORDER

Chair John Kovash called the Planning Commission meeting to order at 7:30 p.m.

PUBLIC COMMENTS

Alice Richmond, 3939 Parker Rd., cautioned citizens not to take abundance for granted and sent holiday greetings.

PUBLIC HEARINGS

(Note: Full copies of the staff reports and all related documents for the hearings on the agenda are available for review through the Planning Department.)

DR-06-24, WL Corporate Park II-Tannler West (continued from 12/7/06)

Chair Kovash opened the public hearing and observed that Commissioner Stark was not present to hear the continued hearing and that he and Commissioner Fisher had not been present at the previous hearing. Both Chair Kovash and Commissioner Fisher reported they had visited the site, reviewed the DVD of the last hearing, and read the contents of the record. No one challenged the authority of the Commission or any Commissioner's ability to hear the application.

Public testimony

Alice Richmond, 3939 Parker Rd., related that she found from her own experience that intersections along 10th Street in West Linn operated more efficiently than those in other nearby jurisdictions. She opined that City residents should have opportunities to work and shop in West Linn, so they would not have to travel to other cities.

Roberta Schwarz, 2206 Tannler Dr., held that the proposed project would exacerbate, not lessen, the impact of traffic on residents of the Tanner Basin Neighborhood Association, the Willamette Neighborhood Association, and other condominium and apartment residents in the areas. She noted Karen Bettin had submitted emailed communication outlining concerns of residents on Summerlinn Way that should be addressed. **Bryan Brown, Planning Director**, reported he had discussed her emailed communication with the applicant's traffic engineer.

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Ed Schwarz, 2206 Tannler Dr. representing the Tanner Basin Neighborhood Association, asked the Commissioners to deny the application because it did not comply with four Code provisions. He clarified that it did not mitigate all of the additional traffic it created as required by CDC 55.100(I), including additional traffic from the development that would exit the development and further congest the Tannler/Blankenship intersection, making an existing condition worse. He said the application did not comply with CDC 55.100(D), because the Association's acoustical engineer had found the applicant's noise study lacking because it did not adequately address garbage pick up noise and it compared noise from lot sweepers with the current ambient noise of the freeway, which might be lower in the future after the freeway was repaved. He said that would impact residents in the early morning hours. He contended the proposed minor lot line adjustment allowed in CDC 85.210(A) was not "minor" due to the amount of land involved. He said the Association did not believe the applicant had preserved the topography and natural drainageway to the greatest degree possible, as called for in CDC 55.100 (B). He said the Association believed that the application should show that all traffic improvements would be completed prior to occupancy; it should include a street lighting plan; it should include legal evidence of a shared driveway agreement; and it should describe mitigation tree species and locations. He said those should not be allowed to be deferred under conditions of approval. He anticipated that Building A would seem to loom over Blankenship Road. He said the Association was also concerned that issues related to the Conservation Easement and the public trail were not entirely resolved. During the questioning period, he clarified that the Association had seen no evidence that the applicant had considered alternative building locations that might better preserve the slope. He stressed that the Code provided that roadway and driveway alignment was to be done in a manner that mitigated impacts on neighbors, and that included increased traffic loads on Tannler and Blankenship Roads. He acknowledged that he did not have the expertise to know how that should be addressed, but he noted the 10th Street Task Force might recommend how that should be addressed.

Ken Pryor, 2119 Greene Street, submitted written testimony. He said the proposed four-story building was too tall for its location on a busy corner and it did not serve as an appropriate transition (in terms of bulk and mass) by stepping down to surrounding, lower-profile uses. He contended the project would cause the Tannler intersection at the bottom of the hill to get even worse than its current Level of Service F. He said the City Engineer should have asked the applicant to study the impact on Summerlinn and other smaller streets and consider the traffic generated by Willamette Cove development and other pending projects on Dollar Street. He anticipated such a study would show the proposed traffic mitigation was inadequate.

Kathie Halicki, 2307 Falcon Dr., indicated she liked the architectural design, but she worried the applicant did not adequately mitigate traffic problems, especially at the Albertson's entrance, and would make the Tannler and Summerlinn intersections worse. She described routes she believed drivers would take in order to avoid backups at the intersections. She worried about the safety of children waiting for school buses on Blankenship Road. She questioned whether there would be adequate driver sight distance at the Tannler/Blankenship intersection. She anticipated the plan for six-year build out would mean six years of noise and inconvenience for residents. She held the proposed project should be downsized and traffic issues needed to be better addressed. She said that allowing major developments at both ends of the corridor before the 10th Street Corridor Task Force had done its work was "putting the cart before the horse."

(24)

Ruth Offer, 1831 5th Avenue; and Alice Johansson, 1207 Orchard St., Co-chairs of the Willamette Neighborhood Association, reported that 42 members of the Association had met on December 13, 2006 to examine the Tannler West plan. They noted the applicant had incorporated neighbor's suggestions in the revised plan and the only remaining issue was the traffic signal at the Albertson's shopping center. They reported that the Association felt it was important to hear the recommendations of the 10th Street Task Force before the applicant's project was approved; but, if it were approved before then, a phased process would give the Task Force a chance to examine the situation at the applicant's project.

Andrew H Stamp, Esq., 4248 Galewood St., Lake Oswego, Oregon, 97035, testified on behalf of New Albertsons, Inc. and West Linn Associates, LLC, the owners of the River Falls Shopping Plaza. He reported that they were working in good faith with the applicant to find ways to address impacts to their shopping center that would ensure long-term viable access to the center, and they were so close to agreement that they had enough confidence in the applicant's representations to ask for approval.

Rebuttal

Frank Hammond, 1001 SW 5th Ave., Ste 2000, Portland, Oregon 97204, the applicant's attorney, reported the applicant and the staff had agreed on alternative language for Conditions 5 and 6 that were contained in memorandums the applicant had submitted that day. He advised that none of the opponents' arguments were sufficient to prevent approval of the application. He said the Commission decision had to be based on applicable standards and criteria in the Community Development Code, and the applicant had met them all. He advised opponents misapplied CDC 55.100 (I)(1) by citing one sentence regarding street and driveway alignment out of context and interpreting "mitigation" to mean the proposed project could not result in degradation of any part of the service anywhere in the transportation system. He said "mitigation" meant to lessen the impact of traffic, and he recalled testimony that traffic would be better after the development than it was currently. He recalled the City Engineer had found the proposed mitigation was sufficient and it would not foreclose a future solution to the 10th Street traffic issue. He said to delay approval of the application for many months, until the 10th Street traffic study was done, was a "moratorium" that state law did not allow. He advised a minor lot line deviation could also be used to change a number of lot lines but the applicant was only advocating one lot line adjustment and that met the Code. He noted that the opponents' noise expert did not say the application would not meet the noise criteria, only that he did not agree with some technical aspects of the applicant's report. He noted the applicant's study found that, "the noise radiating from the office park will meet all state and city noise regulations during all hours," and that was the only substantial evidence that related to the applicable Code standards the decision had to be based on. He advised that the Code did not require the applicant to present an alternatives analysis and the staff had agreed the application preserved the topography and natural drainageway to the greatest extent possible. He said some aspects of opponent's testimony did not relate to applicable Code criteria.

Matt Butts and Bob Thompson, Group Mackenzie, 0690 SW Bancroft St., Portland, Oregon, 97201, explained the applicant proposed to improve the existing path along the top of the site because to meander it would take it into Conservation Easements for trees there. They

pointed out the plan also showed other pedestrian connections, and they said the applicant would make the existing trail coming from the Greene Street right-of-way better over the portion that crossed their site. They clarified that neither an improved existing path nor a meandering path would meet Americans with Disabilities Act accessibility standards because of the steep slope, and the City would still be responsible for the stairs in the public right-of-way. Mr. Hammond addressed the issue of whether some conditions should actually be satisfied before approval. He advised that state law provided that a condition needed to be feasible in order to be permissible, and the applicant had provided evidence that a lighting plan would meet all City requirements; they had submitted a letter to the record to show that joint access would be available between the applicant and the adjacent property owner; and they had reached an agreement with the staff that a conceptual landscape plan showed feasibility of their tree planting plan. He said that was all the applicant was required to do at that stage. Mr. Howard explained the staff agreed to the applicant's modification of Condition 5 to 24 caliper inches of mitigation trees because the City Arborist had not found as many trees on the corner of Tannler/Blankenship were significant as the Planning Department staff had originally thought he had. He added that a couple of Madones were to be removed for road improvement would be mitigated and the City Arborist had found the applicant's landscape plan provided more than enough mitigation inches. Mr. Butts requested approval with the applicant's alternative Condition 14 that allowed underground storm water detention. He pointed out the storm water report explained that physical constraints of the hillside made an above ground pond impracticable because the applicant would have to make the hillside artificially steeper and put a hole in it for a pond. He said that the City could rely on a single-entity owner to maintain the facility more than it could rely on multiple owners in a subdivision to maintain their facility. He said undergrounding the facility would allow the ground above it to be used as a landscaped pedestrian plaza featuring low, attractive, terraced, landscaped retaining walls that created an entrance to the building from the street as well as a "gateway" to the project and the neighborhood. He said locating the development on the lower part of the site helped protect the steep slope and many significant trees. He said it would be possible for the applicant to fit an above ground detention facility on the site, and it would be less expensive, but that would require a less-attractive 20-foot high retaining wall and a six-foot high fence and stairs that would not create a "gateway." He said the proposed design was the best solution for the corner.

Mr. Ahrend discussed traffic issues (see the applicant's Memorandum dated December 21, 2007). He said the project would help improve traffic conditions, not make them worse, and that was the only evidence in the record. He recalled testimony it would make the LOS F of the Tannler/Blankenship intersection worse. He said the applicant had originally proposed a signal there, but the City and the City's traffic consultant had asked that the applicant place a signal at the Albertsons center and the site driveway because that would facilitate traffic flow and because a signal at Tannler would be too close and cause backup queues. He clarified that the applicant believed either solution would work, but they should not put a signal on both intersections because that would make conditions worse on Blankenship Road. He noted the City found the LOS F at Tannler Drive for left turns was acceptable because it was the best solution on the whole for that corner of the Blankenship/10th Street corridor and there were alternate routes for drivers to use. He noted that opponents contended that would send traffic to Salamo Road that should be mitigated. He said the applicant would follow the suggestion of the City's traffic consultant and re-stripe the Salamo Road approach at 10th and refine the signal in order to

increase the capacity of the left turn that the majority of traffic was using. He addressed the issue of staged development. He recalled testimony that there was a benefit to that in that it offered time for the 10th Street Task Force to find a different solution after traffic generated by the first building was mitigated. He said the Transportation System Plan (TSP) did not call for anything other than the current roadway configuration, and the City's consultant agreed the proposal would make the current situation better. He said the proposed traffic signal at the driveway would help residents on Summerlinn because a signal close to the intersection would create larger gaps in traffic (i.e., turning opportunities) for them than a signal at Tannler/Blankenship Road would. He advised that if all signals were coordinated, as required by the City, drivers would tend to drive at the posted speed in order to avoid having to stop at every light. He said the plan ensured adequate driver sight distance at the Tannler/Blankenship intersection. He pointed out that ODOT had submitted a November 21, 2006 Memorandum in which that agency agreed with the proposed mitigation.

During the questioning period, Commissioner Babbitt worried about queuing experienced by drivers coming to the project from I-205 to 10th Street and turning on Blankenship Road. He reported he had waited through a light the previous day because the queue there had been full. Mr. Ahrend reported that ODOT and the City traffic consultant had found there would be a queue for cars coming off the freeway ramp, but all queued cars would be able to go through when the light turned green. He said the applicant found it would operate at an acceptable level with project generated traffic, but it was possible a second turn lane would need to be added to accommodate additional traffic from other future developments in the area. He advised that mitigation had to relate to existing conditions and the decision had to be based on the current Code standards, but the applicant would work with the City and come back to request modification of the conditions of approval if the City found a better solution during later phases of the development. City Attorney Monahan suggested alternate language for the conditions that provided that in the event the 10th Street Task Force, or another City transportation study, recommended a transportation improvement that conflicted with and could be preferable to a transportation improvement that was approved as a condition of approval for a later stage of the applicant's project, the Planning Director was to arrange to meet with the applicant, and if the applicant agreed, the application to modify the conditions would be processed at no cost to the applicant. Mr. Ahrend confirmed that the applicant had agreed in their November 3, 2006 Memorandum to stripe the Tannler Drive approach to Blankenship Road during the first phase of development to create a 300-foot long left turn lane and to install a median that limited left turns out from the site access. He also confirmed that a protected pedestrian crossing to help pedestrians access food vendors across Blankenship Road would be built in the first phase of development. He said Phase 1 improvements that created a separate turn lane and the signal at the location the City asked for would create gaps in approaching traffic would make it easier for drivers to turn left to head for I-205. He noted neighbors had the option of using Salamo Road. He explained a seeming "disconnect" between the reported numbers of incoming and outgoing traffic at peak hours in the Trip Generation Table was because people tended to come to work at about the same time, but they left work over a longer period of time that was partially outside the PM Peak Hour period. Commissioner Fisher noted there were many more parking spaces proposed than the trip table indicated would be used. Mr. Howard advised that the applicant proposed a number of parking spaces that was closer to the minimum number of spaces required by the Code than the maximum number of spaces (which was 110% of minimum) it allowed. He

related his experience at the adjacent development was that even when fully leased, parking there was only about 50% to 60% utilized. He also advised that there were standard trip-generation rates used by transportation engineers for office developments.

Dick Spies, Director of Design, Group Mackenzie, 0690 SW Bancroft, Portland, Oregon, 97239, addressed the issue of the mass and bulk of the development. He related the applicant had modified the proposal after they discussed it with the Tanner Basin and Willamette Neighborhood Associations. He explained the changes softened the scale of the four-story office buildings while keeping them efficient and marketable. He said they had modified them to look good in relation to the landscape, the shorter retail uses below, the adjacent office use, and the neighbors above the site. He clarified that the mechanical components on the upper roof area would not be accessible to tenants, but the roof terraces would be accessible to fourth floor tenants. He pointed out how the levels and materials of the façade facing Blankenship Road and the three-section terraced retaining wall had been used to soften it and make it serve as the transition to surrounding uses that the Code called for.

Chair Kovash announced a ten-minute break in the proceedings and then reconvened the hearing at 9:17 p.m. He asked Vice Chair Jones to read newly drafted language for Condition 14, as follows:

“In the event that the 10th Street Task Force or another city transportation study recommends a transportation improvement that ~~conflicts with and~~ could be preferable to a transportation improvement that is a condition of approval for a later stage of this project, the following shall occur:

- 1 The Planning Director will notify the applicant to schedule a meeting to discuss the condition; and,
- 2 If the applicant agrees that the alternative improvement should replace a condition of approval, then,
- 3 An application will be processed at no cost to the applicant to consider whether a modification to a specific condition of approval should be made.”

The City Attorney agreed that the Commissioners could remove “conflicts with and” because it was still up to the applicant to decide to consider asking for a change. Mr. Hammond confirmed the applicant would agree to that language. Commissioner Bonoff observed the applicant’s action to apply for a change would be voluntary. Chair Kovash observed it offered an opportunity to make a change based on a recommendation from the task force.

Bill Wilt, 27050 Petes Mountain Rd., representing Blackhawk, LLC, stressed that when the development was finished the applicant would have spent as much as \$2 million to make traffic flow better than the current condition. He explained that engineering consultants had calculated that the development needed to install 1.5 lanes, so they proposed two lanes. He explained that parking spaces cost approximately \$20,000 each and there had to be enough of them to accommodate and make the project attractive to potential tenants. He said a pond was not appropriate at a “front door,” and an above ground detention facility would be an “eyesore” and

a safety risk. He said the development would be an aesthetic and economic asset to the community and he asked for approval.

Questions of staff

Dennis Wright, Acting City Engineer, submitted a copy of the section of the West Linn Public Works Design and Construction Code that discussed Detention Facilities. He pointed out it provided that surface storage was preferable and underground detention could be approved by the City Engineer only where an above ground facility was "impracticable." He said for that reason he typically asked for ponds unless he was convinced that was impracticable. He anticipated that an above ground storage facility could be designed to serve as an amenity to a development in a creative design, however, he said that he had no problem with a large commercial owner taking responsibility for maintaining and repairing underground facilities if they agreed to maintain it according to City standards. He confirmed that the underground facility would work from an engineer's perspective, and he observed the Commissioners' analysis could consider more factors than his duties allowed him to consider in determining whether to allow it. Chair Kovash observed that the proposed design of the buildings would have to be drastically altered and reduced in order to locate a pond where a building was currently proposed. Mr. Wright reported that the applicant had modified the original application to address changes in scope suggested by the City streets and water engineering staff and then submitted a traffic study that had been reviewed by City staff and the City's traffic consultant, who had concluded it mitigated traffic impacts generated by the proposed development. He clarified that both the overall impacts of the built out project and the impacts of each individual phase had been examined.

Mr. Howard then offered his comments regarding issues raised in testimony. He said approval of a joint driveway use agreement would be a ministerial decision and he observed the applicant currently owned both the site and the other development. He said the City Arborist had reviewed and agreed to the applicant's suggested language for Condition 5, and the Planning Department staff found it acceptable because the Code required a tree conservation easement, not a general conservation easement over the entire northern portion of the site. He said the easement would protect the significant trees there, particularly White Oak trees. He related that the staff and the City Attorney agreed the applicant had a strong argument that the original staff-recommended Condition 8, which related to the trail, did not meet the rough proportionality test and that the combined proposed project and adjacent project offered internal walkways pedestrians could use to access the proposed project and the project to the south of the site, making a northern trail from Green Street less necessary. He noted the applicant proposed to pave at least a portion of that trail. He said the staff did not agree with the Tanner Basin Neighborhood Association's interpretation of "minor lot line adjustment," and there was ample precedent demonstrating what the county surveyor would allow or not allow. He said the site included three legal lots of record that the applicant theoretically could combine without any City approval. He said the staff found the applicant had adequately addressed the issue of noise raised by the neighborhood association. He pointed out the staff report included alternatives considered by the applicant in order to preserve the topography, and the staff agreed they were not as good as the stair stepped buildings and preservation of the northern half of the site as natural area that was proposed. He advised that each phase of development had to "stand on its own" in meeting Code criteria, and the

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applicant had agreed to the staff request to stage the parking structure so that it met the Code parking requirement related to each phase of development. He addressed the issue of the bulk and scale of the Blankenship Road building. He advised the intent of the Code was not suburban style office complexes, or a suburban look like the Albertsons center conveyed, but it called for an "interesting streetscape," and bringing buildings closer to the street, as the applicant proposed, and it limited the street right-of-way to building height ratio to 1:1, and the proposed building height was under that limit. He acknowledged that while the proposed bulk and scale was greater than that of residences above it, it was also separated from them by a large buffer. He confirmed that the staff now recommended the applicant's suggested language for Conditions 5 and 6 (found in the applicant's December 21, 2006 correspondence) and Condition 8 (found in their December 19, 2006 correspondence) and the additional language the City Attorney had fashioned to address the possibility that Condition 14 might eventually be revised to reflect the solutions found in a corridor study. He pointed out the City had received an email from Roy Kim, RKM Development, owner of the property referred to as "Tannler East," that requested the Commissioners not adopt conditions that would adversely impact access opportunities for a future development on that site. He noted that the lack of a signal on Blankenship Road would have the most impact on a Tannler East development in terms of traffic issues.

During the questioning period, Commissioner Babbitt indicated he was concerned that there would be a queuing problem for traffic coming off the freeway and onto 10th and Blankenship. He recalled the applicant's traffic engineer anticipated that future developments could help "fix" that problem, but the Commissioner wanted to know if there would be enough right-of-way to do that in the future. Mr. Wright said he believed there was because the traffic engineers had used a specialized traffic modeling system that anticipated traffic flow and spacing and had shown that there might be a queue, but those vehicles would be able to go through at the green light. Commissioner Bonoff was concerned that if the Conservation Easement were limited to around significant trees the applicant would be able to put the surrounding area in lawn and apply herbicides and pesticides. He advised that blackberries would not be a problem due to the southern exposure. He wondered if designating a larger, general, easement area would be considered "taking." Mr. Howard advised the Code did not control how the applicant landscaped the areas outside the easement, which protected a tree from its trunk to the drip line, plus ten feet. However, the applicant would likely be challenged if they did something there that reduced the buffering and screening of the residences above the site. City Attorney Monahan advised there had to be an appropriate connection between how much land was necessary to carrying out the Code intent to preserve trees and how much land was put into a Conservation Easement. He observed that because the significant trees were spread out, and not clustered, it would be difficult to justify requiring a large general area to be preserved to protect scattered trees. Mr. Wright clarified for Commissioner Bonoff that the applicant proposed to treat storm water by sending it through vaults of filters before it was directed into underground tanks.

Deliberations/Motion

Chair Kovash closed the public hearing and asked each Commissioner to discuss his perspective and concerns. Commissioner Bonoff observed the applicant had agreed to be flexible and volunteer to respond to 10th Street Task Force results. He said the site served as "gateway" to West Linn and he would be sorry to see anything happen to the unique tree resource there.

Commissioner Babbitt said he was not assured about queuing conditions on 10th Street, and he did not want to see \$2 million dollars of improvements eventually have to be removed in order to install two lanes. He wanted assurance there would be enough right-of-way to install two lanes in the future. Vice Chair Jones noted the applicant had obtained conditional approval of the Willamette Neighborhood Association and the owners of the Albertsons center. He said he shared Commissioner Babbitt's and Commissioner Bonoff's concerns, but he had no problem accepting the underground storage facility. Commissioner Fisher also questioned the applicant's finding that queuing would not be a problem on 10th Street because the group of vehicles waiting in the left turn lane at one signal could all go through when it turned green. He worried that all the traffic backed all the way up the 10th Street off ramp would not clear during the green light because there was already a problem there. He said the solution would be to add a left turn queue, but that had not been proposed, so mitigation was not complete. He said traffic attempting to exit the neighborhood to get to the freeway or up Salamo Road was going to be impacted and that situation also needed to be mitigated. He observed that the project was beautifully designed.

Vice Chair Jones asked Commissioner Babbitt and Commissioner Fisher what could be done to address their concern regarding the left turn lane at 10th Street. Commissioner Babbitt said he wanted to be assured there would be room for two northbound lanes turning left and one northbound lane turning right. Mr. Wright confirmed there was sufficient right-of-way for that along the segment of 10th Street between the freeway off ramp and the Blankenship road signal. He suggested a condition could be crafted to require the applicant to move their improvements further west into the right-of-way that abutted the Albertsons shopping center and add a second left turn lane for cars going north and onto Blankenship Road. Commissioner Babbitt clarified that he simply wanted assurance there was enough room for a future second left turn lane there, so the applicant's proposed improvements would not have to be removed. He agreed to Mr. Howard's suggested language that, "Improvements associated with the 10th Street/Salamo Road/Blankenship Road intersection shall allow for future installation of a second left turn lane from 10th Street onto Blankenship Road without significant removal of recently installed improvements." Commissioner Bonoff suggested his concern could be addressed with a requirement that the applicant was to consult with the City Arborist if they planned activities that would significantly affect the character of the northern habitat on the site, such as large-scale vegetation removal and herbicide application. When asked the applicant's representative said they were concerned they would not be allowed to remove blackberries, but they could agree to consult with the City Arborist. Chair Kovash recalled seeing blackberry bushes there.

Vice Chair Jones moved to approve DR-06-24 subject to the conditions recommended by the staff, modified as follows:

Condition 5 was to provide that, "The applicant shall plant 24 caliper inches of replacement trees to mitigate the removal of Pacific Madrone species required by improvements to Tannler Drive on the southeastern portion of the property. "

Condition 6 was to be modified to be consistent with the language related to the Conservation Easement suggested in the applicant's letter of December 21, 2006, as modified by the staff.

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Condition 8 was to read, " The applicant shall improve the existing pedestrian trail along the northern boundary of the site. The trail shall be a width of 8 feet, paved with asphalt. The applicant shall dedicate a 15-foot wide pedestrian easement centered on the constructed trail."

Renumber Condition 14 regarding underground Stormwater detention to Condition 13.

New Condition 14 to read, "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 a condition of approval for a later stage of this project, the following shall occur:

- 4 Plan dire will notify the applicant to schedule a meeting to discuss the condition; and,**
- 5 If the applicant agrees that the alternative improvement should replace a condition of approval, then,**
- 6 An application will be processed at no cost to the applicant to consider whether a modification to a specific condition of approval should be made."**

Condition 15 to read, "The applicant shall consult with and receive approval from the City Arborist prior to removal of modification of any vegetation or application of any herbicides in the undeveloped area on the northern portion of the site. The City Arborist's approval shall be based on the impact on the health of the existing trees in this undeveloped area and the integrity of the natural habitat on the site."

Condition 16 to read, "Improvements associated with the 10th Street/Salamo Road/ Blankenship Road intersection shall allow for future installation of a second left turn lane from 10th street onto Blankenship Road without significant removal of recently installed improvements."

Commissioner Babbitt seconded the motion and it passed 4:0.

ITEMS OF INTEREST FROM STAFF (None)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Chair Kovash announced the Commissioner Hitesman had resigned from service on the Planning Commission for health reasons. He reported that he had submitted the Planning Commission report on their accomplishments and future work plan to the City Council and apprised the Councilors of the additional staff workload caused by more frequent meetings as well as citizens' concern that it was difficult for interested citizens to submit their input in a timely manner after an applicant made changes to their application. He invited suggestions for improving the system. The Commissioners advised that changes made by an applicant during the hearings process could be beneficial for the community. Commissioner Fisher suggested the 120-day rule start date might be "reset" if it was determined the application was not complete.

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ADJOURNMENT

There being no other business, Chair Kovash adjourned the Planning Commission meeting at approximately 10:14 p.m.

APPROVED:

Michael Jones, Chair

Date

MEMORANDUM

PROJECT NUMBER: 2060016.00

DATE: December 21, 2006

PROJECT NAME: Willamette 205 Corporate Center Phase II

TO: FILE
FROM: Rhys Konrad, Planner**SUBJECT: Summary of Applicant's Rebuttal to Hearing Testimony**

As indicated in the City staff report, the proposed Willamette 205 Corporate Center Phase II project complies with all applicable standards and criteria found in the Community Development Code.

In addition, the city has an opportunity for a high quality project that will provide economic benefit on property that is appropriately zoned for office use.

I. TANNER BASIN NEIGHBORHOOD ASSOCIATION

The TBNA is incorrect in its arguments as follows:

Traffic

1. Testimony misapplied the relevant code provisions.
2. It does not recognize the City Engineer and City's traffic engineering consultants' determination that that traffic mitigation is sufficient and will not interfere with future improvements in the 10th Street area.
3. The Planning Commission should not delay its decision, as that would violate the requirement that decisions be based on the CDC and would result in an illegal moratorium.

Lot Line Adjustment

1. This is not an issue, as the city code provides for this type of lot line adjustment.

Drainageway and Slope

1. There is no requirement for an alternatives analysis and this Commission cannot insert one.
2. City staff has agreed that Applicant meet the controlling standard.
3. The Applicant needs only show that conditions are feasible, and it has done that.

Placement of Building A in Relationship to Blankenship Road

1. The TBNA's argument regarding the placement of Building A in relationship to Blankenship Road is totally without support.



CITY OF
West Linn

PLANNING COMMISSION / COMMISSION FOR CITIZEN INVOLVEMENT

Minutes of October 13, 2010

Members present: Chair Robert Martin, Vice Chair Michael Jones and Commissioners, Michael Babbitt, Laura Horsey, Christine Steel
Members absent: Dean Wood
Staff present: John Sonnen, Planning Director; Zach Pelz, Special Projects Planner; Khoi Le, Civil Engineer; and William Monahan, City Attorney

CALL TO ORDER

Chair Martin called the Planning Commission meeting to order in the Council Chambers of City Hall at 7:30 p.m.

APPROVAL OF MINUTES (N/A)

PUBLIC COMMENTS

David Rittenhouse, 2101 Greene St., President of the Savannah Oaks Neighborhood Association questioned whether MISC-10-14 was a *de novo* hearing. City Attorney Monahan advised it was a *de novo* (open) hearing on the question of whether the development approval met the applicable criteria for an extension of time. The Planning Commission would not reconsider the development review approval.

Alice Richmond, 3939 Parker Rd., invited people to donate children's toys for a benefit event.

PUBLIC HEARINGS

(Note: The staff reports and all related documents for the hearings are available through the Planning Department.)

MISC-10-14, Lot line adjustment and extension of previously approved 289,000 sq. ft. office campus and parking structure near 1870 Blankenship Drive

Chair Martin opened the public hearing and outlined the applicable criteria and procedure. He asked the Commissioners to declare any conflict of interest, bias *or ex parte* contact. All the Commissioners present had visited the site. Commissioners Jones and Babbitt served on the Planning Commission when it decided the original application. Commissioners Horsey and Steel each reported an *ex parte* contact. When invited by the Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

Staff Report

Zach Pelz, Special Projects Planner, presented the staff report (see Planning Staff Report dated October 13, 2010). In 2007 the City Council had heard an appeal of the Planning Commission decision to approve the development and upheld the decision after adding more conditions of approval. The staff found the approval qualified for a two-year extension to March 23, 2012. Extension provisions in CDC Chapter 99 called for making the proposal consistent with current code and correcting for errors, omissions or changes in fact since approval. But the City could not reverse previous judgment calls.

Pelz described the development. It was to be constructed in two phases. The approval required the developer to make street improvements. One improvement was to install a new traffic signal where the driveway intersected with Blankenship Road. The original lot line adjustment had been approved by the Planning Director in a separate review process, but never recorded, so it needed to be approved in the current process. Since the development had been approved the City had adopted new standards related to right-of-way and curb cut width, and ADA parking and signage. The current review dealt with those aspects and other things that had not been considered during the original approval process, including the location of bicycle parking, drainage across a walkway, and the location and amount of carpool and van pool parking. It also considered changes in surrounding properties. The applicant had modified the location of the access across from Tannler East. That met recommended Condition 5, Access Spacing. The staff had added Condition 7, Lot Line Adjustment, so the proposed lot line between lots 801 and 200 would be composed of straighter segments than the applicant proposed. The staff revised Condition 3(a) so it did not call for bumper guards. Interior sidewalks were wide enough that no bumper guards were required. Condition 4 was necessary to ensure the applicant corrected a situation where drainage crossed a walkway.

During the questioning period, Pelz confirmed that part of the proposed lot line adjustment was along infrastructure, but staff was recommending a different, straighter, demarcation because the code called for generally straight segments. He explained the new traffic signal was to be where the driveway met Blankenship Road because ODOT did not want it to be at the Tannler/Blankenship intersection where it might cause traffic to back up and block another intersection. He was not sure in which phases the street improvements would be constructed.

Applicant

Reece Conrad, Group Mackenzie, 1515 SE Water Ave. Ste. 100, Portland, Oregon 97214, stated that the applicant had no objection to the staff-recommended conditions of approval as long as the typographical error in Condition 3(b) was corrected to refer to "CDC Section 46.090(H)." During the questioning period Conrad indicated the applicant was willing to work out a straighter lot line adjustment that eliminated a zigzag, but they preferred to keep the segment they proposed along the driveway. He clarified that the applicant did not yet know how they would phase the roadway improvements. They would likely start with the traffic mitigation improvements associated with the building on the lower part of the hill because they planned

to build that building first. He clarified that the applicant did not know exactly when they would start the project because they had not yet found an occupant. But they had so much invested in the development already that they wanted to reach the point of "substantial construction" before the extension expired. He clarified the property owner and the City still had to work out how who would own the conservation easement area. He explained the applicant had not recorded the originally approved lot line adjustment because they had failed to keep track of that requirement.

Brent Ahrend, Group Mackenzie, the applicant's traffic engineer, anticipated that the signal at the driveway exit would cause the largest percentage of drivers to choose to exit there. Trip generation estimates were that if all 830 parking spaces were occupied, almost half of those drivers would exit the site during the PM Peak hour. The signal and turn lane were designed to accommodate that. Babbitt questioned the conclusion that traffic volume had decreased significantly between the 2006 and 2010 studies. Ahrend explained that 2006 study projections had factored in future volume generated by future new development in the area that had now been built. While traffic volume on Tannler had not changed much, traffic volume on Blankenship was lower now, likely because of the economy. The left turn from Tannler onto Blankenship was rated Level of Service (LOS) F because the delay there was greater than 50 seconds. But the signal at the site driveway would create more gaps in traffic on Blankenship and give drivers turning left onto Blankenship from Tannler more opportunities to make that turn.

Proponents

Alice Richmond, 3939 Parker Rd., observed that the extension was necessary due to the economic crisis. The applicant's representatives had explained how they would control traffic. She was not concerned about a 50-second delay at the intersection because the development would place offices and businesses where West Linn residents could patronize them without having to drive to another city. It would also generate tax revenue.

Opponents

David Rittenhouse, President of the Savannah Oaks Neighborhood Association, explained the neighborhood was concerned about traffic, an inadequate noise study, drainage/slope issues, the proximity of Building A to Blankenship Road, and the underground catch basin. He observed that the applicant did not propose any improvements to the Tannler/Blankenship intersection, which was failing. He questioned whether a "one-day study" of traffic was adequate. He suggested the proposed traffic mitigation was much less likely to be adequate now and when the economy improved than when the application was approved. He based that conclusion on the traffic study the applicant had submitted four years ago that anticipated a 3% annual growth rate in traffic and on the fact that traffic improvements had been made in a couple of other places along the corridor since then that improved the flow. He observed the proposed signal was across from an Albertson's center entrance and would cause congestion problems there as more and more drivers opted to turn at the signal rather than at the

Tannler/Blankenship intersection. He contended the noise study was inadequate because it did not offer proof that noise would meet the code standard. He said the application did not meet the code that called for looking for ways to preserve the existing topography. He advised the code called for all offsite improvements to be completed before any building permit was issued – it should not be allowed to be done in stages. He objected to allowing deferred compliance with the conditions of approval. He held that Building A was too tall and too close to Blankenship Road. The resulting “canyon” effect would affect pedestrians and the ambiance of the area. He advised the underground catch basin should be open because the City preferred such facilities to be outside where they were easier to monitor and maintain.

Rittenhouse testified that he had just received a packet containing many conditions of approval that neither he nor the Willamette Neighborhood Association had time to examine. But during the questioning period, he explained he would not ask for a continuance because that would extend the process another two weeks. Babbitt advised that the conditions of approval that the staff was recommending that related to the current extension request were in the staff report. The others Rittenhouse was referring to were likely the conditions of approval of the development application that had been in the record for several years since the original development application hearing and appeal. He recalled the development review process had addressed the issues that Rittenhouse raised. The original application contained a noise study that concluded the development met the code. The Planning Commissioners had initially been inclined to locate the signal at the Tannler/Blankenship intersection, but they had agreed to locate the signal at the driveway because ODOT did not want it at the intersection (where it would cause queuing issues). Rittenhouse served on the Tenth Street Task Force. He recalled the Task Force had considered alternatives and then recommended realigning Tannler to the west, through the complex. He explained he was not fighting the theory of having a light where it was proposed, but he was opposed to the actual application because the street that was to go through the complex was not a public street. He did not think it would work as ODOT said it would.

Ed Schwarz, 2205 Tannler Dr., asked the Commissioners to deny the extension and allow the “flawed” project to die so the applicant would have to submit a better application. His main concerns were that Building A would loom over Blankenship Road and that the application did not sufficiently mitigate traffic. He perceived that traffic was worse than it was three years ago, especially with the additional traffic generated by the new vet clinic. He held that a project the size the applicant proposed should have a much more extensive public and staff review. It was “the wrong project in the wrong place at the wrong time.” He advised that the code allowed the Commission to deny it because it said the Planning Commission “may” grant an extension. He recalled the expert the Savannah Oaks Neighborhood Association had hired to review the applicant’s noise study had found it inadequately demonstrated the development would meet the code.

Roberta Schwarz, 2206 Tannler Dr., pointed out the applicant had conducted the traffic study about a week before the vet clinic opened. She reported that the lot line adjustment had never been presented to the Savannah Oaks Neighborhood Association. She reasoned that because

the proposed development was worse than a similar, earlier, development that people disliked, the City did not intend to allow developments as large as the applicant's project to have an extension of approval time. She stressed that the applicant would build a seven-story building right next to the sidewalk. She stressed that the intersection had a Level of Service F and would continue at that rating. Her own experience was it had gotten harder to make a left turn there. She questioned why the City should make it harder for residents to get in and out of their homes in return for empty office space. The applicant did not have anyone ready to move in and did not know when they would have an occupant. She asked the Planning Commission to deny the application.

Rebuttal

Conrad recalled the previous development approval process had examined noise and drainage so those issues were not pertinent to the extension hearing. The building along Blankenship complied with all the height and setback requirements and the applicant had used terracing and landscaping to minimize its appearance. Ahrend said traffic volume had decreased since the 2006 study. He clarified that the May traffic count did include vet center traffic. The center had actually opened in April, but the opening ceremony was not until June. Even if it had not been counted, that use would generate about 20 Peak Hour trips, which would not be enough to bring the volumes back up to where they were in 2006. He observed that Rittenhouse had testified that he and the Tenth Street Task Force liked the alternative that directed traffic through the site, but he did not want it there because it came out at the Albertson's driveway. He pointed out that one condition of approval of the development permit was that the applicant would work with the City to change their traffic mitigation plan if the City and ODOT found a better way to mitigate traffic in the Tenth Street corridor.

Mike Robinson, Perkins Coie LLC, 1120 N.W. Couch Street, Portland, Oregon 97209-4128, advised that the application met Chapter 99 criteria for an extension and the applicant agreed with the staff report and recommendations. The applicant was seeking to preserve their investment in a bad economy. The extension ordinance was being properly used. There was nothing in the record of City Council approval of the extension ordinance that showed they intended it to only apply to small projects. The City had had three years to write code to ensure a development like this could not be approved again, but it had not done that. The development met the applicable approval criteria three years ago and still did. No one had proved otherwise. Staff had done a thorough analysis that looked at every new CDC criterion that had been adopted since the original development approval. The fact that Rittenhouse was able to say everything he wanted to say that night showed the hearing was a *de novo* hearing. He held the application met the applicable criteria and it was the Planning Commissioners' duty to approve the extension.

During the questioning period, Robinson advised that if the project reached the point of "substantial construction" before the extension period expired the developer was allowed to continue and finish the project. The entire project did not have to be finished and occupied by the expiration date. He pointed out the CDC defined "substantial construction." Pelz

projected the code definition onto the large meeting room screen for all to read. It said any of the following had to have taken place to be "substantial construction:"

- Utilities installed to serve the project
- Approved grading had been undertaken representing at least 25% of all the required preliminary grading
- Foundation excavation had occurred
- Foundation or building construction had occurred
- Street improvements were being installed, or,
- Major physical improvement required as part of the approved permit had clearly begun.

When asked, Pelz said he understood that reaching "substantial construction" by the extension expiration date would vest the entire development, not just one phase of it. He observed the original development approval did not establish any time limits for phasing and the Section 99.325 extension provision did not mention phasing. Monahan confirmed that once vested, the developer had an indefinite time in which to finish the development.

Horsey observed the City Council approval record showed they talked about the phases. Section 99.125 required an applicant to set the scope of phases. She suggested the Planning Commission require the applicant to tie each of the street, sidewalk, trail, landscaping, lighting and other improvements called for in the conditions of approval to a phase. Monahan and Sonnen pointed out that the Council decision imposed Condition 9, which connected some improvements to phases.

Condition 9. Prior to occupancy of the lower building on the site, the applicant shall have completed all street and traffic improvements listed as "Phase I mitigation" in the application, particularly, the November 3, 2006 letter from the applicant's traffic engineer, including the recommendations from city traffic consultant Carl Springer in his memorandum dated October 30, 2006, and the recommendations of the Oregon Department of Transportation (ODOT) contained in their letters of November 21, 2006. Prior to occupancy of either of the two upper buildings on the site, the applicant shall have completed all improvements listed as "Full Development Mitigation" in the application, as stated in the same letter as above, and as modified or amended by the recommendations of Carl Springer and ODOT dated October 30, 2006 and November 21, 2006 respectively. All improvements must be coordinated with and approved by the City, and ODOT in their areas of responsibility.

Horsey suggested there might be an omission in the application itself to be addressed in the extension hearing, because it did not conform to Section 99. 125 requirements that an applicant who proposed a project in phases had to set forth the timing of each phase in the application. Pelz recalled that appellants had based part of their appeal (AP 07-01) on a contention of improper phasing. The Findings explained why the Council had dismissed that argument. Horsey asked how the staff connected improvements to phases in practice. Sonnen explained they were guided by Section 99.125 regarding project phasing: "Each phase shall also install all necessary improvements to serve the development within that phase. " Anything necessary to support the demands of what was to be built in each phase would also have to be built. That would include stormwater facilities and offsite work. **Khoi Le, Engineering Department**, pointed out that Condition 9 required Phase 1 mitigation (the major traffic improvements) to be done prior to occupancy of Building A. He advised that the City typically

required the other street, lighting and sidewalk improvements connected with it to be done as well. Robinson said he thought the applicant would not only do what Condition 9 required but would work with the staff to do everything that fit the lower stage before the building was occupied.

Babbitt asked for clarification that each individual phase had to reach the point of "substantial construction." Robinson said that was not his understanding. A staged development had been approved and an extension would extend the multiphase development approval. So if the project reached the point of substantial construction within the extension period, both phases were vested. That was consistent with Oregon vesting law. After vesting the developer had as much time as they needed to build Phase 1 and Phase 2. Monahan confirmed that. Robinson distinguished between how the code treated land divisions and other applications, such as design review. Land divisions had to be platted and recorded by the approval expiration date. Since the City did not allow bonding, all the improvements had to be installed by that date because a plat could not be recorded without the related improvements. But design review was different. The applicant just had to substantially complete the development (not each phase) before the expiration date. Then they could do their staged development. In this case there was no land division.

Pelz confirmed that the findings in West Linn City Council Final Decision Notice AP 07-01 addressed every issue that Rittenhouse had raised in his testimony that night. Among them were findings that the applicant's noise analysis was adequate; phasing of the development was appropriate; the underground detention tank was appropriate; and the applicant's traffic mitigation measures were appropriate. He acknowledged that the staff report did not include a copy of the Planning Commission decision or the minutes of the Planning Commission hearing.

Babbitt asked how the City would handle the situation if the Albertson's site were redeveloped and that applicant had to make street improvements, but the current applicant's site was still undeveloped and they had not made their street improvements. Monahan advised the City could only look at each individual application and apply rough proportionality to determine what level of improvements that applicant should be required to make.

Deliberations

Chair Martin closed the public hearing and polled the Commissioners. Babbitt indicated he did not feel his questions had been adequately answered. He was concerned about partial completion of only one phase. His personal feeling was that traffic in the area of the site had gotten worse. Steel indicated that her questions had been answered and she believed the application met Section 99.325 requirements for granting an extension. She observed that the hearing had ranged far afield from the applicable criteria. Commissioner Jones observed the Commissioners had spent much of the hearing discussing the original application, which had been approved, and issues that were not relevant to the extension decision. He had heard that traffic had not increased and there was no evidence to the contrary; and that the original conditions of approval were not "omissions." He had heard nothing that demonstrated the

extension should not be granted. He said it should be granted. Horsey related that she was inclined to approve the extension. She liked the way the plan used open space to buffer the nearby residential area. She accepted that the issues of noise, drainage, building height and setback were not pertinent to the extension decision. She appreciated that the applicant was willing to work with the City if a new solution for Tenth Street corridor traffic was found. But it was not clear enough which improvements were going to be connected to which phase and she was wrestling with the prospect that the development would reach the minimum necessary for vesting and then remain unfinished for an indefinite period. Chair Martin was not completely convinced there was less traffic now. When the economy rebounded traffic would become worse. The intersection was at LOS F. (LOS F represents forced flow - more vehicles are attempting to use the highway than can be served, resulting in stop-and-go traffic) ODOT and the Tenth Street Task Force had not yet determined how to fix that, but the applicant had testified a signal at the driveway would improve the flow. That was the practical thing to do to bring about a better traffic situation. He saw no reason not to grant the extension. The applicant had done all they could to mitigate the traffic problem. To deny the extension and force the applicant back to the drawing board was not ethical and they would likely not be able to solve the traffic problem.

Commissioner Jones moved to approve MISC 01-04/LLA -10-03 with the modifications recommended by the staff and with the reference in Condition 3(b) corrected to "CDC Section 46.090(H)." Steel seconded the motion and discussion followed. Babbitt confirmed that he did not see anything in the code that would address the issue that once vested, the project could remain unfinished for a very long time. Horsey shared his concern. The vote was conducted and the motion passed 4:1. Babbitt voted against.

ITEMS OF INTEREST FROM STAFF (None)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Babbitt and Horsey suggested the Planning Commission schedule a work session to discuss issues the extension hearing had raised, including, what was "substantial construction" and how should it be related to phased development? Horsey suggested the CCI should look into the notice issue that Rittenhouse had raised. Babbitt suggested the minutes of the Planning Commission development approval hearing should be should be part of the record in an extension application because they showed how the Commissioners had resolved issues.

ADJOURNMENT

There being no other business, Chair Martin adjourned the Planning Commission meeting at 10:42 p.m.

APPROVED:



Robert Martin, Chair

12/3/2010
Date

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Date

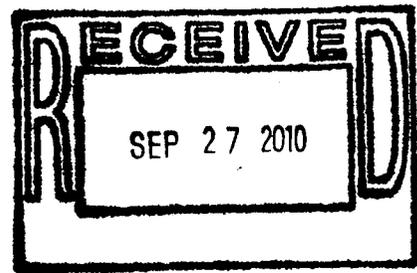
**CITY OF WEST LINN
PLANNING AND DEVELOPMENT**

**EXHIBIT PC-1
PUBLIC COMMENTS**

FILE NO.: MISC-10-14/LLA-10-03

REQUEST: Lot line adjustment and Extension of previously approved 289,000 square foot office campus and parking structure near 1870 Blankenship Drive

5



Dear Mr. Pelz and West Linn City Council,

Referring to the enclosed document "de novo" the hearings are clearly indicated to be de novo. The limitation language in the city notice: File No. MISC-10-14 refers to CDC section 99.325 as limiting the cities review authority. But this is a reason for denial not to inhibit argument of the application extension.

"Also, the majority finding determined that in the event of errors or omissions in the original review of the application, the extension would be denied if they were not corrected."

Exhibit B FINDINGS OF FACT FOR PROPOSED AMENDMENTS (CDC-09-04):

The language from the council is clear on de novo hearings with no limitations.

"L. Thus, the City Council considered a motion to allow two year extensions in a de novo hearing format. The motion also required that the approval criterion ask whether there were errors, omissions, and misinterpretations of CDC by earlier decision making bodies and applies new CDC and other regulations passed since the application was vested."

Exhibit B FINDINGS OF FACT FOR PROPOSED AMENDMENTS (CDC-09-04):

The above quotes show that de novo and errors and omissions do not overlap. In fact errors and omissions is not a framework for the hearing at all.

Scan the language below for any justification for limiting debate.

99.325 EXTENSIONS OF APPROVAL

A. The Planning Director may grant an extension from the effective date of approval of two years pertaining to applications listed in Section 99.060(A) upon finding that:

1. The applicant has demonstrated, and staff and the Planning Commission concur, that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and

2. There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or

3. The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.

B. The Planning Commission may grant an extension from the effective date of approval of two years pertaining to applications listed in Section 99.060(B), consistent with subsections (A)(1) through (3) of this section.

C. The Historic Review Board may grant an extension from the effective date of approval of two years for applications listed in Section 99.060(D), consistent with subsections (A)(1) through (3) of this section.

D. Eligibility for Extensions.

1. Only those applications approved between July 1, 2006, and December 31, 2009, shall be eligible for an extension.

2. Any application eligible for an extension under subsection (D)(1) of this section that would expire by June 30, 2010, shall be exempt from expiration pending a decision regarding the extension application; provided, that a complete application and deposit fee have been submitted to the Planning Director prior to that date. However, the extension shall begin on the date that the application's initial approval lapsed.

E. Extension Procedures.

1. The application for extension of approval may be submitted only after a pre-application meeting under Section 99.030(B).

2. The application shall satisfy the neighborhood meeting requirements of Section 99.038 for those cases that require compliance with that section.

3. Applications for extensions must be submitted along with the appropriate deposit to the Planning Department.

4. Applications for extensions will be processed if the initial approval lapses prior to issuance of a decision, consistent with subsection (D)(2) of this section.

5. Notice of the decision shall be issued consistent with Section 99.080.

6. The decision shall not become effective until resolution of all appeal

periods, including an opportunity for City Council call-up pursuant to this chapter. (ORD. 1589 § 1 (Exh. A), 2010)

Nowhere is there indicated any language limiting the scope of argument or de novo. There is only a to do list of issues which must be cleared for any approval. The approval is not limited to just this list. It just can't occur without meeting these standards.

The public notice

[http://westlinnoregon.gov/sites/default/files/projects/misc-10-14 tidings notice.pdf](http://westlinnoregon.gov/sites/default/files/projects/misc-10-14_tidings_notice.pdf) of this project has language problems.

"Furthermore, the provisions of CDC Section 99.325 limit the City's review authority, as it regards this extension request, to those applicable standards which have been enacted since the applicant's original submittal as well as errors, omissions, misrepresentations or changes in fact occurring during the original review. A decision to approve or deny the applicant's request will be based on the applicable CDC provisions as set forth in CDC Sections 85.210 and 99.325. During the public hearing, it is imperative that comments relate specifically to the applicable criteria listed." File No. MISC-10-14

This in no way meshes with the council's findings shown above of full de novo hearings and a standard which developers must attain to have any chance of approval. Therefore the notice sent was in error and needs to be corrected. Also two planning Commission hearings on extensions have occurred which according to planning staff has used this false standard and now is being referred to as precedent setting by staff.

Lastly all land-use hearings in West Linn are de novo. This has been reaffirmed several times by different councils. The standard has been set and to change that would require a clear change in council direction and language. That is not shown in any documentation.

Thank you for your attention to this matter.

David Rittenhouse

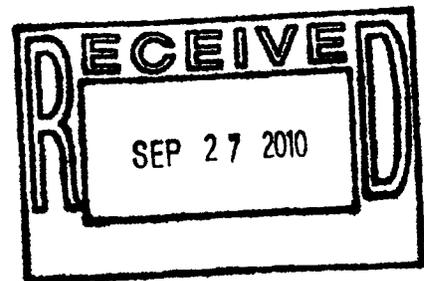
President Savanna Oaks Neighborhood Association

7. An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives:

K. City Council heard testimony that described the current hardships and reached consensus that providing the opportunity for extension was an appropriate response. Countervailing testimony in opposition to the extensions was noted. Specifically, testimony was heard that the approvals that could potentially be extended were processed during a period where numerous staff errors had occurred. Another individual testified that public cost would be increased as a result of allowing extensions of land use approvals. However, the majority of City Council found that the approval criterion for extensions would ensure that all land use applications receiving extensions would be required to demonstrate compliance with current regulations, including the CDC. Also, the majority finding determined that in the event of errors or omissions in the original review of the application, the extension would be denied if they were not corrected. Further, applicants would be charged the cost of processing their applications for extensions.

L. Thus, the City Council considered a motion to allow two year extensions in a de novo hearing format. The motion also required that the approval criterion ask whether there were errors, omissions, and misinterpretations of CDC by earlier decision making bodies and applies new CDC and other regulations passed since the application was vested. The burden of proof is on the applicant to demonstrate continued compliance, or the ability to comply through minor modifications, with current CDC approval criteria. Failure to do so means denial of the extension request. The majority vote by City Council affirmed these findings and the amendments were approved.

Memos 2010-CDC-09-04-Findings for extension jan 25 2010 newer still



Neighborhood Meeting

You are invited to attend a joint meeting with the Savanna Oaks Neighborhood Association and the Willamette Neighborhood Association for a discussion on an upcoming extension request of the approved Willamette 205 Corporate Center office complex. The project is located on a vacant site at the northwest corner of Tannler and Blankenship in West Linn. The property owner is proposing to extend this significant development approval in accordance with the City process recently adopted by City Council. No new design information is proposed, and this application is limited to the approval criteria, which require addressing new information since the project's approval in 2007.

100

Savanna Oaks Neighborhood	Willamette Neighborhood
<p><i>Time:</i> Thursday, June 3, 2010, 7:00 p.m.</p>	<p><i>Time:</i> Wednesday, June 9, 2010, 7:00 p.m.</p>
<p><i>Location:</i> West Linn City Hall 22500 Salamo Road West Linn, OR 97068</p>	<p><i>Location:</i> Tualatin Valley Fire & Rescue Community Room 1860 Willamette Falls Drive, West Linn 97068</p>

AFFIDAVIT OF MAILING

STATE OF OREGON)
) SS
COUNTY OF CLACKAMAS)

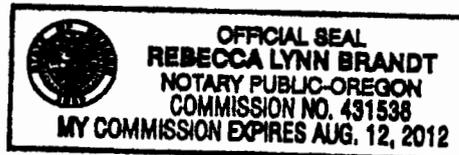
I, Rhys Konrad, being first duly sworn, depose and say:

That on the 14th day of MAY, 2010, I served upon the persons shown on Exhibit "A," attached hereto and by this reference incorporated herein, a copy of the Notice of early neighborhood meeting marked Exhibit "B," attached hereto by this reference incorporated herein, by mailing to them a true and correct copy of the original hereof. I further certify that the addresses shown on said Exhibit "A" are their regular addresses as determined from the books and records of the Clackamas County Department of Assessment and Taxation Tax Rolls, and that said envelopes were placed in the United States Mail with postage fully prepared thereon.

Rhys Konrad
Signature

SUBSCRIBED AND SWORN to before me on this 10 day of June, 2010

Rebecca J. Brandt
Notary Public for Oregon
My commission expires: 8/12/12



RE: Tanner West Extension

AFFIDAVIT OF POSTING

STATE OF OREGON)
) SS
COUNTY OF CLACKAMAS)

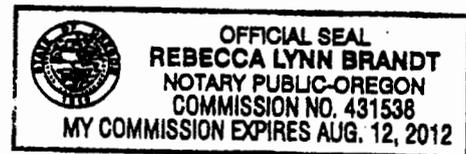
I, Rhys Konrad, being first duly sworn, depose and say:

As the applicant for the Tanner West Extension project, I hereby certify that I posted a sign for the early neighborhood meeting in accordance with the requirements of the West Linn Community Development Code on the 14th day of May, 2010.
Dated this 10th day of June, 2010.

Rhys Konrad
Signature

SUBSCRIBED AND SWORN to before me on this 10 day of June, 2010

Rebecca J. Brandt
Notary Public for Oregon
My commission expires: 8/12/12



RE: Tanner West Extension

GROUP

MACKENZIE

CELEBRATING 50 YEARS

PORTLAND, OR | SEATTLE, WA | VANCOUVER, WA
RiverEast Center | 1515 Water Avenue, Suite 100 | Portland, OR 97214
P.O. Box 14310 | Portland, OR 97293
T: 503.224.9560 | F: 503.228.1285 | www.groupmackenzie.com

MEMORANDUM

DATE: June 10, 2010
TO: File
FROM: Rhys Konrad, Bob Thompson, and Brent Ahrend
SUBJECT: **Willamette Neighborhood Association Meeting**

Representatives of the applicant developing the Willamette 205 Corporate Center Phase II project (Bob Thompson, Architect; Rhys Konrad, Planner; and Brent Ahrend, Traffic Engineer of Group Mackenzie) attended the June 9, 2010 meeting of the Willamette Neighborhood Association. The reason for meeting with the neighborhood was that an application will be submitted to the City for the Willamette 205 Corporate Center Phase II, which is an office complex previously approved for the site located at Tannler Drive and Blankenship Road. The following is a summary of the presentation by the applicant's representative.

Since it has been a few years since the approval, and possibly some of the meeting attendees are not familiar with the project, the applicant's representative provided a general overview of the previously approved project design.

- This project was approved by the City Council in March 2007, but will expire unless a two-year extension is granted by the City.
- Therefore, the only request we have of the City is to extend the decision. This type of request is truly a sign of the economic times, and the City of West Linn adopted an ordinance allowing the opportunity for an extension similar to many other jurisdictions in the Portland area.
- The approval criteria for an extension request is focused primarily around if the project continues to comply with City standards at the time of the original approval, and that it complies with any standards that have changed since the original approval.
- The applicant is not proposing any changes to the project or to the conditions of approval from what was approved in 2007.
- The only changes in City standards that have occurred since 2007, according to our review and City staff, are those related to the recycling/trash enclosure standard and the number of trash receptacles.
- It appears the project already complies with the trash enclosure standard, and will be adding a few trash receptacles in the parking lot to address the new standard.
- The applicant also reviewed transportation conditions to determine if anything significant has changed since the 2007 decision.

Following the presentation, there were a number of questions and concerns regarding the traffic issues in the general project's vicinity, and more specifically at Tannler and Blankenship. A detailed review of the conditions of approval and the approximately \$2 million of required mitigation was illustrated. Several questions and concerns followed, mainly about the potential alignment of Tannler. It was pointed out the approved project allows two of the three options proposed by the City for Tannler, in addition to the traffic mitigation. It was stated the request is only to extend the design review decision and not to change the design of the project or any of the conditions of approval, unless there are standards that have changed since the original 2007 approval. There were concerns about potential cut-through traffic from Tannler through the site to access the new signal at Albertsons. Also, there was concern about the traffic counts and whether they included the residences above Summerlinn and the new VA Clinic. It was pointed out recent counts indicated lower volumes than those of the approved traffic analysis, including the recent opening of the VA Clinic.

GROUP

MACKENZIE

CELEBRATING **50** YEARS

MEMORANDUM

PORTLAND, OR | SEATTLE, WA | VANCOUVER, WA
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P.O. Box 14310 | Portland, OR 97293
T: 503.224.9560 | F: 503.228.1285 | www.groupmackenzie.com

DATE: June 8, 2010
TO: File
FROM: Tom Wright, Bob Thompson, and Brent Ahrend

SUBJECT: Savannah Oaks Neighborhood Association Meeting

Representatives of the applicant developing the Willamette 205 Corporate Center Phase II project (Bob Thompson, Architect; Tom Wright, Planner; and Brent Ahrend, Traffic Engineer of Group Mackenzie) attended the June 3, 2010 meeting of the Savannah Oaks Neighborhood Association. The reason for meeting with the neighborhood was that an application will be submitted to the city in the next week or two for Willamette 205 Corporate Center Phase II, which is an office complex previously approved for the site located at Tannler Drive and Blankenship Road. The following is a summary of the presentation by the applicant's representative.

- This project was approved by the City Council in March 2007, but will expire unless a two-year extension is granted by the City.
- Therefore, the only request we have of the City is to extend the decision. This type of request is truly a sign of the economic times, and the City of West Linn adopted an ordinance allowing the opportunity for an extension similar to many other jurisdictions in the Portland area.
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- The applicant also reviewed transportation conditions to determine if anything significant has changed since the 2007 decision.

Since it has been a few years since the approval, and possibly some of the meeting attendees are not familiar with the project, the applicant's representative provided a general overview of the previously approved project design.

Following the presentation, there were a number of questions and concerns regarding the design of the project and traffic congestion. It was pointed out by the applicant's representative that the request is only to extend the design review decision and not to change the design of the project or any of the conditions of approval, unless there are standards that have changed since the original 2007 approval. Regardless, there were several comments/concerns expressed regarding traffic, scale of the building adjacent to Blankenship, storm drainage, and the future of the undeveloped open space area at the north end of the site. The majority of concerns were regarding traffic, and specifically the intersection of Tannler and Blankenship. There was a comment from one of the neighborhood attendees that the project was very attractive.

There was a request for a copy of the traffic report conducted for the prior approval, as well as further information on timing of phases of the project and a traffic simulation model of the site. There were concerns about the recent opening and traffic generated from the VA Clinic and about potential cut-through trips anticipated through the site to access the signal opposite Albertsons. Additional traffic counts were requested for more than one day.

Kerr, Chris

From: Russell Axelrod <rbaxelrod@yahoo.com>
Sent: Wednesday, October 08, 2014 12:51 PM
To: Kerr, Chris
Cc: Steel, Christine
Subject: clarification regarding my 9/30 comments on File No. ZC-14-01/PLN-14-10

Hi Chris,

As you requested, this e-mail is to clarify the basis/intent of my 9/30/14 comments on the subject file for the proposed zoning change to the property on Tannler Drive.

As you know I was in Europe the last several weeks. During my trip I received the city's Staff Report and documentation associated with the file for the hearing on the matter by the Planning Commission (PC) scheduled for October 1, 2014. The file documentation was received by e-mail from Shauna Shroyer.

I prepared my comments after reading the Staff Report and related documentation. I did not have knowledge of the file information or an opinion on the matter before I read and considered the documentation provided by the city. I submitted my comments only because I was in Europe and unable to attend the 10/1/14 hearing, and I assumed that the PC would be deliberating and rendering a decision on the matter on that date while I was in Europe. My comments were submitted only because I assumed that was my only opportunity to have my opinion considered by other PC members when it deliberated and voted on the proposal. I was merely trying to be responsive and fulfill my obligation as a PC member while away on a trip that was scheduled six months ago.

I regret if this caused confusion or created any conflicts for the city or the applicant. Having returned to the US, I understand now that the hearing was extended to a later date by the PC. As noted above, my comments were made only after I read and considered all of the information provided by the city. In that regard I did not prejudge the proposal and I do not feel that I was biased on the matter. However, based on the concern this has apparently raised, and to avoid potential further complications for the city or applicant, I will recuse myself from the zoning change matter if necessary.

Thank you,

Russ Axelrod

Shroyer, Shauna

From: Kerr, Chris
Sent: Wednesday, October 08, 2014 4:59 PM
To: 'Stults, Gregg'
Cc: Shroyer, Shauna
Subject: RE: Public comment for Project ID: ZC-14-01/PLN-14-01

Thanks – I'll include this into the record.
CK

Chris Kerr, Community Development Director
Community Development, #1538



Please consider the impact on the environment before printing a paper copy of this email.
This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: Stults, Gregg [<mailto:Gregg.Stults@nike.com>]
Sent: Wednesday, October 08, 2014 4:10 PM
To: Kerr, Chris
Subject: Public comment for Project ID: ZC-14-01/PLN-14-01

Dear Mr. Kerr,

Please include the attached document in the public feedback for the Blankenship and Tannler property zoning change request (ZC-14-01/PLN-14-01)

My understanding is that public comment is being accepted through 5:00pm today (10/8). Please let me know if that is not the case.

Regards,
Gregg Stults

October 8, 2014

City of West Linn
Planning Commission
22500 Salamo Rd
West Linn, OR 97068

Re: Zoning change request for property at corner of Blankenship and Tannler (ZC-14-01/PLN-14-01)

Dear Planning Commissioners,

I am a resident of the neighborhood near the subject property, and I am opposed to the zoning change request. I have concerns about the economic impact as well as the impact to our school system, but my largest concern is related to traffic impact in the immediate area. I am not a traffic engineer, but I drive through the impacted area multiple times a day, and I have significant experience with the current situation. In general, there is no compelling reason to make the zoning change except to generate income for the property owner. The zoning change request should be denied, but at a minimum, before approving any zoning change, a thorough traffic impact analysis should be completed and a commitment made to implement any recommendations that analysis makes.

In the current application and staff report, both the applicant and staff refer to "Reduced Impact to Transportation System". This "reduced impact" is based on a comparison of a hypothetical maximum capacity office structure compared to the proposed 200+ residential units. The fact that is conveniently ignored is that there is no traffic impact right now, and there will absolutely be traffic impact if 200+ residential units are built. Regardless of the various potential and hypothetical impacts, the applicant's statements are deceptive because they try to gloss over a serious issue and disregard the actual impact to livability in our community.

The reality is simple: traffic at the intersections of Tannler and Blankenship, as well as the intersection at 10th street, is already bad. I drive through these intersections multiple times a day almost every day, so I've experienced it first-hand for years. Furthermore, it's not getting better, and there is currently development of 30+ new homes in the immediate area, so there is no reason to think it will improve.

Some specific points to consider:

As I understand it, the original 2007 approval for building 3 office structures included significant traffic improvements, including a signal light on Blankenship, west of Tannler. The proposal to build apartments instead of office buildings does not include any significant traffic improvements, so even if the potential traffic volume is reduced, the impact will be larger due to limited mitigation.

The traffic flow numbers provided by the applicant comparing OBC to the apartments is focused on peak hours and does not account for the fact that traffic flow from the apartments will occur over larger time

periods, not just weekdays AM and PM. Also, the traffic flow from apartments will compound any existing issues since it will match the existing residential flows. Traffic to and from an office building will have a lessor impact because it's opposite to the general residential flow of the area.

The previous study was 7 years ago, things have changed since then, the area is growing, and the findings today may be significantly different. The potential impact of this zoning change is huge, the decisions needs to be based on as much factual information as possible, not outdated assumptions.

Before you consider approving any zoning change, please require that the applicant have a thorough traffic study completed by an independent third party, and have the applicant commit to fund any traffic management improvements recommended by that study.

Ultimately, development in our community should happen in a way that benefits the community as a whole. We already have one of the best communities in Oregon and even the entire nation. Changes like this zoning request should only be approved if the benefits are significant and the negative impact minimal.

In the context of traffic, the potential impact of this change is clearly large and negative. Please help ensure that everything possible is done to mitigate those negative impacts, and help ensure we continue to benefit from the high quality of life that West Linn currently enjoys.

Sincerely,

Gregg Stults
2120 Alpine Dr
West Linn, OR 97068

2 pages total

Public Testimony in Opposition to ZC-14-01/PLN-14-01

Submitted to the City of West Linn on October 8th, 2014 by Roberta Schwarz

#1. Goal 1 Citizen Involvement Policy 4 states that the city must "Provide timely and **adequate** notice of proposed land use matter to the public..." (emphasis added). The Public Hearing Notice (Example 1) does not note that this proposal is a Quasi-Judicial change. Adequate notice was therefore not given.

#2. CDC 105.050 (c) (3) Quasi-Judicial Amendments and Standards for Making Decision states that in order to be approved "The change will not adversely affect the health, safety, and welfare of the community." Adding approximately 100 children to the WLWSD (West Linn Wilsonville School District) which have not been included in the long range planning or enrollment projections will adversely affect the welfare of the community. The fact that it was not was confirmed in a telephone conversation with School Board Chair Regan Molatore on October 7th at 3:20 pm where the process was detailed. Since this site is zoned OBC it was not included in either the long range planning or the enrollment projections of the local school district. This CDC code is not met.

#3. The applicant's argument that this site cannot be developed as mixed use without a zoning map and comprehensive map change is incorrect. Mr. Parker already has approval to develop this site as mixed use. But Con Am is only interested in this site for apartments if they can develop the apartments in a separate area from the OBC area. This request does not raise to the high level necessary for a comprehensive plan change and zoning change.

Respectfully submitted,


Roberta Schwarz

2206 Tannler Dr. West Linn, OR. 97068



Example 1

PUBLIC HEARING NOTICE

Amend the Comprehensive Plan Map and Zoning Map to permit multi-family housing on three parcels at the northwest corner of Tannler Drive and Blankenship Road (ZC-14-01 and PLN-14-01)

The West Linn Planning Commission will hold a public hearing on Wednesday, October 1, 2014, **starting at 6:30 p.m.** in the Council Chambers in City Hall, 22500 Salamo Road, West Linn, to consider a request by ConAm Properties, LLC to change the Comprehensive Plan Map designation from Commercial to Medium-high Density Residential and to change the Zoning Map designation from Office Business Center (OBC) to Medium-high Density Residential (R-2.1) on three parcels at the northwest corner of Tannler Drive and Blankenship Road (Clackamas County Assessor's Map 2S 1E 35C tax lots 100, 102, and 200). CDC Chapters 21 and 16 outline the uses permitted in the OBC and R-2.1 zoning districts, respectively. The Planning Commission will make a recommendation to the City Council to approve, approve with conditions or deny the Applicant's request.

The criteria applicable to Comprehensive Plan Map and Zoning Map amendments are found in Chapters 99 and 105 of the West Linn Community Development Code (CDC). A recommendation by the Planning Commission to approve or deny this request will be based upon applicable criteria. At the hearing, it is important that comments relate specifically to the applicable criteria.

The complete application for ZC-14-01/PLN-14-01 is available for inspection at no cost at City Hall or via the City of West Linn's website at <https://westlinnoregon.gov/planning/nw-corner-blankenship-tannler-drive-zone-change-and-comp-plan-zoning-map-change>. Printed copies of these documents may be obtained at City Hall for a minimal charge per page.

At least ten days prior to the hearing, a copy of the staff report will be available for inspection at no cost or copies can be obtained for a minimal charge per page. For further information, please contact Zach Pelz, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, zpelz@westlinnoregon.gov, or 503-723-2542.

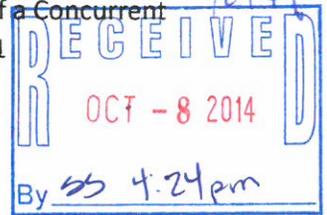
The hearing will be conducted in accordance with the rules of Section 99.170 of the CDC. Anyone wishing to present written testimony on this proposed action may do so in writing prior to, or at the public hearing. Oral testimony may be presented at the public hearing. At the public hearing, the Planning Commission will receive a staff presentation, and invite both oral and written testimony. The Planning Commission may continue the public hearing to another meeting to obtain additional information, leave the record open for additional evidence, arguments, or testimony, or close the public hearing and take action on the application as provided by state law. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issues, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

SHAUNA SHROYER
Planning Administrative Assistant

Publish: West Linn Tidings, September 18, 2014

Additional Public Testimony (Written) In Opposition to ConAm Application for Approval of a Concurrent
Comprehensive Plan Map and Zoning Map Amendment ZC-14-01/PLN-14-01

Submitted to the City Of West Linn on October 8th



#1. West Linn Comprehensive Plan Goal 1: Citizen Involvement Goal 1 states that the city is to "Provide the opportunity for broadly based, ongoing citizen participation, including opportunities for two way dialogue between citizens and City elected and appointed officials." This has not been met here. By literally closing a locked door, the City Manager prohibited access to a public meeting in a room not usually used for Work Sessions to a group of citizens who wanted to come in to the Planning Commission Work Session before the Planning Commission hearing. Please see attached photos (Exhibit 1). It was at this meeting that the attorney for the applicant first requested that the Planning Commission hearing, about to take place directly after that Work Session, be continued after the hearing on October 1st to a second meeting on October 15th only for his rebuttal and not for any additional public oral testimony. This became a "done deal" at this Work Session when it was brought up to the Planning Commissioners without the opportunity of the citizens to comment. When a citizen stated there was a "Point of Order", because this request was made even before the citizens could hear about and respond to it, the city's attorney said that this point of order was not to be addressed. It was referred to during the Planning Commission meeting by the Commissioners without the citizens even having been able to hear about this request when it was made at the Work Session because they were locked out. When the citizens requested, during the subsequent Planning Commission hearing, that the continuance include the ability for the public to also provide additional oral testimony on the 15th of October, the request was denied. It was also requested that the citizens be able to present written testimony until October 15th and that request was also denied. The cut-off date for citizen written testimony was given as October 8th. The Planning Commission Chair actually looked for advice from the applicant's attorney in the hearing. A copy of the hearing tape is available for your consideration.

#2. Because the citizens were not allowed to present written testimony beyond October 8th, we are submitting this testimony under protest. We are submitting several dozen petition signatures of citizens opposed to this Comprehensive Plan Map and Zoning Map Amendment. Please see attached (Exhibit 2). If the deadline had been the requested October 15th date, there would have been time to get many dozens of additional signatures.

#3. During the October 6th West Linn Wilsonville School Board meeting, Edward Schwarz, asked the Board if the additional students from the proposed 208 apartment unit complex had been considered in the school district's long range planning and enrollment projections which go through 2018. Mr. Schwarz did not receive an answer to his question that night but was told that the Board does not engage in discussions with citizens at their meetings. Please see attached written testimony to the Board (Exhibit 3). He was called the following day at 3:20 by Board member Regan Molatore. He wasn't home so in his absence, his wife, Roberta, was told that it is the process in the District's Long Range Planning to not include students if the property is zoned OBC and since this is the case, the students from the proposed 208 unit apartment complex were not included in the planning and enrollment projections.

#4. Even though Mr. Parker approached businesses in the area in order to garner their support, it is important to note that only one, an architect, was represented in oral testimony. This undermines the

argument that the business community is in favor of this proposal. In fact, the traffic congestion it will create will be detrimental to the business community in the area.

#5. There are several vacant lots in the area already approved for development in West Linn that are not being considered in the traffic estimates given by the applicant. There are 80 plus additional homes and numerous apartments which are either being constructed currently or will be built in the near future. 21 more apartments will be built on property behind Albertsons if the proposal is approved.

#6. The "No Left Turn" from Tannler Dr. onto Blankenship restriction was not even addressed in the minimal traffic report presented by the applicant. When asked at a neighborhood meeting about whether this applicant was going to enforce this prohibition the spokesperson, Rob Morgan said "I don't know." That is something that the citizens deserve to know going in to this proposal hearing.

#7. The fact that ODOT has prohibited a traffic light at the intersection of Tannler and Blankenship because of the proximity to the on ramps and off ramps from I-205 was not presented in the applicant's minimal traffic study.

For these and the additional reasons submitted by the citizens on, before, and after the October 1st hearing in oral and written testimony, we request that you deny this proposal. Please include this written testimony in the public record.

Respectfully submitted,

Ed and Roberta Schwarz

Citizens of West Linn

2206 Tannler Dr. West Linn, OR. 97068

Exhibit 1

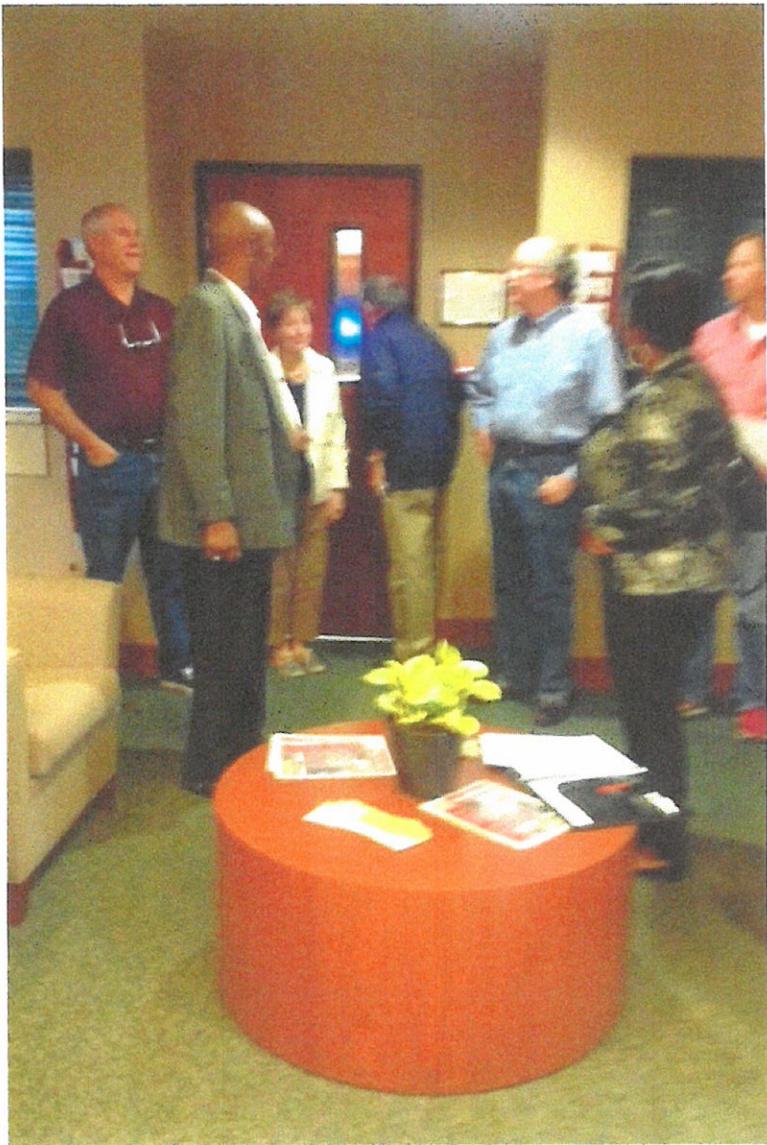
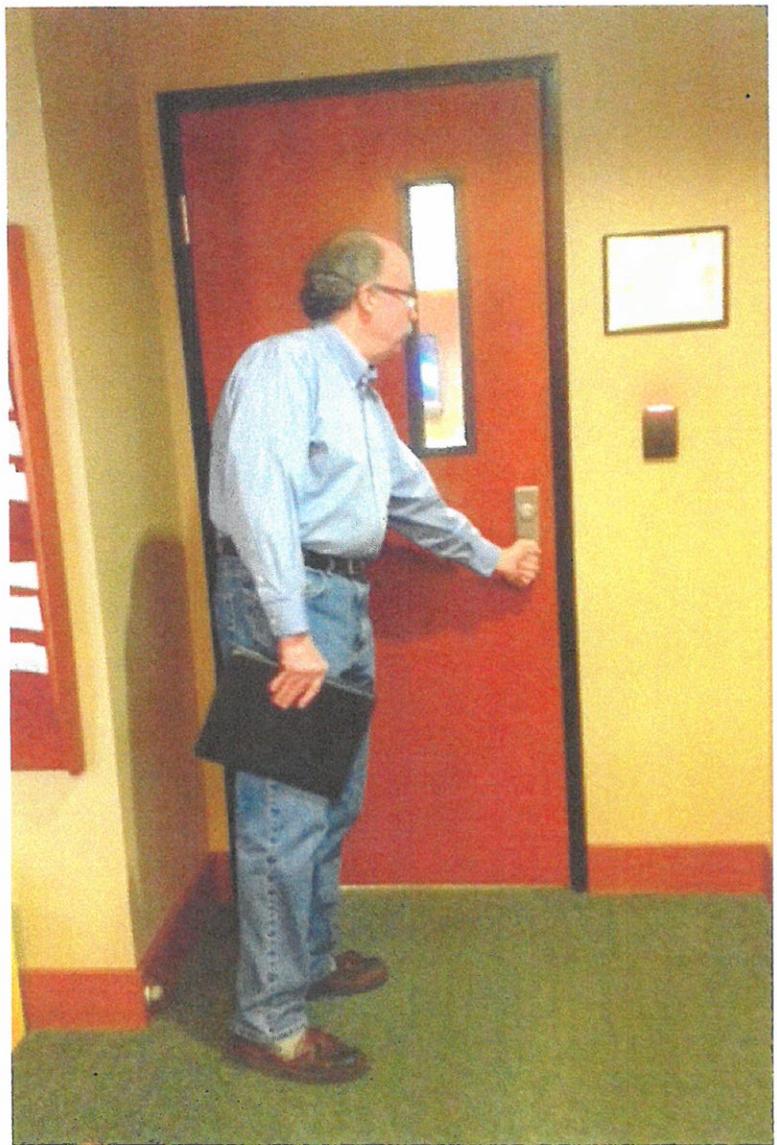


Exhibit 2

86 names total

87

- 1 duplicate

86 names

Dear Mayor Kovash, City Council Members and Planning Commission Members,

We, the undersigned, wish to state our opposition to the Con-Am Application for Approval of a Concurrent Comprehensive Plan Map and Zoning Map Amendment ZC-14-01/PLN-14-01. Our opposition is based on the fact that the application does not meet the requirements of the Comprehensive Plan and the Community Development Plan including, but not limited to, Goal 2: Land Use Policies, Section 1: Residential Development; Policies, paragraph 7 c which states "Medium-high density residential lands will meet all of the following criteria:

- i. Areas that do not rely solely on local street for the provision of access;
- ii. Areas that are not subject to development limitations such as topography, flooding, or poor drainage;
- iii. Areas where the existing facilities have the capacity for additional development" (emphasis added)

The application does not meet ii or iii.

We respectfully request that you deny this application and amendment for the Northwest Corner of Blankenship Rd and Tannler Dr. in West Linn, Oregon.

Signature

Name Printed

Address

<u>Jodi Dodd</u>	Jodi Dodd	2419 Remington Dr, West Linn 97068
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<u>Jodi Dierckes</u>	Jodi Dierckes	3417 Barrington Dr. West Linn 97068
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<u>Constance Weaver</u>	Cyber B. Weaver	5796 Robert Moore St, W.L. 97068
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<u>Marianne</u>	Marianne D. Jacklyn	1235 Swift Shore Cir. WL 97068
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<u>Patsy Halverson</u>	Patsy Halverson	2420 Remington Dr
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<u>Jean M. Lambert</u>	Jean M. Lambert	2416 Remington Dr. WL 97068 West Linn, OR 97068
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<u>Randy K Lambert</u>	Randy K Lambert	↓ Sims
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Signature

Name Printed

Address

Elizabeth Holden ELIZABETH HOLDEN 3488 VISTA RIDGE DR

Susan E Glad SUSAN GLAD 2205 Tanner Dr.

Charles L. Holden CHARLES L. HOLDEN 3488 VISTA RIDGE DR

Dear Mayor Kovash, City Council Members and Planning Commission Members,

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Signature

Name Printed

Address

Ed Schwarz ED SCHWARZ 2206 TANNER DR.

* Marilyn Schultz Marilyn Schultz 2423 Remington Dr.

Ava Seavey STEVEN SEAVEY 4840 Westlakes Dr

* Scott Etlinger SCOTT ETTLINGER 1945 TAYLOR CT

Lisa Shepard LISA SHEPARD 2280 Tannler Dr

Ramiah Ramey RAMIAH RAMEY 1995 ALPINE DRIVE

Rian Flad RIAN FLAD 2285 Tannler Dr

Dear Mayor Kovash, City Council Members and Planning Commission Members,

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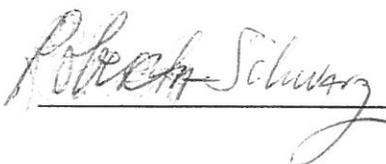
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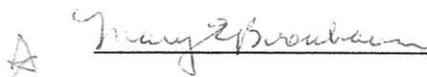
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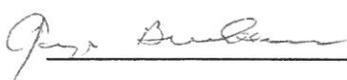
Signature

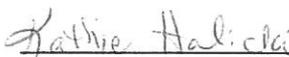
Name Printed

Address

 Roberta Schwarz 2206 Tannler Dr W.L. OR.

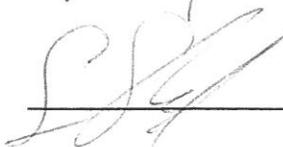
 Mary S. Birenbaum 1806 Barnes Cir W.L.

 Georges Birenbaum 1806 Barnes Cir W-L

 Kathie Halicki 2307 Falcon Dr. W.L.

 2119 Greene St West Linn 97068

 2119 Green St West Linn 97068

 SEAN SHEPARD 2280 TANNER DR WEST LINN, OR

Dear Mayor Kovash, City Council Members and Planning Commission Members,

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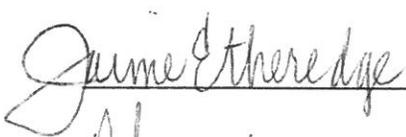
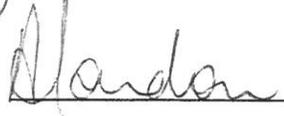
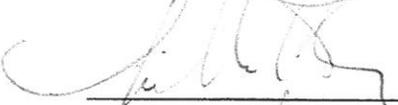
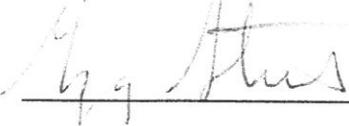
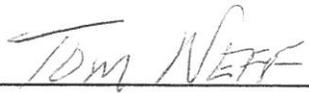
The application does not meet ii or iii.

We respectfully request that you deny this application and amendment for the Northwest Corner of Blankenship Rd and Tannler Dr. in West Linn, Oregon.

Signature

Name Printed

Address

	Jaime Etheredge	1945 Taylor Court, West Linn
	ANJU NATHAN	1955 TAYLOR CT, West Linn
	Leslie Foster	2375 Falcon Drive, West Linn
	Robinson Foster	2375 Falcon Drive, West Linn
	William Perreault	2372 Falcon Dr, West Linn
	Gregg Stults	2120 Alpine Dr. West Linn
	Dina Stults	2120 Alpine Dr. West Linn
	TOM NEFF	671 M'HURST CIR WL

Dear Mayor Kovash, City Council Members and Planning Commission Members,

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Signature

Name Printed

Address

Teri Cummings Teri Cummings 2190 Valley Dr

Julia Simpson Julia Simpson 1671 Killarney Dr

Karie Oakes Karie Oakes 1125 Maryhurst DR

~~^{Duplicate}
Jodi Dodd Jodi Dodd 2419 Remington Dr.~~

Janet Peck Janet Peck 2592 Crestview

Twea Bialas + Fred Crestview

Dear Mayor Kovash, City Council Members and Planning Commission Members,

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The application does not meet ii or iii.

We respectfully request that you deny this application and amendment for the Northwest Corner of Blankenship Rd and Tannler Dr. in West Linn, Oregon.

Signature

Name Printed

Address

Mary Kay Campbell

Mary Kay Campbell 1843 Barnes Circle WL 97068

Dear Mayor Kovash, City Council Members and Planning Commission Members,

We, the undersigned, wish to state our opposition to the Con-Am Application for Approval of a Concurrent Comprehensive Plan Map and Zoning Map Amendment ZC-14-01/PLN-14-01. Our opposition is based on the fact that the application does not meet the requirements of the Comprehensive Plan and the Community Development Plan including, but not limited to, Goal 2: Land Use Policies, Section 1: Residential Development; Policies, paragraph 7 c which states "Medium-high density residential lands will meet **all of the following criteria**:

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Signature

Name Printed

Address



Glendon Smith

gsmith@mainline-design.com

Dear Mayor Kovash, City Council Members and Planning Commission Members,

We, the undersigned, wish to state our opposition to the Con-Am Application for Approval of a Concurrent Comprehensive Plan Map and Zoning Map Amendment ZC-14-01/PLN-14-01. Our opposition is based on the fact that the application does not meet the requirements of the Comprehensive Plan and the Community Development Plan including, but not limited to, Goal 2: Land Use Policies, Section 1: Residential Development; Policies, paragraph 7 c which states "Medium-high density residential lands will meet **all of the following criteria:**

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- ii. Areas that are not subject to development limitations such as topography, flooding, or poor drainage;
- iii. Areas where the existing facilities have the capacity for additional development" (emphasis added)

The application does not meet ii or iii.

We respectfully request that you deny this application and amendment for the Northwest Corner of Blankenship Rd and Tannler Dr. in West Linn, Oregon.

Signature

Name Printed

Address

Ed Pickett Ed Pickett 1945 Hall St. West Linn

Linda Pickett LINDA PICKETT 1945 Hall St. West Linn

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Signature

Name Printed

Address

Darla Lindsey

Darla Lindsey

2241 SAINT MORITZ LOOP

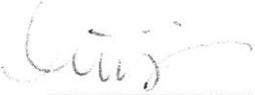
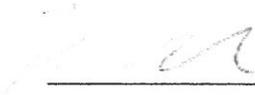
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Signature	Name Printed	Address
	Jin Liu	2345 Tannler Dr.
	Fanny Zhou	2345 Tannler Dr.

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Signature	Name Printed	Address
<u>Shannon Stoddart</u>	Shannon Stoddart	1904 Hall St
<u>Robert Stoddart</u>	Robert Stoddart	1904 Hall St
<u>Michelle Travali</u>	Michelle Travali	1525 Willamette Falls Dr.
<u>Patricia Halden</u>	Patricia Halden	1525 Willamette Falls Dr.
<u>Kathie Meisner</u>	KATHIE MEISNER	1525 WILLAMETTE FALLS DR
<u>Marlene Fisher</u>	Marlene Fisher	1910 Hall St.
<u>Alan Fisher</u>	Alan Fisher	1910 Hall St.

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Signature

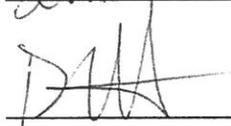
Name Printed

Address



Dana Hatch

2215 Tannler Dr - WL



Brett Hatch

2215 Tannler Dr. West Linn

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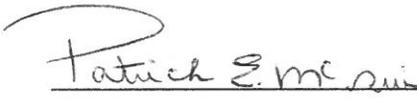
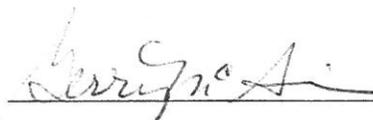
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Signature

Name Printed

Address

	Patrick E. McGuire	1841 Barnes Circle, West Linn
	GERRY MCGUIRE	1841 Barnes Circle West Linn

Printed on: 10/15/2014 10:58 AM. To: Mayor Kovash, City Council Members and Planning Commission Members. From: Melissa Heinonen. Subject: Opposition to the Con-Am Application for Approval Concurrent Comprehensive Plan Map and Zoning Map Amendment ZC-14-01/PLN-14-01.

Dear Mayor Kovash, City Council Members and Planning Commission Members,

We, the undersigned, wish to state our opposition to the Con-Am Application for Approval Concurrent Comprehensive Plan Map and Zoning Map Amendment ZC-14-01/PLN-14-01. This is based on the fact that the application does not meet the requirements of the Comprehensive Community Development Plan including, but not limited to, Goal 2: Land Use Policies, Residential Development; Policies, paragraph 7 c which states "Medium-high density residential development will meet all of the following criteria:

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- ii. Areas that are not subject to development limitations such as topography, flood drainage;
- iii. Areas where the existing facilities have the capacity for additional development (added)

The application does not meet ii or iii.

We respectfully request that you deny this application and amendment for the Northwest Blankenship Rd and Tannler Dr. in West Linn, Oregon.

Signature	Name Printed	Address
<u>Melissa Heinonen</u>	Melissa Heinonen	2367 Taylor Drive

<u>Judy Hunter</u>	Judy Hunter	2337 Taylor Dr
--------------------	-------------	----------------

<u>Richard Hunter</u>	Richard HUNTER	2337 Taylor Dr
-----------------------	----------------	----------------

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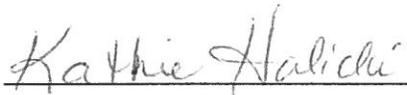
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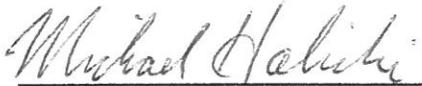
Kathie Halicki

2307 Falcon Dr



Krystie Halicki

2307 Falcon Dr.



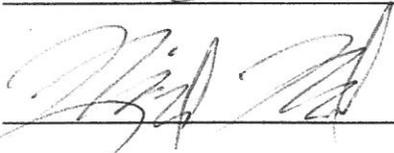
MICHAEL HALICKI

2307 Falcon Dr.



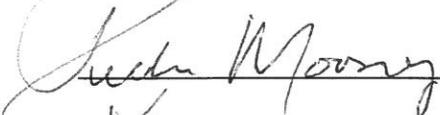
Jim Halicki

2307 Falcon Dr.



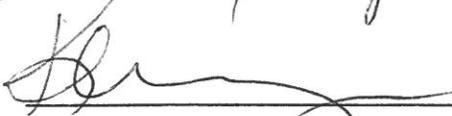
Nigel Bond

2307 Falcon Dr.



Rick Mooney

2305 FALCON DR



Kelly Mooney

2305 Falcon Dr.



PATRICIA GAYLE

22124 HORIZON DR

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Signature

Name Printed

Address

Anthony Perry ANTHONY PERRY 2786 HASKINS RD, WL

Merrilee Cabine MERRILEE CABINE 2325 FALCON DR, WL

Billie MARYLEE PHILLIPS 2372 FALCON DR

MARYLEE PHILLIPS # 2372 FALCON DR

Bethy Cabine BETHY CABINE 2325 FALCON DR, WL

Gianncarlo Cargni GIANNCARLO CARGNI 2428 REMINGTON DR

Allen K Baillif ALLEN K BAILLIF 1827 BARNES CIR

Norine Baillif Norine Baillif " " WL

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Signature

Name Printed

Address



SIU ENG

3490 RIVERKNOLL WAY
W/LINN. OR 97068

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Signature

Name Printed

Address

Angela M. Zimmerman Angela M. Zimmerman 6301 Summerlenn Way
West Linn, OR 97068

Lois Roby Lois Roby 6501 Summerlenn Way West Linn 97068

Marilyn Rasmussen Marilyn Rasmussen 5305 Summerlenn Way W. Linn 97068

Art Rasmussen Art Rasmussen " " " " " "

Charles Mathews Charles Mathews 2305 Crestview Dr. W.L. OR

Robert Mathews Robert Mathews 2305 Crestview Dr. W.L. OR

Gabriel Tama 9800 Summerlenn Way

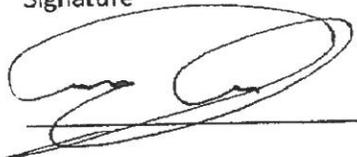
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Signature	Name Printed	Address
	Jeff Carter	1914 Hall St., 97068
	FAREMEEH AZIMZADEH	1914 HALL ST, 97068

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Signature

Name Printed

Address

Michele Blankenbeim michèle Blankenbeim 6302 Piny Ct, West Linn OR

Daniel Blankenbeim DANIEL BLANKENBEIM 6302 Piny Ct, West Linn, OR

October 6, 2014

Exhibit 3

Good evening West Linn Wilsonville School Board,

My name is Ed Schwarz and I live in West Linn. I have come to ask a couple of questions of you. But first, let me give you a little background.

There is a zoning change proposal for a 208 unit apartment complex currently being considered by the West Linn Planning Commission. If approved, it would be located at the corner of Blankenship and Tannler Dr. directly across the street from the Albertson's Market in West Linn. I read in the West Linn Tidings newspaper dated December 20, 2012 that the then owner of this property, Mr. Jeff Parker, came to this board and asked for an exception to the construction excise tax (CET) on December 6 of that same year. Therefore I believe that you have received previous testimony from him about his plan to have apartments built at this location.

My first question to you tonight is this: Was this 208 unit apartment complex considered in the school district's long range planning and enrollment projections which I believe go through 2018? I have looked though this long term plan and do not think it was included.

My second question is: If it was not included, would you submit written testimony to the West Linn Planning Commission to state that is the case? The deadline for written testimony is Wednesday, October 8 at 5 pm.

Thank you very much.

Ed Schwarz
2206 Tannler Drive
West Linn

Shroyer, Shauna

From: Rapp, Reagan S. (Perkins Coie) <RRapp@perkinscoie.com> on behalf of Robinson, Michael C. (Perkins Coie) <MRobinson@perkinscoie.com>
Sent: Wednesday, October 08, 2014 4:50 PM
To: Pelz, Zach
Cc: Robinson, Michael C. (Perkins Coie); King, Seth J. (Perkins Coie); Stephenson, Garrett H. (Perkins Coie); Kerr, Chris; mmahoney@conam.com; rmorgan@conam.com; jeff@parkerdev.com; 'bwb@johnson-reid.com'; bahrend@mcknze.com; Thornton, Megan; Shroyer, Shauna
Subject: City of West Linn File Nos. ZC-14-01/PLN-14-01
Attachments: First Open Record Period Submittal to Planning Commission.PDF; Exhibits 1-6.pdf

Dear Zach,

Attached please find my letter to Chair Christine Steel regarding ConAm's first open record period testimony. Please place this letter in the official Community Development Department file for this application and before the Planning Commission.

Please use the attachments in this email and not the email sent at 4:41 p.m. today.

Please confirm receipt of this email.

Thank you.

Mike

Michael C. Robinson | Perkins Coie LLP

PARTNER
1120 N.W. Couch Street Tenth Floor
Portland, OR 97209-4128
D. +1.503.727.2264
C. +1.503.407.2578
F. +1.503.346.2264
E. MRobinson@perkinscoie.com



Selected as 2014 "Law Firm of the Year"
in Litigation - Land Use & Zoning by
U.S. News – Best Lawyers® "Best Law Firms"

Michael C. Robinson
MRobinson@perkinscoie.com
D. (503) 727-2264
F. (503) 346-2264

October 8, 2014

VIA EMAIL

Ms. Christine Steel, Chair
West Linn Planning Commission
City of West Linn Planning Department
22500 Salamo Road, Suite 1000
West Linn, OR 97068

**Re: Applications by ConAm Properties, LLC
City of West Linn File Nos. ZC-14-01/PLN-14-01
Applicant's First Open Record Period Submittal**

Dear Chair Steel and Members of the West Linn Planning Commission:

This office represents ConAm Properties, LLC ("ConAm"), the applicant requesting approval of comprehensive plan map and zoning map amendments ("Applications") for approximately 11.41 acres of property located at the northwest corner of Tannler Drive and Blankenship Road ("Property"). This letter and its enclosures constitute part of ConAm's first open record period testimony, which is submitted by the Planning Commission's deadline of Wednesday, October 8, 2014 at 5:00 pm. The purpose of this letter is to respond to arguments made by area residents in opposition to the Applications at the Planning Commission hearing in this matter.

For the reasons explained below, the Planning Commission should find that the opponents' contentions lack merit because they misconstrue applicable law, are not supported by substantial evidence, fail to address substantial evidence in support of the Applications, and are irrelevant. For these reasons, the Planning Commission should deny the opponents' contentions. Finally, based upon the argument and evidence in the record, the Planning Commission should recommend approval of the Applications.

I. Responses to Opponents' Contentions

A. Approval of the Applications will not adversely affect area transportation facilities.

1. The Applications are consistent with the Transportation Planning Rule ("TPR") and Community Development Code ("CDC") 105.050.D.1.

There is substantial evidence in the whole record that supports the conclusion that the Applications will not significantly affect existing or planned transportation facilities, as required by the TPR and CDC 105.050.D.1. For example, ConAm's traffic engineer, Mackenzie, testified that a worst-case scenario development under the proposed R-2.1 zone would likely generate 65% fewer PM peak hour trips and 50% fewer daily trips than a worst-case scenario under the existing OBC zone. *See* Mackenzie TPR Report dated July 11, 2014. Both City staff and Oregon Department of Transportation ("ODOT") staff have concurred with Mackenzie's evaluation. *See* Mackenzie supplemental memorandum dated October 8, 2014, a copy of which is set forth in Exhibit 1. A reasonable person would rely upon the testimony of these various traffic engineers to conclude that the Applications are consistent with the TPR and CDC 105.050.D.1.

Opponents have not presented substantial evidence that undermines or even calls into question the testimony from Mackenzie, the City, and ODOT. For example, opponents do not present a traffic analysis of their own, and they do not challenge Mackenzie's methodology or conclusions. As such, opponents have not adequately rebutted the substantial evidence that supports the conclusion that the Applications are consistent with the TPR. *See Wal-Mart Stores, Inc. v. City of Bend*, 52 Or LUBA 261, 176 (2006) ("the critical issue for the local decision maker will be whether any expert or lay testimony offered by opponents raises questions or issues that undermine or call into question the conclusions and supporting documentation that are presented by the applicant's experts, and if so, whether any such questions are adequately rebutted by the applicant's experts").

Although opponents contend that the City should require ConAm to submit a complete transportation impact analysis ("TIA") with the Applications, both ODOT and City staff rejected this contention because the worst-case scenario development under the proposed zone will generate fewer trips than a worst-case scenario under the existing zone. *See* Mackenzie supplemental memorandum at 2-3.

Additionally, as noted by City and ODOT staff, ConAm will be required to submit a complete TIA in conjunction with any design review application for the Property. The City will review this application and TIA through a public process with notice to affected residents. The Planning Commission can find that this future process will provide adequate opportunities for public input concerning the traffic impacts of any specific development plan under the R-2.1 zone.

Based upon the substantial evidence in favor of the Applications and the lack of substantial evidence to the contrary, the Planning Commission should find that the Applications are consistent with the TPR and CDC 105.050.D.1.

2. The Applications are consistent with City Comprehensive Plan (“Plan”) Goal 12, Policy 4.

Although opponents contend that the Applications are inconsistent with Plan Goal 12, Policy 4, the Planning Commission should deny this contention for two reasons. First, the Planning Commission can find that Goal 12, Policy 4 is not applicable to the Applications. Plan Goal 12, Policy 4 is to “improve traffic safety through a comprehensive program of engineering, education, and enforcement.” Nothing in the plain language of this policy indicates that it directly applies to site-specific quasi-judicial applications. Additionally, it is unclear how “education and enforcement” could even be applied to such applications. Therefore, it is plausible to conclude that Goal 12, Policy 4 is not applicable. Second, and in the alternative, the Planning Commission can find that Goal 12, Policy 4 is applicable and satisfied because the Applications are consistent with the TPR and CDC 105.050.D.1 for the reasons stated above. The Planning Commission should deny opponents’ contention on this issue.

3. Transportation System Plan (“TSP”) provisions cited by Mr. Selvaggio are not mandatory approval criteria.

Although Mr. Selvaggio contended that the Applications were inconsistent with Finding 4.m and 8 and page A-15 of the TSP, the Planning Commission should deny this contention for two reasons. First, ConAm could not identify or locate within the TSP any of the provisions referred to by Mr. Selvaggio. Second, there is no basis to conclude that they are mandatory approval criteria applicable to the Applications. For either of these reasons, the Planning Commission should deny Mr. Selvaggio’s contention.

B. There is proof of change or mistake to justify approval of the Applications, as required by CDC 105.050.B and CDC 99.110.B.

Although the opponents contend that the Applications are inconsistent with CDC 105.050.B and 99.110.B, the Planning Commission should deny this contention. These code sections require that, in order to approve a Plan amendment, there must be “[p]roof of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to” the Property. In fact, a change in the neighborhood or community exists. The Property is currently vacant and has been since it was zoned OBC in 1974. The current owner of the Property testified that he has been unable to market the Property for office development. *See* testimony of Jeff Parker in Exhibit 2.

Furthermore, ConAm’s economist has opined that it is unlikely that significant office development will occur on the Property due to a generally soft office market, substantial vacancies at an adjacent office development, and the fact that the value of new office development as an income-generating investment is lower than the cost to build. *See* Johnson Economics memorandum dated June 23, 2014. ConAm’s economist has further explained that the Property is well-suited for development with multi-family residential uses due to its location between commercial and single-family properties. *Id.* Finally, Johnson Economics identified the extensive public benefits that a multi-family development would generate, including the following:

- \$591,000 in annual ad valorem property taxes
- \$4.1 million in permit fees and System Development Charges
- 170 jobs created or induced by construction and operation
- \$12.3 million added through wages and economic activity related to these jobs
- Up to \$9.3 million in household spending by new residents at the Property

Id. Opponents do not challenge the findings and conclusions of ConAm’s economist.

Although opponents contend that the OBC zoning district allows other uses than simply office uses, Johnson Economics has explained why these other uses are not feasible on the Property. *See* Johnson Economics memorandum dated October 7, 2014 at

2-3, a copy of which is set forth in Exhibit 3. Opponents have not presented any substantial evidence to the contrary.

The Planning Commission should deny the opponents' contentions on this issue.

C. The Applications are consistent with Plan Goal 2, Section 1.

Although opponents contend that the Applications are inconsistent with Plan Goal 2, Section 1, which establishes approval criteria for medium-high density residential lands, the Planning Commission should deny this contention. For example, although opponents contend that the Property has topographic limitations and is thus inconsistent with Goal 2, Section 1, paragraph 7.c.ii., the Planning Commission should deny this contention based upon the testimony of ConAm's economist, which explained that the existing topography was challenging for commercial uses but not for multi-family uses. See Johnson Economics memorandum dated October 7, 2014 at 1-2.

Further, although opponents contend that the Applications are inconsistent with Goal 2, Section 1, paragraph 7.c.iii. because the nearby intersection of Blankenship Road and Tannler Drive is already failing, the Planning Commission can deny this contention for three reasons. First, approval of the Applications will not generate additional trips; rather, as explained above, it will generate fewer trips. Second, the policy requires consideration of whether there is "capacity" but does not explain how that is defined. The policy does not require that road facilities meet a specific Level of Service standard. The mere fact that the intersection is at Level of Service "F" does not mean that it lacks capacity. See correspondence from Brent Ahrend at Exhibit 6. Third, any specific development proposal will be analyzed for development impacts and possible mitigations through a later Design Review process. For these reasons, the Planning Commission should deny the opponents' contentions.

D. Approval of the Applications will not adversely impact area schools.

Although opponents contended that development associated with the Applications would adversely impact area schools by generating 98 new students, this contention lacks merit for two reasons. First, residents have overestimated the number of students that a 210-unit apartment complex will yield by applying the forecast factor applicable to all units in West Linn rather than the forecast factor specific to multi-family units. See Johnson Economics memorandum dated October 7, 2014. Applying the multi-family forecast factor, the correct estimate for 210 apartment units is 44 students, as set forth on

page 35 of the West Linn-Wilsonville School District Long Range Plan, a copy of which is set forth in Exhibit 4. This figure is consistent with Applicant's testimony to the Planning Commission. Therefore, opponents have greatly overestimated the number of students who will be generated by a multi-family development on the Property.

Second, even if there were a lack of school capacity, the City may not deny the Applications due to lack of school capacity under the prevailing facts. ORS 195.110(13) only allows a city or county to deny a residential development application based upon a lack of school capacity under the following circumstances: (1) the issue is raised by the school district; (2) the lack of school capacity is based on a school facility plan adopted under ORS 195.110; and (3) the City has considered options to address school capacity. None of these facts prevail in this case. Therefore, even if there were a lack of school capacity, the City could not use it as a basis to deny the Applications.

On the basis of these arguments, the Planning Commission should deny the opponents' contention on this issue.

E. The City properly coordinated with Tualatin Valley Fire & Rescue ("TVF&R") Department.

Although opponents contend that the City should deny the Applications because TVF&R has not submitted comments into the record, the Planning Commission should deny this contention. Statewide Planning Goal 2 requires that plan and plan amendments be coordinated with affected governmental units. To fulfill this requirement, a local government must take two steps: (1) invite an exchange of information with the affected governmental units; and (2) use any provided information to balance the needs of affected governmental units and citizens. *Rajneesh v. Wasco County*, 13 Or LUBA 202, 209-211 (1985). For the Applications, the City provided notice to and invited comment from TVF&R. See affidavit and copy of notice in Exhibit 5. TVF&R did not provide any comments in opposition to the Applications on the record. Therefore, the City has fulfilled its coordination requirement as to TVF&R, and the Planning Commission cannot use TVF&R's lack of participation as a basis to deny the Applications. Finally, TVF&R will have an additional opportunity to comment on issues such as access, fire lanes, and installation of internal fire sprinklers in conjunction with a design review application for the Property.

For these reasons, the Planning Commission should deny the opponents' contentions on this issue.

F. Neighborhood association resolutions do not constitute substantial evidence to deny the Applications.

Although opponents note that two neighborhood associations have adopted resolutions in opposition to the Applications, the Planning Commission should find that these resolutions do not provide a valid basis to deny the Applications. In fact, no approval criterion requires that the affected neighborhood association endorse or approve of the Applications.

Additionally, the contentions expressed in these resolutions lack merit. For example, the Willamette Neighborhood Association (“WNA”) lack specificity and are not supported by any evidence at all. Likewise, the Savanna Oaks Neighborhood Association resolution is also lacking. It contends that the Applications should be denied because they are inconsistent with CDC 21.010, which defines the purpose of the OBC zoning district. A local code purpose statement is not an applicable approval criterion unless it is expressly incorporated as an approval criterion. *See, e.g., Watts v. Clackamas County*, 51 Or LUBA 166, 172 (2006) (county did not err in failing to consider zoning code purpose statement when the statement did not provide approval criteria directly applicable to the request). Therefore, it is irrelevant whether the Applications are consistent or inconsistent with CDC 21.010, and the opponents’ contention fails.

The Planning Commission should deny the opponents’ contentions on this issue.

G. Housing preferences reflected in a survey that is not in the record are irrelevant, do not constitute substantial evidence, and fail to recognize the diverse housing needs of the community.

Opponents further contended that approval of the Applications would be inconsistent with a May 2014 study prepared by DHM Research reporting that 80 percent of respondents in metro Portland would prefer to live in single-family housing. The Planning Commission should deny this contention for three reasons.

First, although residents submitted the cover page from the study, the study itself is not in the record, so there is no way to ascertain the methodology, margin of error, or other details of the study. Under these circumstances, the study cannot serve as substantial evidence to support the conclusion that most area residents prefer residing in single-family homes.

Second, the survey respondents' preferences are not relevant to any applicable approval criteria. As a result, the Planning Commission cannot deny or condition the Applications based upon inconsistency with the DHM Research report. *See Buel-McIntire v. City of Yachats*, 63 Or LUBA 452 (2011) (error to deny application based upon factor that was not applicable approval criterion).

Third, as explained by ConAm's economist, in many cases, an individual or household may realistically need to reside in multi-family housing, even if they might prefer to live in a single-family home. *See Johnson Economics memorandum dated October 7, 2014 at 5-6.* As a result, it is important for the City to provide multi-family housing options as an alternative to single-family residences.

The Planning Commission should deny the residents' contentions on this issue.

H. Approval of the Applications will further the City's economic development objectives, including Plan Goal 9, Policy 11.

Opponents further contended that approval of the Applications would be inconsistent with the City's economic development goals. As support for this conclusion, residents relied upon a general purpose statement from the City's website¹ and quotes from a City Councilor reported in *West Linn Tidings*.² The Planning Commission should deny the residents' contentions for two reasons.

First, generally-worded statements taken from a website and newspaper article have not been adopted by the City, are not incorporated in any official planning documents, and are not mandatory approval criteria applicable to the Applications. As a result, the Planning Commission cannot deny or condition the Applications based upon inconsistency with the statements from the website or newspaper article. *See Buel-McIntire*, 63 Or LUBA at 452. Rather, the Planning Commission is to make its decision based upon the City's adopted standards and policies of the CDC and Plan.

Second, the Planning Commission can find that approval of the Applications supports the City's economic development objectives because it will facilitate a significant investment by ConAm in the City and development of a large vacant parcel in the City. As support for this conclusion, the Planning Commission can rely upon testimony from ConAm's economist, which concluded that residents in a 208-unit

¹ "The city is dedicated to the development, expansion and retention of businesses..."

² "Business retention and recruitment needs to be our priority."

apartment project on the Property would generate an additional \$9.3 million in additional household spending. *See* Johnson Economics memorandum dated June 23, 2014 at 3. Johnson Economics also opined that the Applications are consistent with Plan Goal 9, Policy 11. Johnson Economics memorandum dated October 7, 2014 at 3-4. Based upon this testimony, the staff report concluded that development of apartments on the Property would encourage reinvestment in nearby commercial areas. *See* Staff Report at 9.

For these reasons, the Planning Commission should deny the opponents' contentions on this issue.

I. There is no evidence to support the conclusion that the Applications will adversely affect property values.

Although opponents expressed concern that approval of the Applications and development of multi-family residential uses would adversely affect their property values, the Planning Commission should deny this contention for three reasons. First, the residents' testimony was speculative in nature and not based upon any site-specific analysis or expert testimony. Second, ConAm's economist has testified that development of multi-family housing on the Property will not harm values of nearby single-family residences, which are generally high-end with excellent views and have values dictated by sales of comparable homes. *See* Johnson Economics memorandum dated October 7, 2014 at 5. Third, the opponents' concern does not implicate any approval criteria applicable to the Applications. Accordingly, the Planning Commission cannot deny or condition the Applications based upon potential impacts to property values. *See Buel-McIntire*, 63 Or LUBA at 452.

For these reasons, the Planning Commission should deny the opponents' contentions on this issue.

II. Conclusion.

For the reasons explained above, the Planning Commission should deny all of the opponents' contentions. Instead, the Planning Commission should recommend approval of the Applications to the West Linn City Council.

Ms. Christine Steel, Chair
October 8, 2014
Page 10

Thank you for your consideration of the points in this letter.

Very truly yours,



Michael C. Robinson

MCR:rsr

Enclosures

cc: Mr. Chris Kerr (via email) (w/ encls.)
Mr. Mike Mahoney (via email) (w/ encls.)
Mr. Rob Morgan (via email) (w/ encls.)
Mr. Jeff Parker (via email) (w/ encls.)
Mr. Brendan Buckley (via email) (w/ encls.)
Mr. Brent Ahrend (via email) (w/ encls.)
Mr. Zach Pelz (via email) (w/ encls.)
Ms. Megan Thornton (via email) (w/ encls.)

MACKENZIE.

DESIGN DRIVEN | CLIENT FOCUSED

October 8, 2014

West Linn Planning Commission
Attention: Ms. Christine Steel, Chair
22500 Salamo Road #1000
West Linn, OR 97068

Re: **Tannler Road Zone Change**
City of West Linn File Nos. ZC-14-01/PLN-14-01
Project Number 2130529.04

Dear Chair Steel and Members of the Planning Commission:

Mackenzie is providing the following responses to testimony and questions raised at the subject application hearing held on October 1, 2014. A significant percentage of the testimony addressed trip generation and traffic impacts, which are addressed below.

Zone Change/Comprehensive Plan Amendments

West Linn Development code sections 105.050(D)3 and 85.170(B)2(c)(1)(a) require a traffic analysis as part of a zone change or plan amendment. A traffic analysis has been provided which addresses the requirements of the Transportation Planning Rule (OAR 660-012-0060), consistent with Development code section 105.050(D)1. The analysis finds the proposed zone change from OBC to R-2.1 will not have a significant impact on the transportation system, and therefore no additional analysis is required. City of West Linn and ODOT staff have both confirmed the zone change will have no significant impact, and no further analysis is required (see below).

Trip Generation

Trip generation estimates for the existing OBC and proposed R-2.1 zones were based on the likely worst-case level of development considering the specific site conditions and market conditions. The details of the trip generation estimates were included in our July 11, 2014, letter.

For the existing OBC zone, it was assumed the prior approved Office Business Center is the worst-case level of development, as it maximized the amount of building area given the steep slopes on the site and resource areas at the north end of the site. Other allowed uses in the zone were reviewed, but determined to generate fewer trips in the same area.

For the proposed R-2.1 zone, the same 10.1 acres were compared to the OBC zone. The maximum allowed density under the code is 20.74 dwelling units per acre, which would provide for up to 210 units. While a PUD overlay could allow for additional density, this is not allowed outright in the zone and would require an additional level of review.



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Both trip estimates were made using rates in the Institute of Transportation Engineer's *Trip Generation Manual*, which is the industry standard for estimating trips.

The findings show a potential reduction in AM peak hour trip generation of 73%, PM peak hour trip generation of 65%, and a reduction in daily trips of 50%. It should also be noted that the residential trips will be spread out over the entire day, while office trips are concentrated during and between the peak commute times.

Traffic Impacts

Based on the trip generation assessment, it has been determined the proposed zone change from OBC to R-2.1 will reduce the potential for trip generation from the subject site, and will therefore have no significant impact on the transportation system. Specific impacts of a development design review application will be required at the time of application submittal and may result in requirements for mitigation of those impacts. Concerns about any lack of capacity for development of the site will be addressed at that time and reviewed during the public hearing process.

Oregon Department of Transportation

A question was raised in testimony regarding ODOT's comments on the application. While there is no written response from ODOT, Peter Spir with the City of West Linn spoke with Seth Brumley and Doug Baumgartner of ODOT on March 27, 2014, about whether or not a traffic analysis would be needed for the zone change application. An April 7, 2014, email from Mr. Spir to Michael Robinson provided the following summary:

Mike

I spoke with Seth Brumley and Doug Baumgartner of ODOT on March 27, 2014 about whether or not we need a TIA for the OBC to R-2.1 zone change.

They recalled the January 24 2014 letter from Group McKenzie that found that PM peak hour trips would be significantly decreased (-65%) with the change in use from offices to apartments.

They stated that ODOT's position is that where the proposed use is LESS impactful in terms of trip generation then ODOT stops there and does not require further study or analysis.

Conversely, if the PM peak had increased then they would require a full TIA. They affirmed that they had made similar recommendations to other jurisdictions on the subject of ZC's.

They also noted that this process is a two-step one with the ZC/Plan Change followed by the Design Review/ PUD and that at that time (Design Review/ PUD) a full TIA is appropriate.

Both Chris Kerr and I agree with ODOT's conclusion and we do not see the need for a TIA as part of the zone change and plan amendment application. This is with the understanding that a TIA will be required at such time that a Design Review application is submitted for the proposed multi-family project.

Peter

As noted in Mr. Spir's email, ODOT stated no further traffic analysis would be required with the zone change.



Blankenship/Tannler Intersection

Testimony referenced the potential that the intersection of Tannler with Blankenship would be limited to right turn movements. This was not the case with the prior office development approval, which would have generated more peak hour trips than the anticipated apartment development with the zone change.

Reference was also made to safety concerns and the need for a traffic signal. A traffic signal would likely not be allowed at the intersection due to the proximity to the signal at Blankenship/Salamo/10th Street. A traffic signal could be installed at the existing office driveway opposite the shopping center driveway on Blankenship, which would be shared with the anticipated apartment development, if warranted by the development specific TIA.

An enhanced pedestrian crossing or other enhancements could be considered at the intersection to improve safety at the time of a development review application.

Sincerely,



Brent Ahrend, PE
Senior Associate | Traffic Engineer

c: Chris Kerr, Zach Pelz – City of West Linn
Michael Robinson – Perkins Coie
Rob Morgan, Mike Mahoney – ConAm
Jeff Parker
Brendan Buckley – Johnson Economics

M.

- **Introduction**
 - My name is Jeff Parker. I am the owner of the subject property located at Blankenship and Tanner
 - I also own the 3 office buildings to the west known as Willamette 205 Corporate Center and the Summerlinn building. I have owned these properties since 2006
 - I am also a residential home builder in West Linn

- **History of Site**
 - Currently I have approval to develop approximately 289,000 sf of office on the site which was approved in early 2007
 - Demand for such a project is very poor and shows no sign of changing especially in this type of suburban location
 - Current office buildings I own next door have struggled to get below 30% vacancy
 - Rents are substantially lower, and vacancy significantly higher than needed to justify new commercial construction
 - Have looked at alternate uses in the OBC zone besides office, but the site configuration, topography, and have not been successful.

- **Benefits of proposal**
 - Traffic will be reduced substantially from current OBC zone
 - Fulfills need for more affordable housing
 - The proposal will also leave the frontage on Blankenship for commercial use
 - **Economic Benefits**
 - There currently is no economic benefit except some property taxes
 - New residents will benefit local businesses by shopping and dining
 - Additional property tax will support the City, County, and schools, including police, firefighters, libraries and more.
 - Jobs will be created to construct the project, operate, and maintain it
 - SDC's, building permit fees, and school fees will also help City and schools.

- **Conclusion**
 - I believe this will be a great project for the City of West Linn given the limited demand for uses in the OBC zone as I can personally attest to over the last 10 years of involvement with commercial development in the City.

The benefits to the community are high and I strongly recommend your approval of this project.



JOHNSON
ECONOMICS

MEMORANDUM

DATE: October 7, 2014
TO: ConAm Properties LLC
FROM: JOHNSON ECONOMICS, LLC
SUBJECT: West Linn ZC-14-01/PLN-14-01; Written responses to public testimony

JOHNSON ECONOMICS conducted an assessment of the supply and demand of lands appropriate for new Class A office development in West Linn, Oregon. A report of this assessment dated 6/27/14 was included as an addendum to ConAm Properties' application for a Comprehensive Plan amendment and zone change in this case (attachment PC-3.1 the staff report.)

The 6/27/14 report included a discussion of supply and demand for office land, analysis of office market conditions, discussion of the suitability of the site for a range of uses, multi-family housing need, and assessment of the economic development impact of an alternative multi-family development at the site.

On 10/1/14, the West Linn Planning Commission held a public hearing on this application. There was written and oral public testimony entered into the record before and during the meeting, some of which addressed the subject matter of the JOHNSON ECONOMICS memo.

This memo is submitted in response to comments and concerns that arose during public testimony.

Most of these responses address a letter signed by four community members and included as written testimony. The letter's authors also read this letter aloud as oral testimony. (The authors were a Mr. Schwarz, Ms. Schwarz, Mr. Etheridge and Mr. Pryor.) However, some of the points in the letter were also raised by other community members in various forms, so this memo is also meant as a general response to testimony received thus far.

JOHNSON ECONOMICS Response to Public Testimony

- 1) **The site's topography is suitable for multi-family development, but not for major commercial development.**

One public comment pointed out that our previous report mentioned the site's topographical challenges for commercial office development. The West Linn Comp Plan, Goal 2 states that medium-high density residential lands must not be subject to development limitations including topography.

To clarify, it was the conclusion of our assessment that most of the northern portion of the site has a challenging topography *for commercial uses* such as office or retail. Multi-family residential development is feasible on this topography. The topography does not present a development limitation to developing housing on this site.

2) Most of the other Permitted Uses in the OBC zone are either office or retail uses, and therefore included in the previous analysis.

Public comment pointed out that even if office development does face challenges at this site, the Development Code includes a list of 14 permitted uses in the OBC zone. However, a review of this list reveals that most of these uses take place in either an office or retail space environment and therefore are addressed in the previous analysis. The 14 permitted uses are:

21.030 PERMITTED USES

The following uses are permitted outright in this [OBC] zone:

1. Business equipment sales and services.
2. Business support services.
3. Communications services.
4. Cultural exhibits and library services.
5. Family day care.
6. Financial, insurance and real estate services.
7. Hotel/motel, including those operating as extended hour businesses.
8. Medical and dental services.
9. Parking facilities.
10. Participant sports and recreation, indoor.
11. Personal services and facilities.
12. Professional and administrative services.
13. Utilities, minor.
14. Transportation facilities (Type I). (Ord. 1226, 1988; Ord. 1401, 1997; Ord. 1590 § 1, 2009; Ord. 1622 § 23, 2014)

(Source: City of West Linn, Community Development Code, Ch. 21)

Of these listed uses, the following 8 uses typically take place in either a commercial office or retail environment, which were addressed in the previous memo: 1, 2, 3, 5, 6, 8, 11, and 12.

Of the remaining permitted uses:

4. Cultural exhibits and library services: To our knowledge, no public agency has expressed interest in purchasing this site for a public or non-profit uses such as these. If so, they would likely require significantly less than an 11.4-acre site. Absent some specific public plan to purchase this site for a specific facility need, it is inappropriate to treat this as a viable use for a private property owner.



7. *Hotel/motel:* The difficulties for this use at this site are also addressed in detail in the previous report. Please see page 7 of the 6/27/14 report (PC-3.1).

9. *Parking facilities:* At a location like this, parking facilities would be an auxiliary use of a main land use, such as office, retail or residential. There is no demand for dedicated parking facilities (i.e. a parking structure or park-and-ride) at this location.

10. *Participant Sports and Recreation, indoor:* This is defined by the development code as "Those uses conducted totally within an enclosed building. Typical uses include: indoor tennis courts, racket ball courts, swimming pools, or physical fitness centers." The topography of most of the site will discourage the development of any facility requiring large flat surfaces, such as a large expanse of multiple basketball or tennis courts, or large swimming pool. This site is also too large to be dedicated to just this use. The smaller 1.2 acre site which would remain under OBC zone under the proposed zone change would still offer adequate land for a gym facility on the least-constrained portion of the site for commercial development.

13 and 14. *Utilities and Transportation Facilities:* As with the cultural exhibits and library uses mentioned above, these uses apply to publically-owned land (or utility-owned). No such users have presented themselves, so these permitted uses are not a viable development option for a private property owner.

1.2 acres of the site will remain OBC: Finally, to the extent that any of these uses might be appropriate at this location in limited quantities, the most appropriate portion of the site for commercial development, at the corner of Blankenship Road and Tannler Drive would remain in the OBC zone under this application. That 1.2 acre portion will have the best visibility for businesses and most amenable topography.

3) The proposed zone change and multi-family development would help meet economic development goals.

Members of the public expressed that economic development is a City goal in "existing commercial areas" (Comp Plan Goal 9, Policy 11), and that the importance of economic development has been further emphasized by city officials. In their opinion, the subject site is an important economic development asset as a large parcel zoned for office development.

As our previous report discussed in detail, there is a range of problems in achieving office development on this site. These include:

- Value of new development as an income-generating investment is lower than the cost to build.
- Market is very soft with high vacancies and negative absorption putting more vacant space on the market.
- Established weakness of adjacent large office developments.
- Weakening of suburban metro markets relative to central Portland and Hillsboro.
- Slow historical pace of development in West Linn and modest projected demand.

- Prospective office tenants have flexibility in where to locate.
- This site has sat vacant for decades since adoption of the OBC zoning.

It was the conclusion of our assessment that large-scale office development is unlikely at this site. In its current state, the site provides a very modest amount of property tax revenue and no economic development benefits.

We conclude that use of the site for multi-family residential development would provide economic development in a range of ways:

- Providing local employment during construction.
- Spending at local vendors, suppliers, restaurants and other businesses during construction.
- Millions in system development charges and fees to the City and other jurisdictions.
- Provide permanent employment at the apartment complex, including managers, leasing agents, maintenance crews, etc.
- On-going spending by residents and permanent employees at the property at area businesses can induce business expansion and more local hiring.
- Greatly increased property taxes to all taxing jurisdictions.

Compared to the current long-term vacancy, a multi-family residential development at this site would spur significant economic activity in West Linn, and in the Willamette neighborhood in particular because these new residents would help support the nearby shopping centers and other businesses with millions of dollars in new annual spending.

The analysis presented in our previous report, based on a hypothetical development of 210 apartment units, yielded the following estimates of impact from the mechanisms listed above:

- \$572,500 in annual property tax
- \$4.1 million in fees and SDC's
- 170 jobs created or induced by construction and on-going operation
- \$12.3 million added through wages and economic activity related to these jobs
- Up to \$9.3 million in annual household spending by new residents at the property

As a vacant property, the site makes an annual property tax contribution of approximately \$18,133.

Office space demand must precede office development: One common error in thinking about economic development is to assume that the building of new office space will bring jobs to that building. In fact, the demand from employers for office space must precede construction. It is not a "build it and they will come" situation. Therefore, simply having land zoned for office use is not an economic development measure, in and of itself.

As detailed in the previous report, there is a large remaining supply of land for office development remaining in West Linn, given the projected demand and historical absorption rate of new office space in this market. Even without the subject site, there is an estimated 45+ supply of land where office uses are permitted. And an additional 25+ year supply where office uses are allowed conditionally.

4) Multi-family development at the site would not significantly harm property values.

Multiple members of the public raised concerns that multi-family development at the subject site would impact their home property values. While the impact on property values is not an approval criterion for consideration in this case, it may still be valuable to address this misconception.

The development of multi-family apartments should not have a negative impact on the property values of nearby single-family home neighborhoods for a few reasons.

First, the valuation of these homes will be based on the going market pricing in the West Linn area. Many of these homes on the ridge are high-end homes with excellent views. Pricing of these homes will continue to be determined by comparable sales across the city. The presence of multi-family housing down the hill, and physically buffered should not significantly impact the value of homes in these neighborhoods.

Second, there is likely to remain a green space buffer and large grade difference between the homes above the site (to the north) and apartment buildings on the site. These residential neighborhoods to the north are accessed via local streets off of Tannler Drive which would have no reason to become regular routes for residents of an apartment complex to the south. The majority of activity, including traffic from the subject site is likely to head south towards Blankenship road for convenience and to access arterials and the freeway.

Third, there is already a significant concentration of multi-family attached housing directly to the west, in the Summerlinn development. This development, includes multi-family buildings arguably closer to the single-family home neighborhoods than the subject site. The addition of more multi-family housing, physically separated by a buffer and topography should not have any greater impact than this existing multi-family development.

Fourth, well designed quality rental housing can have a positive impact on home values if it brings additional vibrancy and commercial health to the area. To the extent that new development at the site will support the local businesses and add new options on the OBC portion of the site, the property can improve property values in the surrounding neighborhoods.

5) Survey respondents report a preference for single-family housing, but it isn't what they "need."

Public testimony referenced a recent survey conducted by DHM Research for Metro which found that 80% of respondents stated a preference to live in a single-family detached home. Other national surveys have returned similar results in the past.

However, there is an important distinction between what respondents say they prefer when asked what type of home they would ideally like to live in, vs. what they realistically need during a given period or life stage. There are many households that due to age, a recent move, relatively modest income, or any number of factors are better suited to live in attached housing at any given time. Their preference for single-family detached housing may be achieved in the future, but for now they need quality rental housing to meet their household's needs.

Therefore the number of people who state a preference for a single-family detached home is much higher than the percentage who actually live in one. According to the Census, a much lower 62% of households in the Metro area currently live in a detached home (either as owners or renters). 40% of households in the Metro area are renters.

Every community must acknowledge the need for some multi-family rental housing to meet the needs of its residents. As discussed in our previous report, average housing in West Linn is expensive and data show that many local workers must commute into the community while living elsewhere. This would include many local public servants such as teachers and police officers.

In fact, the Metropolitan Housing Rule (OAR 660-077), applied during periodic review of Goal 10, actually requires that jurisdictions in the Metro area must provide the opportunity for at least 50% of their housing to be attached forms.

- 6) The school district estimates 44 new students from an apartment complex of 210 units. Our state's school funding system would provide equal funding for each new and existing pupil.**

Public testimony stated that the estimate of new students included in our previous report (44 students) was greatly understated. The commenter cited their own calculation as well as previous statements in the press that the number of new students would be from 91 to 98 students.

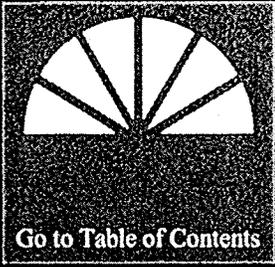
These higher estimates are mistaken. The testimony cites a table from the School District's 2014 Long Range Plan (Table 3, Page 30) to calculate an additional 98 students. However, this is the wrong table to use. Table 5 on page 35 of that same plans shows that the district forecasts a lower number of students per multi-family unit, then per single-family unit.

When the proper forecast factor of 0.21 students per multi-family unit is applied, it yields the estimate of 44 new students. This equates to less than a 1% increase in enrollment for



the West Linn Area of the district and slightly more than 0.5% in enrollment for the entire district.

Furthermore, it is important to remember that our state system for funding public schools ensures that funding is provided per pupil. Therefore additional students bring additional resources to address their impact on the district. In addition, the analysis of economic development impacts included in our previous report (and discussed under point #3 above) estimates that the school district could receive an additional \$145,000 per year in property taxes from a large new multi-family development at the site.



WEST LINN-WILSONVILLE SCHOOL DISTRICT
LONG RANGE PLAN

JANUARY 13, 2014





SHORT-TERM ENROLLMENT FORECASTS

Short-term forecasts are designed to help the District anticipate enrollment looking out five years into the future. Forecasts are based on recent demographic trends, existing residences, and approved residential developments. A short-term forecast was prepared in November 2013 by Davis Demographics and Planning (Exhibit B). The development data was created by interviewing city staff regarding approved residential developments and the timing for their completion, and the types of residences involved. As part of this analysis, a large sample of new housing units, built within the last seven years, was taken to estimate the average number of students generated by new (built between 2007-2013) single family detached, multi-family attached (e.g., townhouses, condos, and apartments). These student yield factors shown in Table 5 were used in the projections. It shows that single family, detached residences typically generate approximately one student for every two homes while four or more multi-family attached or apartment units produce one student. The student yield factors were applied to the number and types of anticipated new homes to forecast future enrollment. The short-term projection anticipates modest enrollment growth from 8,971 students in September 2013 to 9,900 students in 2018. Table 6 summarizes the results of the short-term forecast.



With the opening of Lowrie and Trillium Creek primary schools in September 2012, the primary school capacity is 4,346 students with approximately 4,000+ students to accommodate. Similarly, the high schools, with a capacity of 3,306 and an enrollment of approximately 2,900, will continue to be adequate. The primary problem will be the increasing enrollment pressure on middle schools, which is estimated to be over capacity by approximately 512 students in 2018.

Table 5
STUDENT YIELD FACTORS (students per household)
FALL 2013 PROJECTIONS

Grade Ranges	K-5	6-8	9-12	K-12
Single Family Detached Units (724 built*)				
Student Yield Factor	0.51	0.12	0.14	0.56
Multi-family Attached Units (475 built*)				
Student Yield Factor	0.10	0.05	0.06	0.21
Average				
Student Yield Factor	0.22	0.09	0.10	0.41

* From a sample of units built between 2007-2013

AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

GENERAL

File No. 20-14-01 / PLN-14-01 Applicant's Name Rob Morgan - ConAm Properties, LLC
Development Name
Scheduled Meeting/Decision Date 10-1-14

NOTICE: Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE A [checked]

- A. The applicant (date) 9-11-14 (signed) S. Shroyer
B. Affected property owners (date) 9-11-14 (signed) S. Shroyer
C. School District/Board (date) 9-11-14 (signed) S. Shroyer
D. Other affected gov't. agencies (date) 9-11-14 (signed) S. Shroyer
E. Affected neighborhood assns. (date) 9-11-14 (All) (signed) S. Shroyer
F. All parties to an appeal or review (date) 9-11-14 (signed) S. Shroyer

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:

Tidings (published date) 9-18-14 (signed) S. Shroyer
City's website (posted date) 9-10-14 (signed) S. Shroyer

SIGN

At least 10 days prior to the scheduled hearing, meeting or decision date, a sign was posted on the property per Section 99.080 of the Community Development Code.

(date) 9-19-14 (signed) [Signature] (Zach Putz)

NOTICE: Notices were sent at least 14 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE B

- A. The applicant (date) (signed)
B. Affected property owners (date) (signed)
C. School District/Board (date) (signed)
D. Other affected gov't. agencies (date) (signed)
E. Affected neighborhood assns. (date) (signed)

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.

Date: (signed)

STAFF REPORT mailed to applicant, City Council/Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.

(date) 9-19-14 (signed) S. Shroyer

FINAL DECISION notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.

(date) (signed)

PUBLIC NOTICE CHECKLIST

FILE NO.: 22-14-01 / PLN-14-01 SITE ADDRESS: 2444, 2422, 2401 Tanner Dr.

PROJECT MANAGER: Zach Polz DATE: 8/15/2014

MAILING DEADLINE DATE - 14-day or 20-day (circle one): _____

PUBLISH IN LOCAL PAPER (10 days prior): Yes No

MEETING DATE: _____

SEND TO (check where applicable):

Applicant: Name: Rob Morgan Applicant Address: ConAm Properties, LLC
3990 Ruffin Rd., Ste. 100
San Diego, CA 92123

If Applicant Representative or Owner to receive please list in others below:

- | | |
|---|----------------------------------|
| School District/Board <input checked="" type="checkbox"/> | Division of State Lands _____ |
| Metro <input checked="" type="checkbox"/> | US Army Corps of Engineers _____ |
| Tri-Met <input checked="" type="checkbox"/> | Stafford-Tualatin CPO _____ |
| Clackamas County _____ | City of Lake Oswego _____ |
| ODOT (if on State Hwy. or over 40 dwelling units) <input checked="" type="checkbox"/> | Dept. of Fish & Wildlife _____ |
| Neighborhood Assn(s) _____ | Other(s): _____ |
| (please specify) <u>Willamette, Savanna Oaks</u> | |

Other(s): Jennifer Dinnelly
Oregon Dept. of Land Conservation
Development
1600 SW 4th Ave., Suite 1801
Portland, OR 97201

Other(s): Mivanda Bateschell
Metro
1600 NE Grand Ave.
Portland, OR 97232

Other(s): Tim Woodley
West Linn - Wilsonville School Dist.
P.O. Box 35
West Linn, OR 97068

Other(s): Ty Darby
Tualatin Valley Fire and Rescue
20615 SW Blanton St.
Aloha, OR 97007

Other(s): Seth Brunley
Marty Jansvald
Oregon Department of Transportation
123 NW Flanders St.
Portland, OR 97209

Other(s): _____
Jeff Parker
William Wilt
Michael Robinson - Perkins Coie

CITY OF WEST LINN PLANNING COMMISSION

PUBLIC HEARING NOTICE

Amend the Comprehensive Plan Map and Zoning Map to permit multi-family housing on three parcels at the northwest corner of Tannler Drive and Blankenship Road (ZC-14-01 and PLN-14-01)

The West Linn Planning Commission will hold a public hearing on Wednesday, October 1, 2014, starting at 6:30 p.m. in the Council Chambers in City Hall, 22500 Salamo Road, West Linn, to consider a request by ConAm Properties, LLC to change the Comprehensive Plan Map designation from Commercial to Medium-high Density Residential and to change the Zoning Map designation from Office Business Center (OBC) to Medium-high Density Residential (R-2.1) on three parcels at the northwest corner of Tannler Drive and Blankenship Road (Clackamas County Assessor's Map 2S 1E 35C tax lots 100, 102, and 200). CDC Chapters 21 and 16 outline the uses permitted in the OBC and R-2.1 zoning districts, respectively. The Planning Commission will make a recommendation to the City Council to approve, approve with conditions or deny the Applicant's request.

The criteria applicable to Comprehensive Plan Map and Zoning Map amendments are found in Chapters 99 and 105 of the West Linn Community Development Code (CDC). A recommendation by the Planning Commission to approve or deny this request will be based upon applicable criteria. At the hearing, it is important that comments relate specifically to the applicable criteria.

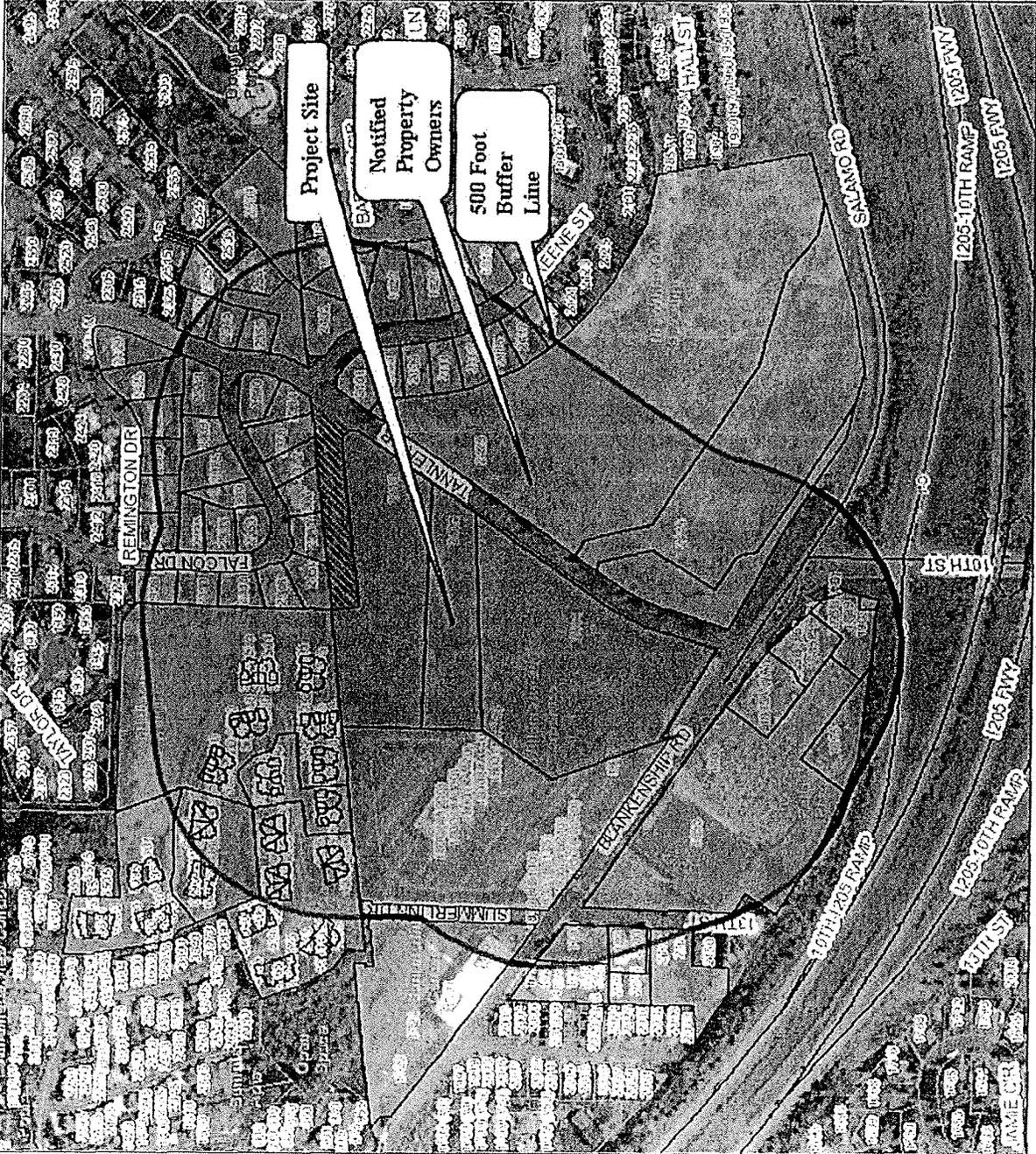
You have been notified of this proposal because County records indicate that you own property within 500 feet of the subject property, or as otherwise required by Chapter 99 of the CDC. See the attached map illustrating properties within 500-feet of the subject sites. The complete application for ZC-14-01/PLN-14-01 is available for inspection at no cost at City Hall or via the City of West Linn's website at <https://westlinnoregon.gov/planning/nw-corner-blankenship-tannler-drive-zone-change-and-comp-plan-zoning-map-change>. Printed copies of these documents may be obtained at City Hall for a minimal charge per page.

At least ten days prior to the hearing, a copy of the staff report will be available for inspection at no cost or copies can be obtained for a minimal charge per page. For further information, please contact Zach Pelz, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, zpelz@westlinnoregon.gov, or 503-723-2542.

The hearing will be conducted in accordance with the rules of Section 99.170 of the CDC. Anyone wishing to present written testimony on this proposed action may do so in writing prior to, or at the public hearing. Oral testimony may be presented at the public hearing. At the public hearing, the Planning Commission will receive a staff presentation, and invite both oral and written testimony. The Planning Commission may continue the public hearing to another meeting to obtain additional information, leave the record open for additional evidence, arguments, or testimony, or close the public hearing and take action on the application as provided by state law. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issues, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

SHAUNA SHROYER
Planning Administrative Assistant

2444, 2422, 2410 Tannler Drive Notification Map



Scale 1:4,800 - 1 in = 400 ft
 Scale is based on 8-1/2 x 11 paper size



Map created by: SSHROYER
 Date Created: 14-Aug-14 12:25 PM

WEST LINN GIS

DISCLAIMER: This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. Source: West Linn GIS (Geographic Information System) MapOptik.

King, Seth J. (Perkins Coie)

From: Brent Ahrend <BAhrend@mcknze.com>
Sent: Wednesday, October 08, 2014 4:21 PM
To: Robinson, Michael C. (Perkins Coie); King, Seth J. (Perkins Coie)
Subject: tannler

Although a particular turning movement may be failing based on delay/level-of-service from Tannler to Blankenship, there is capacity available to handle the additional trips from an apartment development. Further, a traffic impact study will be required for design review on a future apartment development which may identify mitigation measures to provide additional capacity and/or mitigate operation.

Brent T. Ahrend, PE
Senior Associate | Asst Department Head – Transportation Planning



Architecture · Interiors · Engineering · Planning

P 503.224.9560 **W** mcknze.com **C** vcard

RiverEast Center
1515 SE Water Ave, Suite 100
Portland OR 97214

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