

WEST LINN CITY COUNCIL MEETING MINUTES JANUARY 26, 2009

Council Present: Mayor Patti Galle, Council President Jody Carson;
Councilor Scott A. Burgess, Councilor Teri Cummings
and Councilor John Kovash

Council Absent: None

Staff Present: Chris Jordan, City Manager; Chris Kerr, Senior Planner;
Bryan Brown, Planning Director; City Attorney Bill
Monahan; and Shirley Richardson, Minute Taker

Call to Order/Pledge of Allegiance

Mayor Galle called the meeting to order at 6:40 p.m. Council President Carson led the flag salute.

Proclamations, Recognitions and Presentations

- Willamette Children's Center

Tonya Hunt, Executive Director reported the Willamette Children's Center of Clackamas County works directly with the West Linn Police Department in investigations of children who are suspected to have been victims of abuse. This assessment center is a specialized medical facility where children are given a medical exam and given the opportunity to meet with specially trained forensic interviewers. Families are given advice on treatment planning making sure the children have access to on-going services as well as other services that may be appropriate. Most of the children seen are under the age of 7 and each year children

are seen all over the county. This is the only assessment facility; however, they are a private, non-profit organization.

This facility responds to requests for assessments from Clackamas County Sheriff's office, the following Police Departments: Milwaukie, Sandy, West Linn, and Oregon City, and requests throughout the county as well as requests from the Department of Human Services in Clackamas County. Last year the facility saw 300 children; 100 children were turned away because they did not have the capacity to see those children.

They are very pleased with the partnership they have with West Linn as well as the professional relationship with the West Linn Police Department.

Councilor Burgess asked if only children under the age of 7 are seen at this facility. Ms. Hunt explained the facility assesses children from age 0 through 17 and sometimes when appropriate a developmentally delayed adult who may have been a victim of a crime. It works out, however, that about half of the children seen are between the age of 3 and 7 years old. This age seems to be particularly vulnerable for sexual and physical assault.

Councilor Burgess asked if this is a United Way agency. Ms. Hunt stated they have been supported by United Way in the past and are currently in the application process for on-going support. They also receive support for other private donors, funders and foundations.

Community Comments

Gary Hitesman, 2188 Clubhouse Drive asked the Council for five minutes to give a presentation on a historical building that is in danger of being raised.

Councilor Burgess raised a point of order and asked if this issue will be coming before the Council in the future. Bill Monahan, City Attorney reported there is a matter on the agenda tonight that will be continued. If this testimony is in reference to that issue, it would not be appropriate to take input until that public hearing is open. Mr. Hitesman stated that this issue is regarding the log cabin on Stafford Road, not the issue before Council tonight.

Mr. Monahan stated there will be a process to place a building of this sort in a city facility; there will be a land use application that will be handled as an administrative matter by the Planning Department or based on the facts could be a Planning Commission matter which then could be appealed to City Council. He cautioned the testimony not be about any specific site location and discussion kept to a non-land use matter.

Mr. Hitesman stated he was notified 10-days ago of a potentially significant historical building that is in danger of being raised. The Shadow Wood Park Log Cabin is nestled in a grove of 100-year old West Red Cedar and Douglas Fir trees on a bluff overlooking Tualatin. Very rarely can one find architecture that is meek and mild. The Shadow Wood Cabin would be a catalyst for linking communities through a robust synchronized renovation of trails and provide connectivity across many communities including schools in West Linn. The trails would link Mary S. Young Park, learning institutions, neighborhood hamlets and buildings.

Mr. Hitesman asked that Council consider raising this building and not tear it down. This humble structure can be actively used by current and future generations to draw visitors to West Linn from other communities and states. He reached out individually to the Councilors:

- Councilor Burgess the Cabin offers an opportunity to highlight the principles and objectives of the City's Sustainability Committee. The cabin would serve as a vehicle to teach and display sustainable principles and provide an ever-evolving symbol to the City of what sustainable living means to West Linn communities.
- Councilor Carson there has been historic building opportunities that have been squandered in the past and yet there are also successes. Using the lessons learned from Willamette neighborhood, the cabin's preservation in the Bolton/Robinwood area would further educate citizens to the virtues of historic preservation.
- Councilor Cummings this cabin is the perfect emblem of our communities return to introspection towards nature.
- Councilor Kovash this cabin is a symbol of West Linn's commitment to proper stewardship and achievement to the current life style in West Linn.
- Mayor Galle this cabin offers a stimulating opportunity to bring neighborhood organizations, neighborhood associations, staff and elected officials around a common purpose that will provide a lasting legacy of cooperation, environmentalism and vision.

Mr. Hitesman asked that a reasonable course of action be set. He recommends the Budget Committee and the Historic Resource Board set up a worksession with volunteers from Mary S. Young Park, the Recreation and Parks Director and neighborhood association leaders from Bolton and Robinwood. He asked the community-at-large to let the Council and Mayor know of their support and dedication towards this worthy cause to save the Shadow Wood Cabin.

Councilor Cummings noted the Shadow Wood Cabin is located off Stafford Road not far from the bridge renovations that will be occurring. The cabin is close to 100 years old. It is a very interesting cabin.

Addition to Audit Committee

Mayor Galle moved to nominate Councilor John Kovash to the Audit Committee. Councilor Carson seconded the motion.

Ayes: Burgess, Cummings, Carson, Kovash, Galle

Nays: None

The motion carried 5-0.

Mayor Galle announced that Agenda Bill 09-01-26B, appeal of HRB decision of a demolition permit of a house located at 1850 Buck Street will be continued to a later date. She asked for a motion to continue that public hearing.

Councilor Carson moved to continue Agenda Bill 09-01-26B, an Appeal of HRB decision of a demolition permit of a house located at 1850 Buck Street to February 23, 2009. Councilor Cummings seconded the motion.

Aye: Cummings, Carson, Kovash, Burgess, Galle

Nays: None

The motion carried 5-0.

Consent Agenda -- None

Report from the City Manager -- None

Business from the City Council

Councilor Cummings noted the memo prepared by staff that outlines proposed training for neighborhood associations and citizen advisory group members. She asked that this information be made available for input prior to making a decision when and how to go forward with this training.

Councilor Carson stated she is in support of the suggestion. This type of training is valuable and something that should be provided to the neighborhood associations and city committees.

Chris Jordan asked that the Councilors submit their suggestions and input on the proposed training to him for review and incorporation into the draft.

Councilor Burgess expressed his disappointment in an editorial article in the *Tidings* regarding the Council. He felt the article contained very few facts and found the comments were inappropriate and damaging to a lot of excellent people who made applications to serve the City and some who currently serve the community.

Councilor Cummings stated that she too was disappointed in seeing the article. She hopes in the future the City can rely on reporting that is factually balanced and conclusions that been researched so that the articles are informative and not divisive.

Mayor Galle noted the Council now has a process in place for making appointments. This process includes the opportunity for every councilor to have input and vote on the candidates.

Business Meeting

1. Agenda Bill 09-01-26A Public hearing for a Step One Annexation process
To annex a 21 acre site located between
Rosemont Road and Hidden Springs Road
(Applicant: West Linn/Wilsonville School District)

Mayor Galle opened the hearing on a Step One Annexation for West Linn/Wilsonville School District. She recused herself from this hearing because over the last few weeks she has had several discussions that have led to her decision on this issue. Therefore she feels she would be biased on this issue. She asked Council President Carson to officiate this hearing and she stepped down from the dais.

Council President Carson officially opened the public hearing on the annexation of the 21-acre property at 1025 Rosemont Road proposed by Palmer Erickson, Co-Trustee and the West Linn/Wilsonville School District (File No. Annexation 08-01) at 7:05 p.m.

Bill Monahan explained the hearing purpose and procedure. This is the step-one public hearing for the two-step annexation process. He indicated the applicable standards to be considered are found in the Community Development Code, Chapter 81 and Metro Code Chapter 3.09. The application before the City Council this evening must be decided based on these criteria. The authority of the Council is limited only to those issues that address compliance with the applicable criteria.

Council President Carson explained the hearing conduct. She asked if any member of the City Council visited the site. Councilor Burgess stated he visited the site; however, he did not walk the site. He has not seen the wetlands on the site.

Councilor Cummings stated she has driven past the site many times and she has walked the site in the past, not recently. She did see the proposed wetlands and many trees.

Councilor Kovash stated he visited the site; however, he did not walk through the site.

Council President Carson stated she too has visited the site on the boundaries. She has not walked through the site and has not spoken to anyone about this application.

Council President Carson asked if any member of the City Council wished to announce any ex-parte contacts or any potential conflicts of interest. Councilor Burgess stated there have been several discussions in Council meetings and with school board members, and in recent publications on the bond measure, he is aware that the school district intends for this to be an elementary school.

Council President Carson announced she participated on the long-range planning discussions with the School Board; she is aware of their interest in this property as a site for a school.

Councilor Cummings noted she received an email from Mr. Schulz regarding this matter and sent it on to the City staff so it could be made available to the entire Council. She did not engage in any discussions regarding this matter.

There were no other ex-parte contacts or conflicts of interest declared.

Council President Carson asked if there were any members of the audience who wished to make any challenge to any Council member's ability to participate in this decision.

Marty Crissalia, 6133 Chyanne Terrace, stated he lives close to the site and used walked the site with his dog. He questioned whether the Councilors could make a fair and reasonable decision on a site that they have not walked through. Mr. Monahan stated this language is in the script so that the public is aware whether a council member has visited the site or not; however, there is no requirement that council members have to visit sites that are up for consideration on land use matters. The council's obligation is to make a decision based on the full record before them (application, written documentation and staff report, as well as what testimony is given). It is not mandatory that a site visit be done.

Council President Carson asked if there were any objections to the Council's jurisdiction to consider this matter. Hearing no objections to the Council's jurisdiction, Council President Carson asked for the staff report.

Staff Introduction

Chris Kerr, Senior Planner reported this is a specific annexation for the property located on Rosemont Road and not a development review application. The step-one criteria for which properties can be annexed into the City are:

- Contiguous to the City or within the City's boundaries
- Within the Urban Growth Boundary
- A specific Comprehensive Plan designation
- Adequate services can be provided to the property

A decision must be made on the zoning district that will be placed on this site if it were annexed into the City. A final decision will need to be formally adopted and a step-two hearing scheduled. A step-two hearing is tentatively scheduled for February 23, 2009. At that time, Council will vote on whether or not to place this annexation on the ballot for city-wide vote.

There are two owners of this site, the West Linn-Wilsonville School District owns the majority of the site and Palmer and Darlene Erickson own the individual home on Hidden Springs Road. The Comprehensive Plan designation is low-density residential.

The application includes a portion of the Rosemont Road right-of-way. Over the years the City has annexed bits and pieces of Rosemont Road and this is the only portion of Rosemont Road that has not been annexed into the City.

There is a single-family home at 1045 Rosemont Road not include with this annexation request.

The School District is proposing development of a primary elementary school. In 2008 the City of West Linn as well as the Wilsonville voters passed a \$98 million capital bond which included \$28 million specifically for a primary school to be located on this site (Erickson site). The bond the school will need to get has a specific requirement that the funds be spent within a certain timeframe. The School District is anticipating a 2011 school opening. The Comprehensive Plan and the Imagine West Linn Vision document specifically encourage schools along arterials and collectors within the neighborhoods that they serve.

An aerial photo was shown on the subject site and surrounding area. There are two wetlands on the south portion of the site. The water and sewer lines stub out at Bay Meadows Drive. The property has frontage on both Rosemont Road and Hidden Springs Road. There are requirements in the Code for preservation and conservation of the natural resources.

The Comprehensive Plan lays out parameters of the zoning district. The current low-density residential land use designation permits a range from R-7 to R40. The current designation on the property is a county FU-10. Regardless of the zoning issue, if a school were to apply for construction on the site it would require a conditional use permit.

There are three factors to be considered in the zoning designation; (1) whether or not public facilities are available, (2) specific surrounding zoning development around the site, and (3) specific site characteristics. There are no significant steep slopes on the site; it is relatively flat. A resolution was passed by the Hidden Springs Neighborhood Association looking for the R-40 zoning designation on this site.

One of the reasons staff is recommending R-10 zoning is that the purpose statement indicates the R-10 zoning is applicable to properties with type I and type II lands. R-10 zoning districts are specifically intended for properties with environmental restraints.

Staff's recommendation is to move forward and adopt the step-one resolution included in the packet.

Councilor Carson asked if any additional correspondence has been received on this matter. Mr. Kerr stated an email came in from Harvey Schultz, 2520 SW Suncrest Drive stating that generally he is not opposed to the annexation for a primary school but he does not believe changing in zoning is necessary because a conditional use permit is required. He would like to see the wetlands and grove of Fir and Maple trees preserved and protected as they provide a natural and suitable buffer along the residential properties boarding the school property and maintain the park-like character of the neighborhood. With these conditions he would support the annexation of this property. The email was read into the record. It was submitted to Council for review just before tonight's meeting.

Two resolutions received from Hidden Springs Neighborhood Association were provided to Council two weeks ago.

Councilor Cummings asked what setback requirements are currently in the Code. Mr. Kerr stated the requirements that this applicant will have to meet are the codes that are in place when they submit their development application. The setbacks are about 25-30 percent of the site for the wetlands and the stream.

Applicant Presentation

Tim Woodley, Director of Operations, West Linn/Wilsonville School District reported the District has been working towards placing a school at this site for some time. This site was purchased in 1988/89 and it has always been expected that it would be a school site. The Erickson's live on the site and as part of the buy-sell agreement with them many years ago included an agreement that their site and the school site would be brought into the city limits. The School District has been working forward with positive steps through the years to prepare for the construction of this school.

There is overcrowding and portable classrooms at several of the area schools. The School Board would like to keep class sizes smaller. There is a need to add more classrooms to the District. This was approved by affirmative vote of the public in November 2008. There was a certain amount of money allocated to the proposed 500-student primary school. The immediate plan is for 300 students with the opportunity to build out in the future, adding pre-designed classroom pods over time.

Mr. Woodley stated he has been building public buildings for quite a few years in the Pacific Northwest. There was a time when wetlands were seen as something to be avoided or mitigated if possible. Those years are over; there is an understanding in the design community and the public's point of view that wetlands, areas along creeks and canopy cover are a valued resource to the community and the landowner. The District has a strong sense of preservation of the topography and features on the site. There are great opportunities for learning and teaching children in environmental and science technology.

The long-range plan recognizes a primary school should have about 10 acres; the site is 21 acres which would allow preservation of the natural resources on the site. The primary school is proposed to be a two-story building to go along with sustainability, energy conservation, material conservation and land conservation.

Currently there is no design for the site because they wanted to have the funding taken care of before they started their internal process for designing schools. This process includes a voice from students, teachers, the community, and the City. The City has a process for a conditional use application and permit which includes many opportunities for the public to engage in the process. All of this input allows the School District to come up with a design for the site. The School District is aware of issues with pathways, traffic, roadways, access, safety of the children, and the supervision of the children coming and going to school. West Linn has not had a new primary school since 1960.

All of these things together lead the School District to believe this is a great site, a great opportunity for the District as well as the community it serves, and the City of West Linn. They are confident that the processes that are here and the people that will be engaged will all come together and think about this and plan it in a very good way.

Questions from the Council

Councilor Burgess asked if the District has adopted the policy for Leed Gold Standard in terms of the school building. Mr. Woodley stated they don't have a policy stand; however the District has engaged in recent years in energy conservation and there are incentives at the State level that have helped them to go in that direction (Senate Bill 1149, Oregon Energy Trust) as well as the Business Energy Tax Credits.

Councilor Burgess expressed his hope that the School District, if this application is approved and the school is built, will review their policies in terms of making this resource available to the community beyond just an elementary school. He would like to see the facilities the community is building and paying for as a place that provides services for the citizens after school hours too. He does not want to see

dark gyms, dark performing art centers, etc. when the community is looking for something to do.

Councilor Burgess stated that now that this elementary school may be built that the District reconsiders the plans for the Erickson property in terms of whether there is a need for an elementary school there.

Councilor Cummings asked Mr. Woodley on his preferences for zoning and how many lots would be involved in consideration of the property constraints. Mr. Woodley stated he did not come to the annexation hearing with a pre-conceived notion of what the zoning would be. The options were in front of them and staff along with their land use planner concluded that R-10 is what was recommended. It seems to make sense to him to agree with the R-10 zoning as it will be consistent with what is there now. He has not done an assessment of buildable lots for this property. The Erickson property will also be zoned R-10.

Councilor Burgess asked if the Erickson property will become part of the school. Mr. Woodley stated that the Erickson property is a deeded lot that is owned by the Erickson's. They have lived there most of their life and they have great interest in continuing residence there. Staff has recommended R-10 zoning and the house would continue to exist as a single family residential dwelling on R-10 property.

Testimony in Support - None

Testimony in Opposition

Marty Cresalia, 6133 Cheyenne Terrace asked what is the zoning for a school district. Mr. Kerr stated that currently the property is an un-incorporated County property. In order to be annexed into the City there has to be assigned a zoning designation. The zoning designation for all the schools in the City is R-10.

Mr. Cresalia voiced concern that the School District after annexation may decide to not to build a school and sell the property to a developer who will put in a housing development. If the property is zoned at the highest possible level, it would not be economic for a housing district. If the School District builds a school, it will be wonderful; if the School District decides after annexation to sell it to a developer he would like the Council to take that into consideration when the zoning is decided.

Karie Oakes, 1125 Marylhurst Drive stated she is in opposition of this zoning designation of R-10. In the Pre-application Summary done on October 16, 2008, Gordon Howard states that staff suggests the applicant look at a lesser density zoning district as an alternative. Most notably the R-20 zoning district (1 dwelling per 20,000 sf). The purpose statement seems to fit the site condition, particularly the wetland and the southeastern portion of the site. She submitted a copy of this Summary as part of the record.

The Purpose referred to by Mr. Howard states in Chapter 81, Zoning Districts of the West Linn Community Development Code, Family Residential Detached R-20, "The purpose of this district is to provide for development, flexibility and a range of densities where urban services are available. The intent of this zone is to allow development at a level that recognizes and preserves natural features of the area. This zone may also be applied to areas where public harm to wildlife habitat may result and developed into higher density." She feels this accurately describes this property and Mr. Woodley's indication of the respect the School District wants to show for the natural resource area. She submitted a copy of this Purpose Statement to be entered as part of the record.

If this property has to be zoned, uses have to be considered. If zoned R-10, with this water resource area which constricts the land, the applicant may come in with a PUD (Planned Unit Development) and it could be zoned R-7.

Ms. Oakes asked for an additional minute to complete here testimony. Council President Carson gave permission for an additional minute.

Ms. Oakes stated that she hopes Council takes into consideration while this property might be zoned R-10, and if it were a PUD, the lot sizes would be smaller resulting in a higher density. CDC Chapter 81 states where City Council shall consider zoning designations, it should consider the specific site characteristics. She asked if staff could read the specific language in Chapter 81 to give everyone an understanding of that portion of the code.

Bob Thomas, 2563 Pimlico Drive urged Council to zone this property at R-40 so it cannot support any more lots than this zone would allow. This would dissuade any consideration by the School District to sell this property.

The citizens have heard about a new Water Master Plan and the deficiency of emergency water storage. If the school is built he asked if it can be required to help fund some of that emergency storage. Fire storage in the Rosemont Zone is inadequate to have another school in the Rosemont area. He has heard that the bond market is very impaired right now and if the School District cannot readily sell bonds, it can't build this school or any other school until such time as the market improves.

The School District presently owns the Dollar Street site which was originally purchased for the building of a middle school. A primary school could be built there and the School District might consider selling this property for open space or a park to the City.

Mr. Thomas stated the School District has played games with the tax payers before in forcing the middle school up to Rosemont Ridge which made the school bond

funds help pay for infrastructure to serve development. The School District does not have a very reputable past.

Neutral Testimony

Alice Richmond, 3939 Parker Road stated she does not have children that go to the schools but is paying for the path the citizens of West Linn take. She has listened to the School District very carefully. The consideration tonight is about whether or not to annex this property and what zoning will be designated if annexed into the City. She asked the public to not waste time arguing whether the property will be developed with houses but to focus on the annexation issue.

Tracy Pyeatt, 2168 Clubhouse Drive stated that he borders the Erickson property. He is in favor of annexing the property for the school, however, he believes in keeping the zoning at the R-40 level. If after the property is annexed and the School District decides not to build a school, the zoning can be re-zoned downward for future development. At this time he does not believe the purpose for annexing in is to allow development of houses, but to allow the school to be built. He encouraged the staff and school to build a school.

Gary Hitesman, 2188 Clubhouse Drive stated he is a big supporter of the school. In terms of the information that has been provided, he feels there are a few critical pieces missing. He lives right off an easement that comes into Erickson property off Santa Anita. During recent illness, he realized the zoning had been changed from an open space (how deeded). He worked with the City and they were able to switch it back to City-owned open space property. It took about nine months to correct this error.

When he looks at the information provided he sees some things lacking. One of them is the Transportation System Plan which shows an arrow connecting Suncrest to Bay Meadows. This document has a correlation to how the School may actually develop the property. He is concerned that the CDC and other City documents are not strong enough to protect the environment required by Goal 5. He urged Council, as they go through this annexation process, to also take a look at the codes and realize that the codes do not reflect the Transportation System Plan, parking, and vehicle traffic.

Lynn Fox, POB 236, Marylhurst, Oregon 97036 stated she is president of the Hidden Springs Neighborhood Association. Mr. Woodley was invited to give a presentation at their neighborhood meeting and she submitted a copy of the tape from that meeting into the record. When Mr. Woel was presented with the commitment to a Leeds Program he indicated that they did not intend to use the Leeds Program but would do their best to aspire to it. She was concerned that the representation made here tonight by Mr. Woodley that the Leeds Program is one of their goals, when it was told at the public meeting that it was not.

Mr. Woodley has stated that he has had meetings with the Neighborhood Association that were initiated by Mr. Worcester from the Parks Department. That has never happened. There have been two meetings with board members from Hidden Springs that was initiated by the board members seeking information. The invitation to their neighborhood meeting was initiated by the NA.

When the School District had their pre-application meeting on October 16th, the neighborhood was not noticed and despite her numerous requests to City staff she has never been given the staff report from that meeting. She feels her neighborhood association has been kept in the dark on several significant issues that should have been made available to them.

She has submitted to the Council two resolutions that were passed at emergency meeting of the Hidden Springs Neighborhood Association that are concerned about the possibility that the property would be annexed and the School District would not build a school. In that event, the neighborhood realizes that the property will be developed as a PUD that would allow for densification of development on the property. This is big concern from the neighborhood. The Association is asking the Council for a designation of R-40 when this property is zoned in this step one process.

There has been a lot of discussion tonight about building a school; however under consideration tonight is the zoning designation.

Ms. Fox asked for additional time to complete her testimony. Council President Carson allowed Ms. Fox an additional minute.

Ms. Fox stated one of the issues that have not been addressed is the R-7 designations along Rosemont Road and Churchill Downs Way was rezoned on December 22, 2004. They were previously R-3 and R-5. The majority of those properties are R-10. There has been no discussion or understanding on what the impact will be.

There has been a request to City staff for the staff report on Agenda Bill 06-02-06 that was discussed in front of Council on February 13, 2006 regarding input on SDC's in a Carol Connell report that discusses how much an un-reimbursed SDC costs. She would also like to have information Agenda Bill 05-11-12 on November 28, 2005 discussing an amendment that was made on R-40 density. That is why the neighborhood passed this resolution.

Councilor Burgess informed the audience that the Council will do their best to enforce the City's codes and protect their citizens. The School District Board is a public body and represents the citizens as well. The School District is building the schools on its citizen's behalf and the residents can let the School Board know their

community concerns. Some of the comments being expressed tonight should also be given as input at the School District level.

Bill Hamilton, 2650 Lexington Terrace stated that since it appears that annexation doesn't mandate any specific development afterwards and is not based on any land use or site plan, to protect the interest of the neighborhood, zoning it R-40 gives the Council the most amount of influence over what happens to this application downstream. He is taking the School District's word that they are going to build the school there; however Council needs to consider what happens if they don't. He encourages supporting an R-40 designation.

Patrick Taylor, 20605 SW Suncrest Drive stated that he lives adjacent to the subject property close to the wetlands. He feels the wetlands as depicted are fairly accurate except after a weather event. During a weather event, the water extends onto his property. He cautioned the Council in their consideration of how the boundaries are drawn so there is adequate drainage. The top of the soil tends to move when it gets wet. He would like to see protection of the wetlands and adequate drainage in that area. He asked Council to give these natural resources the best protection possible.

Staff's Final Report and Recommendations

Chris Kerr explained that this will be a challenging site to develop and the City and the School District will give the public opportunity to give their input. This is a very large site and the School District will have to incorporate all of the issues brought up tonight into their site design. This design and development is a formal conditional use process that will happen after this annexation is passed by the voters.

The zoning district in itself does not preserve the natural resources. The R-40 zoning does not have any more environmental protections than R-7. The environmental protections are found as applicants come in to develop the site; these protections are applied regardless of the zoning district. The setbacks, buffers and requirements to preserve areas on an R-40 zoned site are exactly the same as they are in R-7 zoning.

The environmental constraints on the property do not preserve anything on the property. Subdivisions don't preserve riparian areas. Environmental constraints don't add density to the site; they carve out areas that are to be preserved.

In regards to the R-40 being a holding zone, there is a requirement that prohibits rezoning sites that have been annexed within three years of the annexation. If the conditional use for a school did not work out, the School District could not come back in and ask for rezoning for another three years.

Applicant's Rebuttal -- None

Questions of Council to Staff

Councilor Burgess asked if staff had reviewed past aerials to determine if there had been any tree removal or stream alterations since the ordinance was passed that requires mitigation at the time of annexation. Mr. Kerr stated the ordinance was passed three maybe four years ago. He went out to the site with staff to review the site for clearing or alterations and there was no evidence of any activity on the site.

Councilor Burgess stated he would rather have this property under City codes rather than County. FU-10 (County zoning) is not acceptable for development unless it is developed in the County. Mr. Kerr stated the property has to be rezoned when it comes for annexation.

Councilor Burgess asked staff to comment on the zoning districts. Mr. Kerr stated the zoning districts have specific purpose statements for each zoning district. The Comprehensive Plan states that low-density residential is for lands that have some type of environmental restraints. The range is from R-7 to R-40. When you get into specific purpose statements for each zoning district, each one has very similar language, to accommodate development that is consistent with what surrounds it in a manner that preserves and addresses the environmental constraints on the property. Any of the zoning districts (R-10, R-15, and R-20) are consistent with the purpose statement; however R-7 and R-40 are not.

Councilor Burgess asked staff to comment on any restraints that would prevent this property from being developed. Mr. Kerr stated there are water, sewer and roadways that are available to service this development. This property can be served by the existing water storage and it is available to the site.

Council President Carson asked if the adjacent R-10 was developed as an R-10 PUD. Mr. Kerr stated that looking at the map he is confident that the R-10 was developed as a PUD. The proposed zoning is consistent with the surrounding areas in terms of how it has been developed.

Point of Order from the audience; there was a request for information during public testimony that was not addressed. Bill Monahan stated that it was Council's decision whether or not they wanted that particular question answered.

Mr. Kerr stated that the request was for the specific language of the code in Chapter 81.055 of the Municipal relating to the three specific factors that Council should consider. Councilor Cummings had a copy of the language dated September 29, 2005, MISC 053(a) Community Development Code Amendment. In this document, under Chapter 81, Boundary Changes, there is a chart for the low-density residential from R-7 to R-40. It talks about (1) specific site characteristics such as topography, drainage and inclusive vegetation must be considered; (2) existing zoning; and (3) capacity of the City to provide road, sanitary sewer, storm, etc.

Councilor Cummings stated she was unable to get the Community Development Code on the City's website to see if this portion of the code had been amended. She noted that it is not just the surrounding zoning, but also the features of the site that is being considered tonight.

A second point of order was raised from the audience asking to give further testimony. Mr. Monahan stated the Council has given the public the right to speak, the rebuttal portion of the hearing is over, and there is no requirement that the Council allow this person to speak.

Hearing no further questions from Council and no further response from staff, Council President Carson closed the public hearing portion of the meeting at 8:47 p.m.

Councilor Kovash indicated that he did not hear any conflicts with Chapter 81 during the testimony tonight. There was a lot of testimony about zoning. One of the arguments tonight is if this property were zoned R-40 it would be a way of preventing the School District selling the property for redevelopment. He is not convinced of this argument. The Council has to consider what zoning is reasonable for annexation of this property to the City.

Councilor Burgess moved to approve the Step 1 annexation of property owned by the West Linn/Wilsonville School District located between Rosemont Road and Hidden Springs Road in the Final Order proposed by staff (which includes the recommendation for R-10 zoning) per Agenda Bill 09-01-26A. Councilor Kovash seconded the motion.

Councilor Burgess stated that he is in favor of annexation of the property as indicated in the Comprehensive Plan within the Urban Growth Boundary. It has been designated as a school site for years. It is possible that the site is not developed as a school site, but he feels it will be developed as a school. This is zoned as residential and that is why a conditional use will be required to place a school in that zone. Staff's recommendation of R-10 zoning makes sense; he feels it should be R-7 but agrees with the staff report. He does not feel PUD's are negative as there are strict protections relating to the open space and riparian areas. These are questions that can be answered during the development process. It makes sense to him to bring this property in; it allows the City to have control over development. City services are available to protect the kids and parents and to make this a community resource.

Councilor Cummings noted the 2005 document talks about significant natural features, they recommend it might be more appropriate to have a lower density. She feels it makes a difference on how the property is zoned when the natural features are considered. If it comes down to PUD, it keeps the uses clustered away from the

natural features. If an R-3 is placed next to a stream, there will still be more runoff concentrated in that area.

This is an example of where it would be appropriate to have a lower density in this area. The request to zone R-40 is restrictive to the owner of the property. What is before the Council is property that has headwaters of a creek and significant wetlands areas with drainage issues. She would be more inclined towards a lower density (15 or 20); she feels R-40 is too restrictive in this case.

Council President Carson stated she concurs with the comments related to the protection of the riparian areas as being very important factors of this property. PUD's were designed to protect the natural resources. She is in favor of PUD's generally because they provide good protection for resources. She is leaning towards R-10 or R-15 for this site. However, she respects the staff's report and feels the R-10 fits in the surrounding neighborhood. This is an area that is on two main streets and that is generally where you want to see an R-7 but this site has too many constraints that R-7 would not be appropriate.

Councilor Kovash stated he feels that R10 or R-15 would be appropriate for this site.

Councilor Burgess stated the property is surrounded by R-10 and R-7. It is bounded by arterials. The higher density provides more flexibility if in fact it is not a school and ends up being residential. It provides more flexibility for a developer to economically plan the best development when you have property that is constrained there are significant protections beyond what Metro requires in Chapters 28 and 32.

He supports those protections and feels the City can get things on that piece of property they want, whether it is roads, sidewalks, pathways, protection of natural areas, good security access, etc. over and above the protections under the codes whether it is a PUD or not. PUD's add protections. It is discretionary whether to allow a PUD. There is no flexibility in a variance following Chapters 28 and 32, which are the protections for the natural resources. He feels a good case can be made for R-7 and he is willing to compromise with R-10 and hopefully they will have a school on that property.

Councilor Cummings asked that in the future Council be provided with specific information that could be more helpful in their decisions. She would like to error on the side of protection just from looking at the aerial because it is the only information they have. She is in favor of R-20 but is willing to compromise to R-15.

Poll on the motion to approve:

Aye: Kovash, Burgess, Carson

Nays: Cummings

The motion carried 3-1.

Councilor Burgess moved to authorize staff to write a letter from the Mayor to the Chair of the School Board encouraging at least a silver goal standard for the school attaching the City's resolution for their information. Councilor Cummings seconded the motion.

Ayes: Kovash, Burgess, Cummings, Carson

Nays: None

The motion carried 4-0.

Adjournment

Hearing no further business from Council, Council President Carson adjourned the meeting at 9:06 p.m.

RESPECTFULLY SUBMITTED,

Tina Lynch /s/

Tina Lynch
City Recorder

APPROVED BY THE CITY COUNCIL
ON _____

Patti Galle /s/

Patti Galle, Mayor