

The West Linn Planning Commission meeting of January 19, 1988. Members present were: T. Conser, W. Wright, C. Tryon. Also present were Peter Spir, member of the West Linn Planning Development staff; P. Allen, Hearings Reporter.

1

T. Conser: I'll call to order the planning commission meeting of January 19, 1988, at 7:30 p.m. There is no formal process since there is nobody here tonight, but just for general discussion I'm going to talk about some of the things that have happened in the last month. The meeting is primarily called to review and approve the minutes that have been delayed and confused, and have been problems during the last several months. Beyond that I did want to have it as a work session to discuss and plan for future agenda items and direction of the commission. Unfortunately, the council did not reappoint -- or did not appoint any new members, and Mike had hoped to not only have a new member orientation and discussion with all members -- but this is it right now. And, of course, letting you know that Greg Chiodo has resigned to take employment and residence elsewhere. And I would ask staff to draft a letter of thank you to him and make it available to us next month so we can all sign it and send it to him. He's been such a help, especially in detail and knowledge of the code and amendments that were coming up. He was really helpful in that area. And being a stickler for detail in the format of not only applications but, also, making sure that staff was right on top of things. He was very helpful to the staff, since we are a volunteer organization, that we have somebody so pro-active. He will be greatly missed from that perspective, besides just enjoying having him on the commission.

The council heard the Island View Terrace and it was kind of interesting. I think if we had known how strongly they felt politically about that issue, we would have saved the City the effort and probably not bothered to be the applicant, but I think, on the other hand, from the land use position, it was our obligation to at least entertain that part of the code. They could have changed the code. They could have over-ridden that part of the code as a decision. There were several options they could have taken. They chose to disapprove or over -- Well, okay, they overturned the planning director's decision in our application due to the incompleteness of the application, and therefore, did not even deal with the land use decision. So it becomes a "dead horse" essentially. Primarily, because they choose not to deal with this particular issue on a land use basis because of its political ramifications. And, of course, from the planning commission's point of view we did exactly what we as a group felt we should do and that's all we needed to do from that point on. And beyond that it would be pure speculation to say where it would go from there. Any thoughts or comments?

C. Tryon: I have no comments at this time.

W. Wright: Very gray.

T. Conser: People that testified quoted not only myself but all three of us extensively, and I assume they were legitimate quotes. They complained that they didn't have the minutes from the meeting, which goes back to something that I think I'll bring up this time and that is some of the items in any kind of a hearing that need to be highlighted, not as discussion, but any time somebody makes an objection or somebody makes a strong point, those certainly seem to be needed. When one commissioner or another brings up some points that they feel has not been considered, those certainly need to be highlighted. One of the things is they feel if there is an appeal then they need a verbatim transcription. And it was fairly apparent to me that none of the council had listened to the tapes. In fact, the council appeared that they didn't have the minutes and they were told by testimony that the minutes were inaccurate and very poor. Did we actually approve the minutes?

C. Tryon: I do not believe we approved the minutes. I guess my personal opinion, even though I was not there that night, that I don't believe they were considered in that decision.

W. Wright: That's why it's so gray. The thing just doesn't mesh. The way they addressed the issue.

T. Conser: Our decision to make application -- As you say, any person can come before us and make application and the Planning Director once he

T. Conser (Continued): accepts that application as being complete -- Mike has said he put the application together himself with the testimony and information he had available and he testified to that in the hearing. All we were doing is taking an option on the code. And that was that we could be an applicant. Beyond that, our opinions, our input was irrelevant as far as our opinions, our directions or what we used to come to that decision. But it was strongly quoted and referred to in the testimony. Makes you think a little bit about some of the things you say.

W. Wright: It's very frustrating. It seems like they were just jumping on the planning commission.

T. Conser: That's about the extent of that.

W. Wright: I missed that meeting of the 21st, December 21st. What was the gist of that meeting?

C. Tryon: We don't have the minutes of that meeting here tonight.

P. Allen: Hillwood Terrace, code amendments.

T. Conser: Let's go through the minutes. June 15th, which appears to be the first item I have.

C. Tryon: I would like to make a comment and suggestion regarding all of those back minutes of the meetings. I do not feel qualified to review in detail the minutes of meetings that occurred months ago. And I doubt seriously whether others on the commission can say yes or no regarding certain questions. What I would suggest, if it's workable, would be that in lieu of going through and correcting the quotes page by page, that we develop a method to have a condensed version of the minutes to reflex primarily who was present, what the agenda items were, what the motions were, and what the results were. I realize this leaves a lot of substance out of the minutes, but I think we all acknowledge there are a lot of errors in accuracy that we can see at first glance. I don't feel personally comfortable in my ability to pick them all out from six months ago. I do feel comfortable in knowing whether or not I was there, in knowing what the agenda items were, what motion was made, and whether or not the motion was carried.

W. Wright: I think if these should be approved -- obviously they shouldn't -- then let's wipe the slate clean and go on and hope it doesn't repeat. Because there are people who aren't on the commission now that were part of these and there's no way we can second guess them.

T. Conser: That's very true and that brings up -- part of what you are both saying is that if we cannot have an accurate set of minutes by the second month, then we begin to purely second guess. And I'll tell you what I've done. I've looked at my quotes and reviewed what was going on to make sure that the right name was on the right statement, within reason. I went through and highlighted some of the items that were of concern. Unfortunately I can't recall what other members of the commission said. So I look at the staff report, in general; and I look at rebuttal to see that that goes with my memory; and I look at motions and make sure that the motion is accurate. Because bottom line, that is what we get appealed on.

C. Tryon: I guess that's my point exactly. We need to know who was at the meeting, who testified, things of that nature. There are obviously some out-and-out errors that stand right out. I don't think it's responsible for us to adopt these as an accurate reflection of the meetings. I would like to see a revised addition of the minutes pointing out what the agenda items were, who was present, what the motions were and whether the motion was carried and have some mechanism to get the names of the people who testified into the record.

W. Wright: And who's going to evaluate that?

C. Tryon: That should be pretty straight forward. If we can't remember what motions we passed then we are in trouble. I can remember that much. I have personal notes of that. I don't have personal notes of all the comments made by individual people. I do have some and they are in

C. Tryon (Continuing): direct conflict with what I see on here. So I suggest rather than going through the time consuming process of reviewing every line or adopting them as is, we simply have them condensed by staff.

T. Conser: My concern is the staff's wordload is also involved in this situation and also the possibility of making the minutes less accurate.

C. Tryon: I disagree. It will be less complete but not less accurate.

T. Conser: I'd like to go through and discuss the agenda items. If those items were a problem, then we need to scrutinize those. If there was no appeal or problem of that nature, the actual decision was rendered and can't be reversed anyway.

C. Tryon: I guess I would like to ask you both to remember what happened at the City council meeting. The minutes were quoted at length by both members of the audience and members of the city council. These were minutes that had not been approved by us.

W. Wright: How did they gain access to them before they were approved?

C. Tryon: That's a good question, I don't know. They obviously did because they were reading right out of them. I think if we go through and endorse all these minutes, I think we are endorsing what I think is a lot of unfair criticism at the city council meeting last week. I think we need to fix things now for the future but I don't think it's going to be time efficient or effective for us to go back and correct these minutes the way they need to be corrected in terms of quotes. I don't think there are substantial errors in these minutes as to what individual motions were and whether or not the motions passed. There are mistakes on certain quotes and what motions are being referred to on individual topics of discussion. What I'm telling you is that I could not consciously adopt these minutes.

W. Wright: My question is if the minutes of June 15th haven't been adopted by now, it's of no importance. You might as well put it off until June 15, 1989, as far as I'm concerned. What's so critical. Why do they need to be adopted at all?

C. Tryon: Yes, I realize that's a long time ago and that's my point. I'm not going to vote to approve those minutes the way they are because I don't know if they are right or not in terms of what was said.

W. Wright: I don't really care about June 15, 1987, right now. Obviously, they are not important.

T. Conser: Then would you like to make a motion that the staff do as you directed by making a list of the application, those who have testified, and the final decision.

W. Wright: To be approved by us in lieu of minutes?

C. Tryon: Yes. No, not in lieu of minutes. Those would be the minutes we would approve. That the minutes of those meetings would consist of agenda items, motions, and whether or not the motion was carried.

W. Wright: But is it not true that minutes are suppose to be the complete record of the meeting?

C. Tryon: Not necessarily. I think minutes are just notes of what happened during those meetings or the results of those meetings. They are not what we said during each meeting. I think it's good. I think we want those types of minutes in the future, but I don't think it's crucial to what we're looking at for June of 1987, that we have a complete record of what everybody said. I think if we are going to adopt them for the record they have to be accurate. I don't think we have to have a record of pages of dialogue. I think all we need to know is what the agenda items were and what we did with them.

W. Wright: And that would be a recorded record of what transpired?

C. Tryon: It would be the minutes of what transpired. The transcript of

C. Tryon (Continued): what transpired would be still a part of the record and the physical recording is still there. These would be a synopsis of what we said.

W. Wright: Which is the legal record for the City?

T. Conser: The recording is the verbatim. The problem is that you cannot determine from a recording who is doing the speaking until you know who is who and that's why we ask people to state their name and address for the record. We have to have minutes to make a legal hearing or we have to have some kind of way of documenting what went on. It takes both the tape recorder and the reporter to really make sense of what goes on, because she has an opportunity to tie a name and face with what was being said.

C. Tryon: I think, also, that we have the reporter so the cassette tape does not have to accompany the record of the agenda items through the whole appeals process, but there's no requirement anywhere that the minutes have to look like this with all this dialogue.

T. Conser: We have had minutes that came before us that we may or may not have approved and when it got to council the problem was that the minutes were not available. When an appeal is filed it is a code requirement that at the next available meeting they become an item on whatever the next level of appeals agenda is. And with that time element it does not always allow minutes to be available. Now, often what they will do is they will wait a certain period of time and file the appeal within the last couple of days within the fourteen day period and staff goes through and gives a report on the items that the appeal is based on and then that is scheduled. This usually takes about a four to six week period. And because of the 120 day rule often minutes aren't available. One of the things we have been nailed a couple of times on was it didn't appear that we discussed certain items or the incompleteness -- then it was remanded back to us because it was felt that we didn't discuss it when in actuality we had discussed it at great length. This wasn't reflected in the minutes and the minutes weren't available when they were supposed to be.

C. Tryon: I'm not suggesting that we do this from this month forward, but I am suggesting that we do it retroactive to cover these. I think that we need to have detailed, correct minutes. The issues on these have largely been decided.

T. Conser: Do you have any appeals?

P. Spir: No.

T. Conser: Would you like to make a motion on this?

C. Tryon: I move that the minutes of the June 15, 1987; June 22, 1987; July 20, 1987; July 27, 1987 (Special Meeting); August 24, 1987 (Special Meeting); September 21, 1987 minutes not be approved in their current form. And that we instruct staff to prepare a condensed version of the minutes of these meetings showing agenda items; motions made; results of the motions; and as appropriate, list all people making public testimony for the purposes of determining parties to the record, for our review and approval at a later date.

W. Wright: I second it. Is it open for discussion?

W. Wright: Would we dare to put a due date on that or are we going to get back in the same old cycle? Let's ask for a due date.

C. Tryon: That sounds fine to me.

C. Tryon: I would amend the motion to request that those be provided to us at the next regular planning commission meeting.

W. Wright: Okay, I second the amended motion.

T. Conser: All in favor say aye. (Aye) Opposed? (There were none.)

T. Conser: I would also like to direct staff that we receive in the next week or so the minutes so that we can get going on those. They will be lengthy and we would like to get going on those. How about August 17? I was not present so I don't have any input on that.

C. Tryon: I move that we approve the minutes of the August 17, 1987 meeting.

W. Wright: I second that. That was a good one.

T. Conser: Approved and seconded. All in favor say aye. (Aye) Opposed? (There were none.) How about October 7th. Held in the annex. These are the minutes that they were supposedly quoting.

W. Wright: Yes. These are the ones that we have not approved.

T. Conser: Beyond those few minor corrections, do you have any additions or corrections. This was a good meeting.

W. Wright: I'll make the motion that the minutes submitted, with the corrections made by T. Conser, of the October 7th meeting be approved.

C. Tryon: I will second that for the purposes of discussion only, because I was not present that night.

T. Conser: Okay. Moved and seconded. Is there any further discussion? All those in favor of the motion. (Aye) Opposed? (There were none.) C. Tryon abstained as he was not present at the October 7th meeting. October 19th, code violation, Barrington Heights. Except for some minor spelling in this particular one, this is a very clear and relatively accurate by my recollection.

C. Tryon: I move we adopt the minutes of the October 19, 1987 planning commission.

W. Wright: I second.

T. Conser: Moved and seconded. All in favor say aye. (Aye) Opposed? (There were none.) With that, is there any other business from the staff?

P. Spir: No. But there is a note here about the selection of somebody for the West Linn Development.

T. Conser: Any time there is a task force or group, there is always a desire to have representation from each of the formal commissions and council. In this particular case there are two council members. They are asking for one planning commission person because this is in effect a planning function that's going through. Mike Riley had expressed an interest in being on this unless there is somebody else that would like to do this.

W. Wright: I'd be interested if Mike chooses not to.

T. Conser: Okay. They've also asked that I be involved in it. I will ask staff to submit your name, as well as my name, and I will talk with Mike and see if he is also as interested as he was. Any other business from staff?

P. Spir: None that I'm aware of.

T. Conser: A motion to close the meeting?

C. Tryon: I move we close the meeting.

W. Wright: I second.

T. Conser: It's moved and second. All in favor say aye. (Aye) Opposed? (There were none.)

The meeting adjourned at 8:45 p.m.

The West Linn Planning Commission meeting of February 16, 1988. Members present were: J. Hart, M. Riley, T. Conser, M. Hupp, C. Tryon, G. Powell, W. Wright. Also present was Jim Montgomery, Peter Spir, Deanna Darling, and Pam Allen, Hearings Reporter.

T. Conser: Mr. Conser fully explained the hearings process and exactly what the Commission would do with all the people wishing to give testimony. He then introduced the new Commission members: Joe Hart, Michelle Hupp, and Georgia Powell. And he explained the purpose and goals of the Planning Commission and how the members are appointed. The meeting was then called to order at 7:43 p.m. He then asked if anyone had items that they would like to be discussed at future meetings or an issue to be put on the future agenda. There was no response from either the Commission or the audience. Then he stated he would like to continue on to the third item on the agenda which is the approval of meeting minutes for the December 21, 1987, regular meeting and a special meeting held January 19, 1988. There were no corrections or additions to the minutes so the following motion was made.

C. Tryon: I move that we approve the minutes of the West Linn Planning Commission on December 21, 1987.

W. Wright: I second.

T. Conser: Moved and seconded. Is there any discussion? (There was no discussion) All in favor signify by saying aye. (Aye) Opposed? (There were none.) The minutes stand approved.

Approval of the January 19, 1988 meeting. Are there any corrections or additions?

T. Conser: I have one correction. On page 3, second comment by me, there is a typo. The word should be workload not wordload.

Is there a motion to approve the minutes?

C. Tryon: I move that we approve the minutes of the West Linn Planning Commission of January 19th, 1988.

W. Wright: I'll second that.

T. Conser: It's been moved and seconded, all in favor? (Aye) Opposed? (There were none.) Minutes approved.

Okay. Number 4 is next on the agenda. It is an amendment to a planned unit development and a tentative subdivision plan terminating both Derby Street and Hunter Way in a cul-de-sac. It is located in Hidden Springs Summit subdivision, and the applicant is Jerry M. Palmer, representative of Hidden Springs Summit, Inc. The file no. is MISC-88-04. Could we have a brief summary by staff?

P. Spir: We are seeking an amendment for the tentative subdivision plan. Our feeling is that there should be a continuation of this street here (indicating) continuing into the Sunburst subdivision and the proposal would see the formation of two cul-de-sacs, one terminating at Caliente Court and the second at Hunter Way. The applicable standards of the development code are contained here within.

T. Conser: Is there any member of the Planning Commission who wishes to declare a conflict of interest in this application? Do any members of the Planning Commission wish to report any significant ex parte contact?

M. Riley: I would like to report ex parte contact I had with the developer in the past. I want to abstain from this public hearing because of that contact in the past.

T. Conser: That is a by-choice situation. Okay. Continuing on. Do any members of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Do any members of the audience wish to challenge any individual member of the Planning Commission to hear this matter? To all of those wishing to testify please be aware that if you fail to raise an issue this evening be it either in person or by letter tonight, you will be unable to raise that issue at any subsequent appeal. Basically, if you need to discuss a particular issue that comes up tonight, you need to come forward and speak about it tonight.

If this is appealed to the Council, new issues will not be heard. They only hear or review on basis of what we heard. That is critical tonight. Besides having a sign in and speaking as you wish, you must bring up issues that you are concerned about.

Jerry Palmer: 700 SW Taylor, #305; Portland, Oregon 97205. Representing Hidden Springs Summit, Inc. Mr. Palmer requested that the staff's report be given at this time so that the people in attendance would have the benefit of the background information. Mr. Palmer had received his copy of the report earlier in the week and had already read it. This request was denied as the Commission feels it is not the most effective and productive way to be able to answer all the questions and concerns.

Mr. Palmer referred to a map that he had set up and showed the specific area that is involved in this issue. Focusing on Derby/Hunter Way. No future construction of Hidden Springs Summit can occur without the improvement of Hidden Springs Road. Mr. Palmer gave a background sketch of this development and the land in question. The benefit to the developer is a benefit to the community. With the improvement of the park and use of cul-de-sac environment, we believe that the development will be more attractive to future purchasers. This will accelerate the completion of Phase 2, thus moving into construction of Phase 3 and the improvement of Hidden Springs Road. Mr. Palmer then explained his specific plan by using the wall map. The plan is not to construct a connection between Derby and Hunter Way, leave it permanent in a cul-de-sac. In addition, Sunburst Park dedication, almost 2.2 acres, would be dedicated to the park. We would provide for a parking lot with 12 spaces. We would build a path system. In addition, in lieu of building this road, the developer would provide \$10,000 to the park district for improvement in this area, such as grass, clearing, play equipment, etc.

Mr. Palmer addressed the issue of pedestrian circulation, as referred to in the staff report. In essence, the pedestrian circulation from one point to another is not affected by the amendment to cul-de-sac construction.

The Street classification is extremely important. It comes up in the staff report and should be dealt with. Mr. Palmer again used the wall map to indicate where the street would run and the type of street we are talking about. It is by city definition "a local street." It's length is 1300 feet. It is not a principal street. The service area of this street would be for primarily those people living on Hunter Way and along Derby. Mr. Palmer then explained the traffic pattern of those individuals living in that area.

Mr. Palmer then explained to the Commission his concerns and proposal for the improvement to Sunburst Park. Stating that with the proposed improvement to Sunburst Park area that vehicular and pedestrian access will not be affected. The proposal also provides funding to the park district to complete the necessary improvements to make this a favorable neighborhood park. What is being offered is improvement over and above that required. I have provided to you a memorandum from the park superintendent and it refers to the action of the park board meeting on January 26, 1988. At that meeting the park board and superintendent endorsed the amendment which is being presented to you by the developer.

Mr. Palmer then addressed the issue of emergency vehicle access, going over extensively the amounts of times to travel the different routes as the roads exist now as opposed to the roadways in the proposed amendment. Mr. Palmer feels that the amendment being proposed does not affect emergency vehicle access, either in its present condition of improvements or in the future conditions. Also, there was a concern of responding to the wrong cul-de-sac. That concern is really in response to human error, that's not unique to this proposal.

Mr. Palmer then summarized his presentation. First, is that the emergency response is not impaired by this proposal; second, the park board endorses this amendment; third, we feel that this amendment provides for improvement of the park addition; fourth, we feel it is an unnecessary connection of a local street; and fifth, the directly affected neighbors support the amendment.

T. Conser: Are there any questions of Mr. Palmer at this time? At this point we will take testimony of those wishing to speak in favor of this application.

Kelly Bean: 1931 Hunter Way; West Linn, Oregon. Did not wish to speak now. Asked if she would like to speak at a later time she indicated that she probably would not.

Debbie Stoler: 1923 Hunter Way; West Linn, Oregon. I just wanted to voice my support for this proposal.

Dennis Stoler: 1923 Hunter Way, West Linn, Oregon. Mr. Stoler handed out copies of a summary of his concerns to the Planning Commission. He presented his issues on this matter and his number one issue was safety, such as emergency access and the slope of the road. Mr. Stoler stated that he is willing to make a trade for 10 to 7 seconds delay in time for emergency vehicle traffic as a trade off for the road not being completed. Park visibility was another issue that concerned Mr. Stoler. Since there is not a heavy amount of traffic on this road he suggested that a sign be put out indicating the park's location so people driving by would be aware of the fact that there is a park. All in all, Mr. Stoler is in favor of this street becoming a cul-de-sac for safety purposes and for the enhancement of the community as a whole.

Ken Bean: 1931 Hunter Way; West Linn, Oregon. Mr. Bean brought to the Planning Commission's attention that the children in the audience were there for a purpose, not to disrupt the Planning Commission meeting or cause inconvenience, but to make the Planning Commission aware of the fact that in the immediate area considered in this proposal there are about 10 children that play in that area and use the park. These same children play at the bottom of the cul-de-sac, and although it is advisable not to have your children play in the street, the fact is, is that they do play in this street. If this street is allowed to go through, the park department isn't going to have funds to improve this park (and off-street parking). And what you are going to end up with is a lot of kids playing down at the bottom of the street with a potential for a very dangerous situation. We've talked to a couple of people on the street and everyone is for this amendment that the developer is asking for. We would like to see that granted.

Dean Clark: 1927 Hunter Way; West Linn, Oregon. Mr. Clark stated that he was also here in support of this particular proposal. There are a great number of children in the proposed area and for safety sake he would like to see this proposal accepted. He said that Mr. Palmer had already expressed many of his concerns. He feels very definitely that this proposal would benefit the community as well as the immediate area.

Mark Barnes: 20540 Suncrest Drive; West Linn, Oregon. Mr. Barnes just wanted to voice his support for this particular amendment. Mr. Barnes does not live on the street in question, but he is in favor of not having the street go through.

T. Conser: Is there any testimony in opposition of this application? Is there any testimony that is neutral? I have no more forms on this application, have I missed anybody that wished to speak? We will call for the staff report at this time.

P. Spir: Staff concludes that the through street, as originally proposed in the tentative plan, should be installed to provide rapid access to the area by emergency vehicles. Section 24.180(I)(2) of the Development Code established approval standards for access and circulation in PUD's. That Section states that "the circulation pattern shall be clear to facilitate emergency vehicles."

A through street will also comply with West Linn Development Code (Section 93.030(A)(1) that states: "...arrangement of streets shall provide for the continuation or the appropriate projection of existing principal streets in surrounding areas."

Staff also recommends against the cul-de-sac proposal since it would perpetuate Sunburst Park's current problems of poor visibility and accessibility as identified in the Park System Master Plan(1987).

As far as staff is concerned, we are focusing on that neighborhood circulation as basis for denial of the amendment.

The Development Review Committee examined the proposed amendment and found that the original intent of through streets providing rapid access for emergency vehicles would be seriously affected. Without Hunter Way as a through street, there would be no connection between the Hidden Springs and Sunburst subdivisions. Each subdivision is now served by only two points of access. Two on the north and two on the south. Access from the south is diminished by the fact that Hidden Springs Road has not been constructed and that

4

the Carriage Way/Hunter Way approach is a series of twists and turns. These emergency access problems are represented in Exhibit E, and comments from the Fire Department are shown in Exhibit F.

These are the considerations of the planning staff in their denial.

T. Conser: Russ(Castleman), you haven't specifically asked to testify, but I would appreciate your comments on/and your analyze of this amendment.

Russ Castleman: Our expertise is not to analyse raw data but just to collect that data. Two of the concerns that I still have are in direct response to emergency vehicle response time. Just because we have allowed this in the past does not mean that it should be continued now. We shouldn't continue to make the same mistake.

The other complaint is when talking with the police department, I think a real difficulty for them is this problem of burglaries and deviate behavior in the park. It's two minutes around from one side of the cul-de-sac to the other. If anything happens, it's two minutes to respond. It is very definitely a concern of the police department as well as myself.

T. Conser: What about Rosemont?

R. Castleman: Rosemont is a totally volunteer fire department.

Jim Montgomery: We are basically interested in the easement potential of the utilities that are there. And the park issue as to whether it's going to actually create traffic-- I think that has been answered. Engineering is looking to a balance of continuing residential streets along with equal amounts of cul-de-sacs. That was our reasoning behind this proposal when this subdivision came through in 1986.

T. Conser: Mr. Conser asked if Jon Buckley was present to discuss the memorandum from the West Linn Traffic Safety Commission dated February 10, 1988. He was not present. And since the Planning Commission members were not going to speculate on the proposed condemnation presented in this letter, the Commission decided to except this letter and its recommendation upon further explanation from Mr. Buckley. Mr. Conser then called for rebuttal testimony.

Jerry Palmer: I would like to address the items that were brought up by staff in relation to code standards. Within the code, as it refers to principal and high order streets, this is not a principal street. Within the code, a principal street is one which exceeds 1800 feet in length. This street is only 1300 feet and therefore is not classified as a principal street.

Another issue is that we are going to pass on some problems, some safety problems onto the next phase of construction. We are taking only response time on the existing road system. All we reported was that this time will be improved when this construction is completed, that's all we were referring to.

The visibility issue the staff has presented, what they are talking about is street frontage. My point is, I believe, that this issue of visibility of Sunburst Park was address previously at hearings. It was discussed thoroughly.

So, we don't feel that we are passing problems on. We feel the issue of visibility of the park was addressed previously and, furthermore, to address the issue of response time. What I'm trying to say is that this problem is not unique to this City. It's a human error problem.

Ken Bean: I just wanted to say as far as addressing -- there are four houses that would have to deed back to city some of that land. We all submitted a signed document to the City Council at that last meeting that we would do that. We are all willing to give up that land to have this turned into a cul-de-sac.

T. Conser: Asked the question if Mr. Palmer anticipated that this amendment would make any of those lots substandard.

Mr. Palmer: Mr. Palmer said that the answer to that question is yes. There would have to be a variance approval for set back as well as possibly square footage.

D. Darling: The way I want to address that particular issue is if the decision of the Planning Commission is to go in favor of the applicant's proposal, I'd like you to direct staff to come back with the findings and conditions next time to address these issues. I don't think you can do it tonight.

T. Conser: Which would be relative to those issues? Mr. Conser then asked Mr. Palmer about fire response time.

Mr. Palmer: His modification of the plan is to build a portion of the pathway so that an emergency vehicle could get through if needed. He admitted that it's not the best solution but it is one that could work in this case.

D. Darling: My suggestion would be, if you are going to close the public hearings at this time, and the decision comes up for approval I would like you to reopen the public hearing and continue it so we can come back with the findings and conditions that would address the consensus of how the Planning Commission may go and allow public testimony from everybody on what those conditions might be. If you are going to go for approval we have a lot of things that we aren't going to talk about tonight. We have to close the public hearing so you can discuss which way you want to vote.

W. Wright: Doesn't staff have to show us the complexities before we can open the public hearing again about those complexities?

D. Darling? Yes.

T. Conser: Okay, the option tonight as I would see it is we can extend our decision to a later date and continue the public hearing and give staff specific directions that if we were to approve --

W. Wright: I move that we close the public hearing.

C. Tryon: Seconded.

T. Conser: It's been moved and seconded. Is there any discussion? All in favor signify by saying aye. (aye) Oppose? (There were none.) The public hearing closed at 9:26 p.m. Let's go around the panel and each explain their thoughts.

W. Wright: I would like to state openly how I understand this issue. Going back to the original PUD, it sounded as if early on the original intent was to have this as a passive park and with the experience I think I heard here tonight about Sunburst Park, that's not a busy place anyhow. It's strictly neighborhood, not community or noncommunity.

T. Conser: I'd like to clarify that. The original concept of Sunburst was to house public facilities such as bathrooms and considerable parking within the park and that would have given it exposure to Hidden Springs. That was the original thought. When this subdivision came through it eliminated that Hidden Springs access.

W. Wright: I don't see a lot of traffic coming by vehicle to use a passive park. I don't really see a creation of traffic and from what I've heard there's likely not to be an increase in traffic because of the park or in spite of it. I know that most cities would love to have everything laid out on a grid with everything equal distances between destinations, but people don't live in places like that anymore. I think this is a very normal type community in the northwest. I'm a little bit confused about how much credence to give Exhibit I which is Ken Worcester's memo to Mike Butts on the recommendation of the proposed amendment dated February 16, 1988. They didn't call a quorum, so did they sit as a park board? They didn't have a quorum and they recommend approval in the memo.

It's kind of confusing. I think there's much to do about nothing. I'm in favor of approving the amendment with the conditions and findings as suggested by the staff and come back at a later date to hear those conditions and findings of staff.

G. Powell: Waived her right to make comments at this time.

C. Tryon: I can't say that I'm all enthusiastic or excited about the amendment. To me it's a trade off of being able to develop that park and provide adequate off-street parking as opposed to--(from this point the tape was inaudible and steno notes do not make sense because of noises in the hearing room.) If we were to have a method and means of adjusting some of the safety concerns I would be able to unenthusiastically support this amendment.

M. Hupp: Waived her comments at this time.

J. Hart: I would be in favor of denying the amendment looking at it strictly as a circulation issue. I think it benefits the local vehicle traffic and local bicycle traffic. (inaudible response in here.) But even pedestrians and people on bicycles who are trying to get someplace, such as the park, connection of the streets would benefit that kind of travel. Also, the residents who now live on Hunter Way hopefully have had the expectation from the time they bought the house that that would someday be a through street. This hopefully isn't going against expectations they had in the beginning. If the development of the park is a high enough priority, I'm sure it will be done some way.

T. Conser: When I look at that park I have to look at it in terms of would I use the park, when I look at it as a community park. I have a real problem with this. It's my feeling that we are creating a private park up there that's not available for me to come up off the river or someone to come in when they have family to utilize this park primarily because it's not visible, it's not user-friendly. I also have to draw back on my history of the idea of putting in ballfields and the original concern about lack of space. I have to look at it as I said specifically from my use habits -- I probably wouldn't use the park much with a drive-through road anyway. Anymore then I would tend to use Benson Park. I guess I do feel that if they put the side parking in, I would have greater tendency to get in my car and drive up there and walk around the park and maybe hit a ball or two. So that makes it kind of tough. I have to look at it from what my use would be. That's the park issue.

Traffic issue and safety issue are one in the same as far as I can tell. And I do have a problem with the way that is being set up. With that, is there a motion?

D. Darling: If it's a motion to denial, the staff report is sufficient. If it's a motion to approve, my suggestion would be that you move to approve the concept only for purpose of directing staff to come back with findings and conditions such that you have the opportunity to reopen the public hearing at that time and discuss those conditions. I think since there were some points brought out that if we are now going to make what was once to be a temporary cul-de-sac now permanent, there's some things that need to be discussed.

T. Conser: Before that motion is made -- I would personally like to see something done with the parking at the end of Hunter so that there's equal access, equal potential, as well as some provision as a condition that there be access for emergency purposes through that if it is in the best interest of the community.

W. Wright: I'd like to make a motion that we approve this in concept and direct staff to present conditions and findings and other complexities that are inherent in full approval of the amendment.

T. Conser: Is there a second?

C. Tryon: Could you give some clarification of what those conditions and findings would entail?

W. Wright: No. I just vote for approval of the concept. Staff is going to provide the rest.

D. Darling: I took notes on the comments of those of you who were in favor. I think the complexities deal with easements versus dedication, changing over the cul-de-sacs from temporary to permanent, and the land swapping that's going

D. Darling: (Continued) to go on, emergency access for the through drive, and the parking lot issue.

C. Tryon: I think that before actually supporting it, I'd rather look at these issues before endorsing the concept. I'd like to view the plan before giving it approval.

W. Wright: Plan from staff?

C. Tryon: Yes.

T. Conser: Okay. There is a motion. Is there a second to the motion? On that I would assume the motion dies for lack of a second.

G. Powell: I'll second it.

T. Conser: Okay. It's been moved and seconded. All those in favor of the motion signify by saying aye. (Aye) Opposed? (Nay) Call for a poll.

D. Darling: Mr. Wright, (aye); G. Powell, (aye); C. Tryon, (nay); M. Hupp, (nay); J. Hart, (nay).

T. Conser: Motion denied.

C. Tryon: I move that we defer a decision on this item tonight until the next scheduled meeting of the Planning Commission, which is sometime in March -- March 21st -- at which time we'd like staff to present a revised proposal of the issues we've discussed tonight.

D. Darling: May I suggest that part of the motion be to reopen the public hearing; continue it to that date with the submission of the additional information.

C. Tryon: And further that we reopen the public hearing and continue on that date.

T. Conser: A brief discussion was then held regarding the fact that the next regularly scheduled Planning Commission meeting will be during spring break week and that several members would probably not be there. The date was set for March 28th.

C. Tryon: Okay. I'll amend the motion to change the date to March 28th and, further, as part of staff's evaluation to this proposal, obtain what information is available as far as fire response time.

T. Conser: Okay. Is there a second to the motion?

M. Hupp: I second the motion.

T. Conser: Any clarification of what the motion is? All those in favor signify by saying aye. (aye) Opposed? (No)

D. Darling: Mr. Wright, (no); G. Powell, (no); C. Tryon, (yes); M. Hupp, (yes); J. Hart, (no).

T. Conser: Motion denied.

J. Hart: One alternative is I would move that the proposed amendment be denied.

T. Conser: There is a motion that the proposed amendment be denied; is there a second? (There was no second to this motion.)

J. Hart: With no support for that, then I would support the previous motion if it is repeated.

C. Tryon: I move that we defer the decision until the Planning Commission session on March 28th at 7:30 p.m. at which time I would like staff to prepare a revised proposal addressing the specific concerns addressed here tonight and, further -- including specifically the emergency access,

C. Tryon: (Continued) and have staff do some kind of analysis on the fire response times. And, further, to reopen the public hearing, continuing on that date.

T. Conser: Okay. Is there a second to that motion?

M. Hupp: I'll second.

T. Conser: Moved and seconded. Any further discussion? Those in favor signify by saying aye. (aye) Opposed? (no)

D. Darling: Mr. Wright, (no); G. Powell, (yes); C. Tryon, (yes); M. Hupp, (yes); J. Hart, (yes).

T. Conser: Motion passes. Okay. On March 28th at 7:30 p.m., not specific to the first item, but we will reopen the public hearing for additional input and at that time, hopefully, we will make a decision on this issue. We would now like to take about a five minute recess.

(A five minute recess was then taken.)

T. Conser: Okay. Let's get going on this next issue. Item No. 5 on the agenda. Is there any member of the Planning Commission who wishes to declare a conflict of interest? This is for variance request for Hillwood Park subdivision, number SUB-87-07/ZC-87-03/VAR-86-01.

W. Wright: I'd like to clarify my point or my position back in August. At that time I claimed conflict of interest because of a possible agency relationship between the applicant and my office. That agency relationship never materialized. So I'm not in conflict now.

T. Conser: Do any members of the Planning Commission wish to report any significant ex parte contact?

C. Tryon: I had a question for Walter. Is there still a possibility that the agency relationship will materialize?

W. Wright: Not to my knowledge.

T. Conser: You don't feel that the fact that it didn't materialize, that that's going to affect your position in this case?

W. Wright: I wasn't the one involved in the agency contact.

T. Conser: All right. Have all parties viewed the site? (All members of the Planning Commission had viewed the site.) Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge any individual member of the Planning Commission? To all those who wish to testify this evening, please be aware that if you fail to raise an issue this evening, you will not be able to raise an issue at a subsequent appeal hearing. If there is a decision tonight and if that decision is appealed, the bodies hearing that decision will only be able to judge on the information that was provided for us. And if you have come in late, there are some small half-forms that need to be filled out and brought forward here so that we can have your name and address up here. And if you do not wish to testify and do want to be a party in standing, please sign in back there on the sign in sheet. This is critical so that you have appeal rights. Would the applicant please come forward to the podium, state your name and address and make any comments you wish to make. First, could we get a brief explanation from staff?

P. Spir: Specifically, this application for a tentative subdivision plan and PUD was continued from the Planning Commission meeting of December 21, 1987. At that time, it was determined that the application had not adequately addressed PUD and Development Code Standards relating to lot and street layout, site analysis and access. The revised application is shown as in Exhibits A and B. In addition to the subdivision and PUD request, Variances have also been applied for.

T. Conser: Now, could that applicant please come forward to the podium.

Ryan O'Brien: Representing applicant Fred Woods. Mr. O'Brien referred to page two of Exhibit A which outlines seven points that they felt the Planning Commission was concerned about at the August, 1987 hearing. Since that date, Mr. O'Brien said they have gone through probably 20 different design changes. We would like basically to say that we have a good plan and that it is workable. We do have some concerns about the conditions. What I would like to do is mention what those conditions are and that will be the basis for our testimony. Do you think I need to explain how the development works or is the Planning Commission fairly comfortable with that? Why we do what we are doing.

T. Conser: I guess that I would direct you that this is your application and we have your application, your written testimony, your documentation. If you need to stand on that or highlight those things that you feel make this application clear. I would also ask if you have received the staff report.

Mr. O'Brien: Yes.

T. Conser: Have you received this traffic safety report?

Mr. O'Brien: No, no we haven't received that.

T. Conser: We will call this traffic safety report Exhibit E and we will take a few moments to go over it right now.

Mr. O'Brien: I'd like to proceed with this. (Mr. O'Brien used the wall maps that he had brought for his presentation.) We had some considerable discussion with staff regarding this entryway and whether or not this road ought to be used. (indicating on the map.) We came to the conclusion from the testimony of staff and the Planning Commission that this secondary access should occur because of the intersection of Caufield and Willamette Avenue. So we got permission from the two property owners here to put this in. Mr. O'Brien then explained his plan using the wall map and pointing to the streets involved but not naming them by name. Then he said that this specifically relates to condition number 8 of the Planning Staff's report where it states, "The intersection of Hillwood Drive and Caufield Street shall be aligned as the through street with Hillwood Court intersecting it as close to a 90-degree angle as possible." This is where we don't have agreement with staff on this situation. What they would like to see is a continuous road here, with this road (indicating) intersecting at 90-degrees. When actually this road does intersect at 90-degrees. The only thing that is different is that we put a radius here, a radius here, a radius here (indicating) so that you could go all directions and not have any street be dominant. It's a very small intersection. You don't have many houses on here, so we felt that intersection worked. The primary reason why we have that intersection that way -- the only way to make that grade work is to have a continuous loop. We are still of the opinion that this road not even be a public road. (indicating) What is interesting is when you look at this Traffic Safety Commission report they seem to be telling you the same thing that we have been saying all the time and that is that this is not a public road and we don't even know if we want to encourage people to use Caufield Street. By putting in a private driveway in here, that would accomplish that goal.

Secondly, we also support in this letter they are talking about having this road one-way, but I think you would accomplish the same thing if you left it as a private road only to be used in emergency situations.

Mr. O'Brien addressed the issue of left-turn/right-turn movements on to West "A" Street referring to a traffic report that stated that 70 percent of the traffic would go directly east on West "A" Street, rather than on this street (indicating). This is something that the Planning Commission will have to decide. Mr. O'Brien stated that their answer to the Traffic Commission's report would be to leave Caufield as a private street like it is right now.

Mr. O'Brien addressed the issue of no parking explaining that they had stretched the radius from 50' to 75' thereby causing the street to be pushed into the hillside. We did that to flatten out the curve through here. I don't think we are going to have a concern of no parking in this area because there aren't going to be any driveways there anyhow.

What further supports this proposal over all the other proposals that we have had is that we always thought that we had to have this road here

Ryan O'Brien: (Continued) because we've got lots fronting out on to that road. Then we came up with the solution, is that if we've got a public road you might as well have lots fronting on to the public road.

Mr. O'Brien then stated that he would go over the conditions as stated in the staff report starting with condition number one.

- 1) The City has indicated that they are going to require a 32 foot roadway. Mr. O'Brien explained that they could put in 32 foot roadway through most of the street but not all of it because of setbacks and right of ways. He brought to the Commission's attention the fact that when this subdivision was approved two or three years ago, it was approved with a 28 foot roadway, and the reason they did that was because there would be no parking here and no driveways. So we still feel that 28 feet is reasonable. If you make a 32 foot condition on this roadway, he stated that he couldn't guarantee that they could get the right of ways from those property owners.
- 2) Requirement that all private streets in Tracts C and D shall be 24 feet in width. The developer is proposing 20 foot wide and 18 foot wide roadways. Mr. O'Brien gave a detailed explanation using the display maps on the wall as to why they don't feel the 24 foot width and curbs are necessary.
- 3) Condition number three requires 26 foot roadways and curbs and sidewalks. The developer agreed to a sidewalk on one side but only to a point.(indicated by Mr. O'Brien on the map.) That being adjacent to our property and not beyond that area. We feel the property owner's on that side(indicating) should have some responsibility to having sidewalks and curbing on their side. Basically, what we are saying is that if you do require this roadway to have sidewalks and curbs, we will put them on our side of the property and only on this side here.(indicating)
- 4) Addressing water service to those Lots. We feel that we would like to construct those waterlines since they were on the plans for construction and somehow just didn't get constructed. We feel that the City Systems Development fee ought to pick up that waterline extension to our property line. That might take City Council action to get that done. Continuing on with condition number six.
- 6) The concern here is constructing half-street improvements with curb and gutter along these two lots here (indicating). Those two lots are in this subdivision because number 1, we are buying the rear part of the property; and secondly, we are buying the right of way for this road. Otherwise they wouldn't be in the development at all. The big issue in this is not the cost but what is this going to accomplish. In this case, it just doesn't seem to provide any benefit to have a half-street improvement.
- 7) The staff report indicated it would like tract "E" and "F" dedicated to the City. What we are going to do, because there is a 30 foot piece of property that we don't need, we are going to give those to the adjacent property owners.
- 8) Mr. O'Brien said that he had already explained about the 90° intersection. It's impossible for us to build a flat area in this area. Continuing on to condition number ten.
- 10) We feel that the soils report should be done at the time of building permit for each individual house and have separate reports for each house rather than do one major report for the entire property. The major reason is that the soil report will change based on the particular type of house that somebody wants to build, the type of construction, and where they want to build it on the lot. It would be alot more efficient.
- 11) That should be changed to Tract B and C rather than C and D. And we have the same concerns about the curbs and also the 24 foot width.

And that's all I have on the conditions.

T. Conser: Testimony in favor. I call Mary Miller.

Mary Miller: 6042 West "A"; West Linn, Oregon. My name is Mary Miller and my property is along here -- 44. I am in favor of this but we cannot give them anymore property. We have already given about 15 feet and we cannot give anymore. So that is my testimony here tonight.

T. Conser: I don't have any other forms for testimony in favor of the applicant. Is there anyone who wishes to speak in favor?

Alvin Pfahl: 6003 Skyline Circle, West Linn, Oregon 97068. That's just above lots 11 and 12 on the hill there. My original concern with the original

Alvin Pfahl: (Continued) subdivison plat was the way it was divided out among the houses on what it now lots 10 to 16. And I would like to say that this is a far more favorable proposal then was originally proposed for that area. I like this better. It does have some problems in it that can be dealt with in this form of layout.

T. Conser: Okay. Testimony in opposition. Del Latham.

Del Latham: I represent my mother and father, Harold Latham, in this. It seems that I am against this, however, Mr. O'Brien has changed the access on Caufield quite a bit. Originally, it looked like they were going to ask to widen the road and take property from the parent's there, but seeing how they changed that, I wouldn't be objecting to it. I do have one question though, if we have extreme waterflow who's responsible?

T. Conser: What we would like to do is take that information and have staff address that specific issue. What you're talking about is drainage, correct?

Del Latham: Yes, drainage. Right now there is seepage on that hillside. I lived there myself for 15 years so I am familiar with the traffic also.

T. Conser: Primarily in general the runoff and storm drainage should be designed by the City engineers. That should take most of the water off that hill but specifically in that particular case we will have staff address that.

Jon Miller: 5888 West "A" Street; West Linn, Oregon. First of all, my wife and I live in lot no. 7200. We just purchased a home here. We live right next to the easement over here which is 7300 which is owned by the developer. We have a real concern about the drainage from this area here down to this area. (indicating) Now, we are two to three inches below the average rainfall for the year and I've had a lake back in here. I haven't seen or been made aware of information about drainage through this particular area. There is a little creek right through there and that's a real concern on my part and I know for my neighbors who live in 7100. Also, the traffic flow at the intersection of Caufield and Portland Avenue -- First of all, I understand that there's a Traffic Management Access that's available from the City of West Linn, and I heard the gentleman here say something to the effect that 70% would be going this way (indicating east). I have a common sense kind of question. Would somebody be willing to travel a half mile or so towards the right as you head towards "A" Street or would you want to drive down an eighth of a mile and go down to "A" Street that way -- not "A" Street but Portland Avenue. With traffic patterns the way they are with the high school, heavy traffic in the morning and afternoon, and then being a jogger myself, I know what the intersection of "A" Street is like at 5:30 to 6:00. It's almost impossible to get out of there. I just don't see the feasibility of this route here (indicating); I just think that most people are going to go this way. I don't see that as a real good option.

In conclusion, referring to the report of January 11, 1988, it says a fully improved access to West "A" Street if provided (and this is a conclusion). The need to improve the Caufield/Portland intersection is significantly reduced. I don't see that as significantly reduced. Does that make sense?

Another concern I have as a property owner is the stability of the soils, which you have already addressed. And the livability factor. We bought this home because of the livability there. We have a 200 foot deep lot. We moved in in September and the whole back area was bulldozed down-- I guess I have a concern about the manner in which things are done back there. It doesn't look like there was any concern, aesthetically, to the livability factor here. Also, is blasting something that will have to be considered? And, if so, what kinds of safety factors will have to be considered.

Sally McLarty: 2705 Magone Lane, West Linn. My name is Sally McLarty and I'm speaking for myself and the Demurs. This is my mother's property and the DeMurs live up here. (indicating) Referring to the January 11th report, page 7, under grading and drainage. I'm real uncomfortable with somebody walking over this property in July or August in one of the driest years on record. There is a creek that comes down and evidently that is where part of the drainage from the Caufield side is going to drain.

Sally McLarty: (Continued) In this new one we got today, in the back -- I would like to have some explanation of this. It says there is a 24 foot storm sewer along A Street, which is true. Nothing feeds into that from 200 feet back. Often times in the winter time that overflows onto West "A" Street and the highway; and I can't see it draining the rest of the hillside. I don't know how extensive their plans are, but it's going to take more than this to hold all the water that comes down the hillside. It never is completely dry, and it creates quite a problem in the winter time. Sometime in the winter time it rains and then it freezes across West A and the highway, which is interesting, also. I think Mrs. Miller took care of a lot of things I was going to address. I hope they're going to address the springs as well as the surface drainage. And I have a hard time understanding who's going to direct the traffic when they get to the intersection-- they will use the other side. Now these little diagrams about the entrance to Caufield and Highway 43, is that a dead issue?

T. Conser: No.

Sally McLarty: I challenge everyone of you to give it a try from Buck Street to Buck Street or Caufield to Caufield on any of the plans. Exhibit 5 is a killer. I just want to put in my opinion about these. And none of these really improve the situation. I think they can't deny that people are going to use this and they can improve it as much as they can but it is still going to be a difficult situation. I think that's all I have. I'm mainly concerned about the drainage. Is there any information that lists the lot sizes according to square footage?

T. Conser: No. Not that I saw.

Joe Kociol: 5990 West "A" Street, West Linn, Oregon. Mr. Kociol addressed the issue of the intersection at Caufield and West A Streets and why traffic does go the long way as opposed to using that intersection. Then he stated that there are codes in this City for developers to meet and the developer is asking for 14 changes in these codes that I believe are well thought out in the beginning or they wouldn't be codes. One of them I'd really like to address is No. 10. Mr. O'Brien stated that he'd like to have each lot do their own soil survey -- he needs to address these spring sites and where these roads are going to go in. He said in his report that the reason they couldn't get it was because the City had recommended a soil engineer and he has since deceased. Well, I'm sure there are a number of soil engineers that could have been approached to do that kind of work. Just because a man is deceased doesn't mean you can't look in the yellow pages and find another soil engineer. Those are basically my concerns.

Chris Hansen: 5171 Firwood Place, West Linn, Oregon. Our residence is up here (indicating) and we are approaching this matter from a little bit different viewpoint than those who have been speaking here tonight and basically, when I came here I came here with a position of opposition. While I'm not in support of this, at this point it's because there are more questions that need to be answered. Basically, I'm in a neutral stance and a couple of concerns that I have which I am hoping that staff will address, certainly include the thought of the water service. My question would be, if water service is extended, for example, from Firwood Court, who would pick up the cost of that extension? I don't know who would pick that up. I don't know where that water service would run from. Those are some of the questions that I'm curious about. Another question that I've got is in regards to the actual water pressure itself. Just in terms of being outside in the summertime, there's not an abundance of water pressure. Again, perhaps that something that staff could address on a more specific basis. I also have a concern about two cul-de-sacs being close together from an emergency response time. I concur with the thought about the geological survey as well. Basically those are my concerns. And again, I went from a position of objection to one of needing more things clarified.

D. Osborne: 5910 West "A", West Linn, Oregon. Representing a group of neighbors along West A. The development that concerns some of the neighbors is west street end of this planned complex. Some of the neighbors along there are asking about the duplex idea, are they going to put that in there behind it? That is something that may be coming up. That was one concern.

D. Osborne: (Continued) Another concern is building heights. How tall are these building -- these are things that tend to come up, I know. But these are things that group is concerned about.

The sidewalk costs at the other end, Mr. O'Brien indicated about sidewalk costs at the far end. Another concern was the transportation problem and road access of Caufield and Miller Street. We think they should be widened, not narrowed. Because these people coming out of this development are going to be faced with turning there and without space to turn or places to go there are going to be problems. Rush hour traffic is tremendous on West "A". There are steep slopes, unstable soil, and landslide areas below the reservoir that need to be addressed. The problem of water needs to be addressed. These are some of the concerns that we have.

D. Dale Eaton: 15310 SE Gladstone Drive; Portland, Oregon. My son, John Eaton, and I own the duplexs located directly across from this PUD. If you will look on page 3 of the January 11th report, right in the middle is says project description. There are four duplexs, eight rentals abutting Caufield. This says eight, actually there are four.

We are neutral in that according to the paper here things would be fine. Tracts E and F, I question. At the moment it looks like those would remain exactly as they are. Also, our side of Caufield would not be changed. There would be no further development on our side of the street. The sidewalks and curbing would be on the PUD side. Is this correct, that these would remain the same?

T. Conser: I'm not sure. That is something that staff would have to address.

D. Eaton: Well, further, if you have seen this area, Tract E drops directly down at least 30 to 40 feet. If you will see on our area by the garages, the garages are actually about 15 to 20 feet below the grade on Caufield. So if there is any change to that, we are very adversely and negatively affected by any change along that part of Tract E. Now, on prior approval there would be no change on that grading by our garages. This was drawn up with approval and built by Ray Dresel and we did not have any financial dealings until this project was approved.

For the moment, we remain neutral if what I read in this booklet comes to pass. We are not adversely affected except for Tracts E and F, as referred to in the report.

T. Conser: I have run out of testimony forms. I would like to point to staff that it is 11:00 and I promised that we would carry over anything but get through the public testimony, if possible. If it is still the desire of the Commission to do that could I have a motion or suggestion.

C. Tryon: I think it would be a good time to continue it. It would give us time to digest all the comments and consider a response.

D. Darling: You need a motion to continue to a date and time certain so we don't have to readvertise.

T. Conser: Asked a question about the 120 day rule and if this was a continuation.

D. Darling: They signed the extension.

T. Conser: What day are we looking at so we can keep that in mind.

D. Darling: February 20th is the last day for a decision, would the applicant consider extending that?

T. Conser: Okay. Let's make that statement that that be extended because the City has 120 days with which to make a decision on any application. It has to go through the three bodies that normally hear those applications, we still have to make a decision in 120 days as stated. We are pressed for time in the interest of the developer, and also it is a check and balance process.

D. Darling: Would you extend that a minimum of 60 days?

Ryan OBrien: Yes, we can.

C. Tryon: I move that we continue the public hearing until March 28th, the regular meeting of the West Linn Planning Commission, at 7:30 p.m.

Fred Woods: I'm the owner of this property. We've been delayed a number of times, not just on our own but -- when we first made application we changed some of the deficiencies which were ours, we've worked with a Mr. Hess who is no longer with the City, we've been put off and have been trying since August of last year to get this approved. We've brought in 15-25 different plans trying to get something approved. Because of all of this, if we don't act now to do something, we are going to be delayed another year. Could we have this meeting go later or reschedule before March 28th?

C. Tryon: I move that we continue the public hearing until the meeting of the Planning Commission on Monday, February 22, at 7:30 p.m.

J. Hart: Second.

T. Conser: Moved and seconded. All in favor. (aye) Opposed? (There were none.) Okay. The meeting will be continued to Monday, February 22nd at 7:30 p.m. The meeting was then adjourned at 11:30 p.m.

A special meeting of the West Linn Planning Commission was held on February 22, 1988. Members of the Commission present were: T. Conser, C. Tryon, M. Riley, J. Hart, M. Hupp. Also present were Jon Buckley, Jim Montgomery, P. Spir, D. Darling and Pam Allen, Hearing Reporter.

T. Conser: Deann help me out a little bit. If we are to accept this as condition 10, do we allow the applicant to give some testimony on this at this time? Prior to staff report?

D. Darling: I don't think you need to do that. It's more or less a wording change, it hasn't changed very much. If you feel the need to give rebuttal, go ahead. Do whatever you think is fair. I don't think you have to.

T. Conser: Okay. The phase we move into now is staff report.

D. Darling: And then we generally follow that up with rebuttal, I'd wait and handle it then.

T. Conser: At this point I'd like to ask if there are any Planning Commission members who wish to announce any ex parte contact they may have had since the public hearing last Tuesday night? With that, would staff like to give their report?

P. Spir: We are dealing with a subdivision plan with a number of variances. The applicant has proposed that -- On the subject of streets we are encouraged by the introduction of two points of access. Originally, we were looking at a long cul-de-sac terminating in this vicinity (indicating). The current proposal is to bring Caufield down onto Hillwood Drive and then we'd have access also onto West "A" Street. And also some improvements at the intersection of Highway 43. There are a few problems, however. We have a misalignment of the intersection at Caufield Street and Hillwood Drive. This is violation of Chapter 92 of the development code and, in the absence of earlier presentations, there was some grading problems. Staff believes these grading problems could be improved in the vicinity through some additional work and study. We are also recommending half-street improvements on West "A" in front of Lots 44 and 45. This is consistent with requirements in Chapter 92, as well. It states that all streets within the right-of-way abutting the subdivision shall be graded for the full right-of-way and approved to City improvement standards. There's an additional portion of that Chapter which states the streets may be improved all the way from the intersection of other existing intersecting streets. So conceivably you could be looking at improvements further down here or further down Caufield to Highway 43.

The applicant, as you may recall, stated that the improvements in front of Lots 44 and 45 would be unnecessary because they would be sticking out like sore thumbs and that we would have unimproved West "A" Street and then these other improvements and the fact that West "A" may never be improved. In fact, we have some medium range plans to improve West "A" Street. I'm not able to give you an exact date on that but we believe it is extremely important to get those improvements so that it would fit in with the improvements to come in the future years.

We are also requesting improvement on Caufield all the way down to Highway 43. Again, that's in agreement with Chapter 92.

On the topic of hillside protection and erosion, the provision of Chapter 93 states that in areas that are considered vulnerable to soil failure, slumpage, erosion, that the applicant before plat approval must have submitted the study that shows the type of problem, the location of the problem, and how it is going to be mitigated. Now, we don't have that as yet. A small study that was submitted some time in the fall was determined to be inadequate, and we think it is extremely important we get a more comprehensive study of the soil conditions on the Lots. Particularly those steep Lots throughout here (indicating) and the areas which have been reported to us as having springs and water percolate through the area and water runoff. We don't think these are problems that we should defer to the property purchaser in the future as has been suggested by the applicant. I think the sooner we can get this study done, the sooner we can answer their concerns about erosion, landslides, and the like. They may be proved to be unsubstantiated but we do need to find out one way or the other.

Moving on to the topic of variances. There is a whole range of variances. Some relating to Planned Unit Developments. The criteria for variances is laid out in the staff report. We have no problem with any of these things

such as Lot width ratio, they are all pretty straight forward. They are part of the Planned Unit Development chapter unit which emphasizes flexibility. Again, there's no problem with those things.

Access criteria were looking at private driveway. For Lot 45, for example, the development code states that we have to have a certain separation between West "A" Street and the driveway, but because of the difficulties involved -- the small Lot, the fact that this is an existing structure -- we are recommending approval of the applicants request with a 15% grade. On the general criteria for variances, there are four variances requested. One is a sidewalk on this side between Lot 44 and 45(indicating). We felt there was only room for one sidewalk in the area if we are going to accommodate our road as well.

Installing private streets. This is going to be Lots 1 - 6, I believe. This will be those Lots on the westside of the property. Again, we are recommending approval because of the narrowness of the Lots plus the fact that they taper off. It would be difficult, if not impossible, to accommodate the full right-of-way improvements.

Staff does recommend denial of the last two points. First one is private street width for those Lots 1 - 6. The applicant is recommending an 18 foot street with no shoulders, perhaps in keeping with the natural character of the area as we call it. We are recommending a 24 foot paved surface with curbing. This is consistent with the Development Code and we didn't see any of the topographical constraints that are normally associated with the variance adjustment line. We looked at the grading plan that was submitted. The road would have a 5% grade and this didn't warrant any kind of variance. The street widths between Lots 44 and 45 has been a sticky point and that's the exhibit that was submitted tonight. As staff understands it, there's approximately 58 feet between the house on Lot 45 and the house on Lot 44 and we could fit our right-of-way through that area. The applicant is suggesting 28 foot wide road with a sidewalk on one side and this would be enough room between the road and the house on Lot 44. Apparently the property owner spoke during the public testimony period and she was concerned about vehicles on that road keeping her awake at night because her bedroom was on that side. She wanted the road as far as possible from her house. She didn't want it any closer. So what we're suggesting is that we can accommodate a 32 foot street in the right-of-way that is being recommended by the applicant. The street will still be the same distance from her house. The noise generated from traffic won't be any closer. The way around things is that we are recommending an easement for a sidewalk on her property. This will be outside the right-of-way and will be easement purely for access purposes. She stated earlier that she would not be disagreeable to a sidewalk on her side and that would be a nice amenity to her property and this is staff's recommendation. We're suggesting this as a way around this problem. In light of this design solution we didn't see any reason why the variance should be approved, that in fact the streets minimum standard can be complied with and the sidewalk can be installed and, hopefully, everyone can be happy.

That concludes the staff's presentation. If you have any questions that you would like addressed to me or Jim Montgomery of the engineering department we will be happy to respond.

Jim Montgomery: I would like to address the aspects of the project that pertain to the engineering: the storm drainage, the sanitary sewer, the streets, and the water and traffic issues. Some of the points I am going to mention may overlap Peter's presentation. I'd like to respond to both the applicant and the concerned citizens.

First of all, the project that the applicant has brought in has been of some interest to all the neighbors who live in the area, and we have had several people who have kept in touch with our office and been in to see what the progress is and kept us abreast of what's going on and so with that in mind we have gone out and walked the site several times so some of that information is presented to you tonight.

The conditions that we asked for are proposed to make up for some of the inadequacies of the proposed plan and meet some of the concerns. I'll go through the applicant's comments first.

The first point that he brought up, I believe, was this section(indicating) at Hillwood and Caufield. And the consideration that the grades would be such that this alignment that he's proposed would be necessary -- this grade here is a 15%(indicating). This grade is a 3%(indicating). You can see that in order to give proper alignment here, it would just take a readjustment of

Jim Montgomery: (Continued) the grade. I think what the applicant would like to do is to make the streets conform to the existing grades. Whereas, staff would like to see an alignment that would make this intersection easily recognized by the traveling public as to what is happening here and also to shorten up these radius points so that the pedestrians can get across the intersection with some ease rather than having varying distances across here and not following code with a 90° intersecting point. This is not a 90° intersection.

The 32 foot roadway I think is important in the sense that we're adding 46 Lots to the existing system and I look through the area and we don't have that many existing residences on this access to Highway 43. You have to go all the way down to Webb Street and West "A" to pick up 46 residences. I don't believe he talked to that many. So you can see what the impact on the neighboring streets is with this new subdivision.

The Tract E and Tract F question is one that was brought up by staff in the sense that this applicant is creating this right-of-way. He created a new right of way as part of this subdivision and the point that I think was made to us by the applicant is that the reasoning behind that is because this property owner has an access easement across this land. (indicating) Typically, he would not have to provide this type of access to this property because this property already has frontage on it -- existing right-of-way. But he has to provide some access to this property and the code, I believe, Chapter 48 calls for a certain distance away from a parking facility for backing out and maneuvering without having to back onto a right-of-way. So the staff proposed that he change the right-of-way and to perhaps trade this property owner (indicating) for this portion to make a realignment possible, for this portion so that he would not have to apply for a variance. It would all be possible to get because it's a self-imposed hardship. The applicant agreed to that but he did -- some of the people on the staff of the applicant noted that this would make an excellent strip to bar these people from accessing onto this road that they had paid for. And, of course, that is also against the code. So, in talking with staff, we thought the City should gain this property; however, in talking to Deann Darling she said it would be much better for these people to gain this property and the City agrees. We would certainly like to change that so that Tract E goes to the abutting property owner and, perhaps, this Tract F could be put in a right-of-way to the City so that we can get a better alignment through here that would not be confusing to the traveling public.

This improvement sketch that we put together for Highway 43 and Caufield is the best that staff could do to try to alleviate some of the additional traffic that will be using Caufield. It does add more facilities to the intersection. It does give the traveling public a little better idea of what to expect right there.

The applicant spoke to the water service in condition number four. I believe we have a misprint. One of the 26's should be Lot 25. So it would read Lot 23, 24, 25, 26, 27, and 28. These Lots up on the upper portion of this subdivision do not have adequate water pressure if they were to hook on to the system of the lower service zone. They must have water from an upper purchase zone and that water is approximately 70 to 80 feet from this property line. The City engineering staff would work with the applicant to see that that 4-inch line is accessed through the easement to their property line so that they could gain water for those upper Lots.

Condition number five is a condition that we're trying to answer some of the concerns of the abutting property owners and you've heard all the conditions, all the problems about the storm runoff, the springs, and the other water problems. The code basically protects the property owners against this type of damage to their property and the runoff increases and so on from subdivisions such as this, but the City will be responsible to enforce that code. And it will be a very difficult process because if, indeed, this subdivision is approved and does start construction, as a part of the process of constructing the drainage, storm sewers, etc., new sources of water will be interrupted. They will be coming into new springs and other sources of water and we have endeavored to prepare ourselves for that in the construction plans and the drainage plans. And we will expect this to follow the Comprehensive Master Plan and we will try to alleviate any fears that we can of the abutting property owners.

Condition number six spoke to the improvements on West "A" Street and the fact that it would be different than the other sections of West "A". There are some improved sections of West "A" right in this vicinity and the City presently has some grant money that has been given to the City for a

Jim Montgomery: (Continued) bicycle path for West "A" and without telling the whole story, if you will, the City is very interested and has a plan before the engineering staff right now to improve West "A" Street, to take care of the deteriorating section, to take care of the storm drainage problems, to add a bikepath, and to provide for additional parking. That is a program that will be coming out in the next two months. So we are very interested in seeing those two Lots improved up to City standards, at this time.

Some of the concerns of the property owners were the applicant's idea that a certain percentage of the traffic would go one way to West "A" or the other to Caufield, and the staff feels that a 50/50 split is typical the situation if, in deed, a person on Lot 16 was to travel to Portland everyday. Perhaps he would not go to Caufield to go to Portland because of the traffic condition. Perhaps he would go down to Hillwood, which would be the first light he could get to. But on the way home he's going to turn onto Caufield. So it's a 50/50 situation from the staff's point of view, and we have a traffic engineer on our staff who has done some tests for this particular area. I've also done some traffic counts for West "A" from 4:00 to 6:00 p.m. and we've done some work in the area. And we feel that improvement to Caufield Street and improvement to West "A" will see that whatever way the traffic decides to go, they will have a better, safer entrance into that mainstream of traffic.

One of the property owners who lives in the area asked who is responsible for the drainage problems. While the applicant is certainly responsible for it, the City will be charged with the effort of enforcing these issues. So the City is ultimately responsible.

The question of whether blasting would be allowed in this subdivision and there's no reason to assume that we could disallow it. So, typically, they could blast if they wish to. The City does have a process to go through to get the permit and there would be insurance that would be required plus an adequate inspection of the process.

I think that's all I have.

T. Conser: During construction it is the responsibility of the City to enforce the drainage and, after the fact, it becomes our ultimate responsibility.

J. Montgomery: Basically, there are two types of drainage. There is a public drainage and a private drainage. In the engineering plans that we have right now go against several city policies. One, the impact on the abutting property owners is still significant. It calls for a storm line to go right down this 15 foot parcel down to West "A". But once it gets to West "A" then there's no proposal for any improvement on West "A". That's something that the City staff and City engineering don't like to see. There are some utilities that hang right over here on westside right on the eastside of this right-of-way, an unnecessary impact on these owners. These are things we would like to clear up before it goes to construction. Once it goes to construction, then you not only have the end storm water result you also have the construction storm water. At that point, it is very important for the City to keep this away from the abutting property owners. Then once the project is finished, then yes it is the responsibility of the City to maintain whatever structures they have accepted from the applicant.

T. Conser: Condition number five will give you the flexibility to work with the developer and make sure that it is built to the standards that you can accept.

J. Montgomery: That's correct.

T. Conser: Traffic flow you discussed would be up to 50% in either direction just from your studies as opposed to 70%.

J. Montgomery: I think that the idea that 70% of the people are going to go to the south, I think that was the point which obviously, if that were to continue then no one would live here anymore because they wouldn't be able to come back home again.

T. Conser: Concerns with the excavation that's already done. They've been in there clearing right-of-way, clearing some brush -- I assume not trees.

J. Montgomery: We haven't seen any evidence of tree removal and we have people in the area that are watching that for us and they would notify us.

Jim Montgomery: (Continued) There has been some brush removal and primarily that has been for the survey that was required. From what I've walked the site, I don't believe they have impacted the storm drains at this point.

T. Conser: Are there any natural drainage areas through there being affected by this excavation. There was one discussed where a creek bed comes down --

J. Montgomery: The primary would be Tract B. The creek does continue on down and it is significant at this point. What the City staff has a problem with is the main installers that are involved with an open-creek/closed-creek, closed-creek/open-creek scenario. While the creek can remain open if it has a significant drainage way that it can be kept in, if you start to clog it up and cover it up and then open it again you have the remaining problem where if it goes into a pipe again you'll go under a street or a house. The City identifies those as problem points that we have to maintain. We can't afford to do that. So we propose that they close the drainage from the cul-de-sac to the edge of the project and follow the master plan for sizing.

T. Conser: The creek down there was discussed as running very heavy and spilling over the highway during rainy periods and things of that nature. What recommendations would the City have as far as handling that? Is that within our jurisdiction?

J. Montgomery: The master plan calls for piping of the storm drains; it does not call for detention. What we have to look at is the impact of this subdivision on the downstream facilities and while the Highway 43 crossing for this major drainage way is inadequate and undersized, the relationship between this subdivision and the storm drains and the fact that the Highway Division has an impact on that facility, points to the fact that this subdivision is probably taking care of its impact on the system.

T. Conser: Will it improve it?

J. Montgomery: Many of the facilities will be improved with this subdivision. So I think there's a limit to where the staff feels that the impacts downstream are the responsibility of this applicant.

T. Conser: Of the Lots up here, and maybe I can address this to the applicant when he comes up here for rebuttal, which Lots are going to be divided out into square foot drainage --

J. Montgomery: I think the line here is R-4.5 on this side and R-10 on this side. That would be something that Peter could discuss with you. I'm not familiar with the process. It would appear as though we are talking about some of these Lots in this area.

T. Conser: Okay. The water service from above, who pays and who suffers? Basically, the applicant would be responsible for extending that 70 feet.

J. Montgomery: Typically, the City would participate in a certain amount of the effort involved. Typically, in order to go through the easements in the existing homes, the City would have to be involved. The cost of 4-inch water pipe is certainly negotiable but it's well within the jurisdiction of the City to ask for that pipe to be paid for by the applicant.

D. Darling: Before you leave that last issue, I'm going to disagree a little bit with Jim. Generally, it's the responsibility of the developer to get the water to the edge of the development. If there's going to be City participation in that improvement it's not this body to determine that, you have to let that go on the Council. I think what Jim is talking about is sometimes when there's an oversize of a pipe to help our system we'll pay the difference, but the actual cost of running it down there is going to be the developers. If there's not easement available and he can't get them, then we have to go to City Council to see if they will condemn them and if they won't condemn them then you've got to go around. We're going to have to use existing easements if they exist or get them.

D. Darling: (Continued) I guess no one suffers and they pay.

T. Conser: Sidewalks. I assume you were part of this staff recommendation to put a sidewalk on the downhill side of Lot 44, is the sidewalk intended to be running -- within the subdivision there's a sidewalk running on both sides through that area; is that correct?

P. Spir: Yes. The sidewalks would be on both sides of that hairpin that you are referring to and then only for that portion between Lot 44 and Lot 45 would there be one sidewalk and it would be on westside next to Lot 44, not next to Lot 45. That's our recommendation at this point.

T. Conser: Lot 46 would have full improvements --

P. Spir: Correct.

T. Conser: I don't recall seeing in here that the applicant will be responsible for double-frontage sidewalks which is a code requirement. Is that something you'd like to reflect on.

D. Darling: We usually require that they put in deed restrictions that state that the landowner would be responsible. We've done that in the past.

T. Conser: Jim, Tracts E and F which you said would be just fine to give back to the property owners -- excuse me, just Tract E. A lot of times -- Tract E there's quite a drop in the retaining wall, under half-street improvements what would the improvements be?

J. Montgomery: There would be a 50 foot right-of-way.

T. Conser: So you're going to end up with a 50 foot right-of-way, are you asking for 26 feet?

J. Montgomery: Yes. 26 feet total.

M. Riley: My concern about the overall access (Mike Riley's question was inaudible at the point).

J. Montgomery: Right. When we went through the process of what was short range, mid term, and long range improvement we could encode upon Highway 43; that close-off Buck Street idea was for the eastside of the highway. And I think it probably slipped through and it looks like we have some people landlocked right there.

M. Riley: The other thing is that they did have an intermediate plan to try to fix up the West "A"/43 interchange. Do you have any indication how far in the future that might be?

J. Montgomery: It certainly isn't eminent. The conditions on West "A" Street, even with this type of proposal, still don't meet signal warrants for the highway. That's a beginning problem, along with funding and realignment would complicate it because it would take some purchase of right-of-way to realign streets with West "A". It's certainly a high priority for the City. The only method to procure this is through the highway 6-year plan.

M. Riley: The other thing is there are a number of possibilities sketched out here in the exhibits for the Caufield/43 interchange. None of them look particularly exciting.

T. Conser: Jim, referring to these dark lines on the sketch, what are they for?

J. Montgomery: The double lines on the perimeter of the pavement right there (indicating) and over there would be curbing. The one down the center is striping.

T. Conser: Peter, can you review with me the Lot sizes with me. The requests go down to 7500, obviously, that's to increase the density, can you identify what area you are talking about.

P. Spir: The intent of that PUD is to provide flexibility and to encourage development in areas that are most suitable areas, the flatter areas and least steep areas in this particular case. And the Lots that are in the southside of the subdivision, those are the steep slopes and would be the larger ones so the 7500 square foot Lots, referring to that map, would be the Lots that are north of Hillwood Drive. Some of the Lots 1 through 6 which extend west onto Webb Street -- to balance out the smaller Lots we have the larger Lots like Lot 25 which is in excess of over 20,000 square feet. The bottom line is you can't exceed the total number of Lots that would be allowed under the overlaying zoning. According to the formula of the PUD they could have had in the order of 80 units when in fact they're only going with 45. So I see this PUD as an example of one that really hasn't tried to stretch the density limit by any means.

T. Conser: Any additional questions of staff?

C. Tryon: Yes. The applicant has said it was his understanding with respect to condition number four there was suppose to have been a line in the development above put in by the previous developer and it never occurred. Would we have any information on that?

J. Montgomery: No. It is strictly a construction decision as to where the line will end.

M. Riley: I have one more question of Peter. One of the potential problems we see in our neighborhood and we see it all around is the discontinuous sidewalks as you go through a development. You know, little patches of sidewalk here and there. In this subdivision it looks like there is going to be a considerable amount of pedestrian traffic. How could we consider a provision to get some type of sidewalk put in say from the bottom of the curve around to West "A" at some point prior to those Lots selling. Is there any provision for that?

D. Darling: Yes, you can require that be a condition if you want. The problem that always comes up is driveways. If you are going to talk about a variation to accommodate those provisions you need to talk about that and make it a condition.

M. Riley: Is that a standard curb?

J. Montgomery: It's not a standard curb. Typically, if any of the Lots are going to be built upon, they will break the curb out and put a driveway approach in. So even if the sidewalk was there the impact would not be significant.

T. Conser: Building heights. Would you address that for a moment.

P. Spir: Okay. The maximum height permitted in West Linn is 35 feet. There are exception for Lots where the footprint of the house will be on a slope of greater than 25% then you can go up to three-and-a-half stories, but the total height cannot exceed 35 feet. So if you are talking about possible fears of people in homes above the subdivision that their view will be obstructed, I don't see that as a problem.

T. Conser: I think it was more of a concern on the downhill side.

P. Spir: With that 35 foot maximum height, when people buy the property they are free, as long as they meet the setbacks, to build to that maximum height and we will not try to sway them from that. They have a right to build according to the zoning and development code.

T. Conser: Normally, it's two-and-a-half stories above the curb line; is that correct?

P. Spir: It's one-and-a-half stories above the curb line for steep Lots and 21 feet. That's so people that are on the other side of the street will not have their view obstructed by a 35 foot home built on a steep slope. The intent is to preserve those lines of sight on homes.

M. Riley: Another question on the double-frontage sidewalk issue. Do we have to include that as a condition?

D. Darling: Yes. We'd make a condition that Tracts A, Lots 41, 42, 43, and 46, and 33 through 37 would have the sidewalks put in by the developer on the nonaccess side. Lots 6 and 9 can be included in that also.

T. Conser: If there are no other questions of staff, Jon would you like to go through your traffic report.

Jon Buckley: Traffic Engineer, City of West Linn. You've already identified our report as Exhibit E. When traffic safety took a look at this we found that most of the traffic would take a more direct route, so it is traffic safety's feeling that you are going to have at least a 50/50 split in traffic going to both accesses. We also feel that over time it would be more like 70% using this access because it's a more direct route to Highway 43. In the Comprehensive Plan we have indicated that one of the goals of the City is to direct traffic to less traveled streets to get them to the arterials. I find that both Highway 43 and West "A" are both identified as minor arterials on the plan; however, anyone that is familiar with the area will agree that West "A" has a much lower traffic volume than Highway 43. So if you're going to try and follow that particular guideline, traffic safety feels that you would want to direct more of your traffic down to the lower volume arterial, West "A", and then out onto the higher volume minor arterial, Highway 43. The other point in that also comes from the Caufield/Buck access to 43. I believe it was noted in the letter, one of the concerns of traffic safety is you've been looking at a number of designs that will facilitate flow from this proposed subdivision on 43 coming down Caufield. There's another piece of property up in here that's zoned R-2.1 for multi-family. Anyone who is familiar with the area will realize that most of the access for that particular property when it's developed, is going to have to go down Buck Street. You have Barlow Street here which is about 15 to 20 feet wide street, which has been identified in the Highway 43 access plan as perhaps being available for a right-turn only off of 43. However, if you are familiar with that area, when that curb is readjusted that access would probably be cut off altogether. There would be another way to access 43 over here (indicating), however, again you have a very steep grade coming down onto Highway 43 you wouldn't have any other intersection aligned with it. So it is our feeling that probably when this side is developed you have this access here and by the time you've added that plus the traffic flow down Caufield we feel that would be a very inadequate intersection. That's why we are suggesting that the plans for Caufield, as some sort of access to the site, would be a poor choice. We are much happier with the access going out to West "A" and then flowing down to Highway 43. Another point on that Caufield/Buck/Highway 43 is that every plan that we've had a chance to see has improvements that are built out into the right-of-way of Highway 43. That's great until they come along and make improvements to Highway 43 and then you're going to have to probably eliminate those improvements or a great deal of those improvements. And then you would be back to an intersection that you have at the present time. Only you would have more houses accessing down.

As far as the other two points on the letter, it was our request that the no parking be included basically up around this hairpin turn. Our feeling is that the traffic would be much improved if you just eliminated the parking and this has been testified to that this is the backside of the houses so the need for parking on this particular stretch would probably be very little. We did make an exception about eliminating the sidewalk along this area here. That was based on Exhibit B which we had available to us which shows the sidewalk coming around and terminating roughly here (indicating) and there wasn't enough room to get through here with a sidewalk on both sides and, traffic safety felt that having a sidewalk that terminated right here -- right here on the curb is a poor choice. We'd much rather have the sidewalk terminate up in here someplace which would force the pedestrians to come around and use the sidewalk someplace other than on curb on a downhill grade.

M. Riley: You don't allow a Caufield access except for this cul-de-sac here.

J. Buckley: Basically, yes.

Jon Buckley: (Continued) Back when this was called West Bank back in 1985, it was approved as one monster cul-de-sac. That was with 36 Lots on that approval. In this case, you're looking at 46 Lots. However, if you compare the two, you've got 3 Lots here and 3 Lots here that are new in this plan and what was approved in West Bank. So actually with a single access you would only be adding 4 new Lots from what was approved before. Again, you get into a big, long cul-de-sac and that's up to the Planning Commission to decide if they want to go that way or not.

C. Tryon: Jon, you had mentioned the potential for the Highway 43 improvement. Does anyone on staff know when that might be happening?

P. Spir: That's sort of a long range proposal at this point. That study that we are referring to looks to the year 2005. So that gives you an idea of the range of this plan. Incrementally they are looking at improvement to West "A" and Highway 43 but as far as improvements the length of the road there are expecting those not to occur before the end of that planning horizon, the year 2000 perhaps, if money is available.

J. Buckley: On improvements to Highway 43 it comes mostly on the six-year plan. I believe there were four proposals for improvements on the six-year plan

T. Conser: Any more questions of staff? Would the applicant like to rebut?

an O'Brien: At this point in the proceedings Mr. O'Brien presented the staff and Planning Commission members with updated plans asking if they would like to use them.

T. Conser: Explained that due to the fact that we were this far along in the proceedings and staff had not had a chance to review this material, he asked Ms. Darling if it should be marked for an Exhibit and reviewed.

M. Riley: Asked the question, "What is the main difference on there?"

Ryan O'Brien: A couple changes on the contour, a couple little changes on the facilities and that's about it. Otherwise, it's the same. It really won't make that much difference.

Jim Nims: Engineer representing the owner in this proposal. Mr. Nims referred to his rebuttal in written form dated February 22, 1988, in which this information was obtained since the February 16th West Linn Planning Commission. "On Friday, February 19, 1988, Ryan O'Brien and I went to the jobsite to verify the concerns of the people who testified under the opponents section of the subject action.

The first item of interest was the intersection at Highway 43, Buck and Caufield Streets on the south side of Highway 43. Slide pictures were taken to illustrate that both Caufield and Buck Streets come down to the intersection at the stop sign on a critical grade. Any changes to this intersection, such as tying the two streets together, will result in the taking of additional property from the corner property owner in order to satisfy the minimum curb radius that is defined by the City. Other improvements could be made in the deceleration area adjacent to the pavement. This would alter the exiting cars ability from the west. Pictures were taken on 100 foot intervals to show the condition of the street, both public and private.

A discussion was held with the occupant of one side of the duplex at the existing east end of Caufield Street. She related that she used Caufield Street everyday and her job took her to the west. She left at approximately 7:00 o'clock every morning and on the average it took her 20 minutes to get across the intersection from Caufield turning left onto Highway 43.

An investigation was made on the uphill side of Hillwood Drive in order to determine where large amounts of water came from on special occasions. An overflow from the reservoir was discovered which presumably furnishes an explanation to surplus water on given occasions. The exiting pipe from this reservoir does not go into a storm drain system and could run back into an open graded area where the water could exit underground and reappear at another location causing additional springs. It is hoped that the City would connect their overflow systems from the reservoir into our storm drain system and withstand the cost of any improvements for that connection and further

Jim Nims: (Continued) oversizing of any pipe that would be required.

Further exploration was made by walking down Hillwood Drive from west to east and it was found that a ditch had been constructed to carry the water from west to east with a series of ditches which may direct the water one direction or another.

It is quite clear that someone in the past has directed water in different directions for some unknown purpose.

A walk was taken along the purported centerline of Hillwood Drive and it appears that there are 12 evergreen trees directly adjacent to Lot 7 which will block the view of anyone looking down onto the lower houses for the majority of the tangent distance from the curve at Lot 46 to the curve at Lots 7 & 8."

J. Hart: Can you point out Lot 7.

Jim Nims: Lot 7 is at Lot 8. In other words, this was redefined from Lot 8 into Lot 7 & 8. (indicating on new plans that Mr. O'Brien handed out.)

T. Conser: That to me constitutes a significant change from the information that was revised from our previous meeting. Are you familiar with that? (asking the question to staff)

P. Spir: No.

T. Conser: From the looks of Lot A are you intending to access Tract B from Lot 8?

J. Nims: The contour map shows where the ground is level where Lot 8 will come off of Tract B, and Lot 7 will still have the same entrance location as 8 used to have. (Continuing on with written rebuttal.)

"Reference should be made to Sheet 5, Storm Drain Plan. Please note that Lots 10 through 32 have special drainage structures place adjacent to the lot lines so spring drainage could be directed to the inlets which connect directly to the storm drain systems. A 200 foot easement occurs directly adjacent to Lot 4 to the north, which could be utilized for storm drain access. However, this was called Tract E and requested to be deleted by the City and improvements within that area have been deleted."

T. Conser: So your proposal now is to access your storm drain down to the highway.

J. Nims: At the request of the City we ran this drainage down this way. (indicating) It goes by that and continues on down. (Continuing with written rebuttal.)

"On February 17, I met with Russell Castleman, Fire Chief for the City of West Linn, and told him that a meeting of the Planning Commission had occurred for the approval of the subject subdivision and questions were brought up that I felt only he could answer. The first question was the double cul-de-sac and whether or not his fire fighting equipment could traverse this specific geometric configuration. His answer was that there was no problem with the layout we had.

My second question was concerning the private streets. He related he had a concern with the private streets as sometimes people parked on the private street and impeded access for both police and fire vehicles. I asked him what he felt was a good solution to remedy this problem. He said that if we posted the private road as a fire lane, it is illegal to park on the fire lane and, therefore, if people did park on the fire lane, they could be cited the car removed and the people could be fined. Therefore, I suggest that we make all private roads on this project into fire lanes to assist municipal authorities to keep private streets from having impeded access for both police and fire vehicles.

On September 17, I spoke with Mr. John Buckley, Chairman of the West Linn Planning Safety Commission, concerning Hillwood Park and specifically a letter dated February 11, 1988, to the West Linn Planning Commission from the West Linn Traffic Safety Commission. Proposed plans for changes to Buck, Caufield, and 43rd intersection all used Highway 43 right-of-way. Mr. Buckley feels it is poor planning to solve problems with this intersection with designs that would need to be removed when improvements are made widening this highway and

Jim Nims: (Continued) leaving the City with the same or even larger problems at this point. I asked Mr. Buckley if he felt that the proposal of leaving Caufield a private street would assist in keeping the traffic count lower at the subject intersection, and he was in complete agreement with this proposal. I told him we were in agreement with him and that we would like to see an "Entrance Only" sign from Highway 43 to allow people to enter Caufield but limit access out so there would be no left turns because of the hazardous cross pattern conditions.

I called Leonard H. Gunderson, Oregon State Highway Division, District 2A Maintenance Supervisor. I asked to have a letter sent to us concerning the subject intersection and his opinion of the intersection design that we had submitted for his approval. On February 19, I received a letter which contained another revised intersection design which had been completed by Mr. Gunderson and told him that the City had placed a restriction of a 15% grade on any new road design, and that the design that he had worked up would exceed the 30% in grade on the right hand turn from Highway 43 to Buck Street. His revised intersection, also, calls for a raised island which during icy weather will cause additional hazards because both Buck and Caufield are streets that have grades near 15%, and cars will most probably be out of control if icy conditions prevail.

Therefore, it is my recommendation that Caufield Street be kept in the condition of status quo; that portion of Caufield which is public remain public and that portion of Caufield which is private remain private. Further, it is recommended that an asphalt overlay be placed from the intersection of Caufield to the new subdivision on a continuous strip not less than 20 feet wide to insure adequate ingress and egress over the existing street, which should provide a good wearing surface for a period of not less than 10 years.

If it is the City's intention to block off the intersection with Highway 43 so no access will be allowed from Caufield or Buck, then we feel the City should pay for full street improvements on Caufield, not only of the public section, but that portion that will not be utilized for the ingress or egress of people from this subdivision except on an emergency basis.

On February 19, 1979, P.W. Hughes & Associates completed a reconnaissance of geology and soils for this subdivision, which at that time was called West Bank subdivision. This report examined the geology and soils, the structural geology and made certain conclusions and recommendations. The conclusions and recommendations are as follows:

1. The site is suitable for the intended construction with consideration given to the following factors.
2. Foundation investigations will be required for each building site.
3. Remedial work will be required in the area of the landslide below City water reservoir. Stabilization of the soil mass may be accomplished by the construction of a bin wall and regrading.
4. All surface foundation and roof drains must be carried to approved disposal site.
5. Roads and structures will be founded on undisturbed native soils or structural fills compacted to 95% of the maximum density as described in AASHTO T-180.
6. Excavations and fills will be made by the Contractor when the soil moisture is near optimum.
7. The weathered rock is ripable, therefore, underground utilities can be placed with normal construction techniques.
8. Erosion control measures will be required during and immediately following construction.

This report was completed by Paul W. Hughes, Engineer and Geologist.

It is my recommendation to the Planning Commission to comply with the Engineering Reconnaissance Report as attached herewith.

Any and all construction improvements should be approved by the City Engineer, which includes remedial action for the slide which appears to be

Jim Nims: (Continued) associated with past leakage from the City reservoir site.

As the configuration for each house will be different, a separate geological hazard report for each lot should be submitted together with the construction plans for the building of certain houses. No houses should be built on this subdivision where the slopes exceed 35% without a geological hazard report.

Submitted this 22nd day of February, 1988. James F. Nims, Civil Engineer."

J. Hart: Jim, is there any feasibility of connecting the two ends of the private drives on Tract C and Tract B in some kind of bicycle path connected access.

J. Nims: I'd have to relate to the contour map to answer that question.

J. Hart: My reason is I'm just trying to come up with maybe an alternative access for pedestrians if they don't want to go down the hill.

J. Nims: If you'll note on page 3 of 7 you will note on Lot 4 although the grading is not severe up at the end of the road, it is severe at that point, it does cause an 80 foot width of fill to be place there. And because the house would have to be to the south of where the fill is, I would say that the answer to that question is no. The access would have to be very close to the house and I would think that you would have major objections to that by the people who would want to live there.

J. Hart: You're talking about Lot 4. You couldn't follow down the hill -- (inaudible at this point)

M. Riley: I had one question. Could you explain about the fir trees that were going to be sheltering something.

J. Nims: The fir trees are right here(indicating on map). There was some concern that most of the people walking down the sidewalk would be able to look into his kitchen. There are a number of fir trees in this area that will provide a good amount of privacy.

M. Riley: Who owns that property that you referred to?

J. Nims: One of the people that spoke.

Ryan O'Brien: Mr. O'Brien handed out copies of the written rebuttal that Mr. Nims just read.

D. Darling: That should be marked as an exhibit.

T. Conser: That's going to be Exhibit 3A.

Ryan O'Brien: I have all this information that was prepared when the West Bank subdivision was approved. There are two traffic reports that were prepared and my only purpose of putting this into the record is for two purposes. One, is that we have a letter dated February 17th from Ron Film Dexter (phonetically) explaining this development and he indicated his concerns about this particular design. I think that's changed since he found out there would be over a 35% grade -- that that wouldn't work very well. Secondly, I have a letter I thought was kind of interesting. Going back to our files of August, 1985, a letter from Lee Gunderson indicating that the amount of traffic at the Caufield intersection was not excessive and I point that out that he would have no problem with the development if there was a secondary access. There was no mention of having to do any improvements to Caufield Street. And then the third thing I would like to mention referring to the 4th page of a traffic report prepared by the traffic engineer indicating that about 30% of the traffic going north towards the freeway and 30% going towards Lake Oswego. And one of the important points of that is Bob Keech, traffic engineer, uses cells to indicate where the traffic is moving. He is usually fairly accurate on his predictions and where traffic flow would be. This is especially true I think when we spoke to the people that live in this duplex. They said that they live at 7:00 in the morning and they sit here sometimes for 20 minutes trying to turnout and that they do drive that way

Ryan O'Brien: (Continued) only because that's the way they work. They said that they really wait a long time. That's one of the reasons why we still feel very strongly about making this a private road and not be accessible for the people in the subdivision. That they do use West "A" Street, which is a collector street. And if you look to the future, if there is going to be widening of Portland Avenue the future it will be even more difficult to do anything then.

Do you want this information? It was in the last record.

T. Conser: Do you feel it will be helpful in making a decision?

R. O'Brien: It probably wouldn't be helpful tonight. If you plan to continue it, it would be helpful. The other thing I'd like to refer to is Exhibit I. That was in the information that we submitted. All it is is a map about ten pages in on Exhibit A. If you can see a lot of the subdivisions to the west, I think there's going to be a secondary access to a lot of that property in the future. I don't know how long it is going to be but you may find in time that a lot of that property may have another access. It may have two accesses available to it. There may be a day when we want to close Caufield Street off completely.

I've got almost the identical situation in the City of Hillsboro where there's a request for us to do an improvement to an extremely difficult intersection to provide another access. And I presented the argument that if you know it's a dangerous intersection and if somebody gets killed out there someday, who's going to be responsible. It's a very difficult situation when we know full well that if you don't allow any access off Caufield Street, you're pretty well assured that people will have safe access.

Going one step further, I think that if Caufield is a private street and I read the code, section 48-010.B indicates that either a public or a private street can be used as access. It also indicates in that same section that joint access of two or more streets can be allowed. I still contend that the primary purpose of the 800 foot cul-de-sacs was for emergency vehicle access. So we have that available because we are going to keep this open as a fire lane and have total control over this property because this is under our ownership so we can designate it as a fire lane. If anybody parks on that road they can be cited and towed off. Nobody parks on there now. The other reason for 800 foot cul-de-sacs is so you don't have long dead-end cul-de-sacs. You have to pick a number somewhere. Lake Oswego has a 1,000 feet. Most other cities are 600 feet. But I think under normal circumstances, clearly this should be a public road. Especially if it's being used by other people.

The main importance of this is that it's eliminates the need for a variance for a cul-de-sac over 800 feet in length.

An apartment complex with 200 units and 2 accesses, the Planning Commission does have a precedence in this case because not more than two years ago the Planning Commission did approve only one access and they did approve the variance and the conclusion was that it wasn't a conclusion for Caufield Street. That was with 32 units and now we're dealing with 46.

The other issue I might bring up is that we don't have a problem with either one of these proposals. We don't have a problem with building a 32 foot road other than the fact that we can't get the right of way. Secondly, this looks good on paper like it is but we are dealing with a garage that's going to be three feet from the curb. That's why we came to the conclusion that if this is the right-of-way we can get, we have to have a sidewalk on this side of the garage so the garage will be setback 8 feet. This road will be four foot more than the floor elevation of the garage already. I think it's going to be a safety problem for people driving. And I think when people come down this roadway and they see that there, they are going to tend to swerve off this side and people coming in are going to tend to swerve off this side. That's one of the reasons why we felt it was necessary to have at least an 8 foot separation like we have. I just have a couple more points that I want to make and then I'll conclude. Referring your comments about 5,000 square foot lots, I think that may have been a typo from our previous report. I don't think we have a lot 5,000 square feet. I think the smallest lot is 6,000 square feet and we are just dealing with a few of them. And all lots that are adjacent to apartment are zoned 7,500 square feet. We have a few lots that are 6,500.

I think in conclusion I would like to state three points. One is that the Planning Commission did approve a 28 foot wide road two years ago. You did approve, I believe, the sidewalk on one side. We agree with having only one sidewalk on one side in this area, although, if it is required we can construct sidewalks on both sides. The only problem is we're dealing with a

25 foot cut into the hillside and to provide room for the sidewalks requires more of a cut, but we can construct it. And then the last point I think I'd like to make is that the solution on Caufield Street -- we're dealing with a tremendous unknown on that particular road. Staff is referring to a full reconstruction and reconstruction is actually more expensive than new construction. You have to tear up the old road and start all over again. We were hoping that we might be able to get by with some type of asphalt overlay in widening and a curb with sidewalk. But there could be a difference of between \$20,000 to \$100,000 in costs in building that road. And if the City is looking at eventually closing down Caufield Street because an access comes from another direction, then we have wasted our money and we may have caused traffic problems. I think with that I'll conclude. And I think Jim addressed all the other issues and I also have another report in which I mentioned items about the conditions. I don't know whether you want copies of that or what.

T. Conser: Do we need that information for making a decision?

R. O'Brien: No.

Fred Woods: 23640 NE Holiday; Troutdale, Oregon 97060. What I am concerned about is Tract E and I know there are a couple of other people here that are also concerned about it. I spoke to the adjacent property owners here this evening and if they would like to make known exactly what they want but they told me they weren't interested in obtaining Tract E, they were concerned about the extra property taxes that may be assessed to them. But I want to make it clear that what we are purposing is to vacate the piece of property adjacent to Mr. Eaton, who owns the duplex lot, and give him ownership of that small piece which is adjacent to his. There's also a small piece, Tract F down on the corner, which would be in the public right of way. We do not have any plans at this point to put a sidewalk or any other improvement in that. It would remain exactly as it is now. However, what we are purposing is to trade a piece of Tract E to Mr. Eaton for (inaudible) which would be put in the public right-of-way but would remain unimproved. And also one other point that was brought up by staff was the sidewalk that they had proposed on this piece of paper being put in down on the Miller's side, which is Lot 44, with an additional easement for that sidewalk, there was no mention made that that would not be within the public domain if that sidewalk was to be put in. And I have a question as to who will maintain that sidewalk if it was put in because it wouldn't be on City property at that point.

T. Conser: All sidewalk are maintained by the property owners. The City does not maintain sidewalks. That is standard.

F. Woods: Is it normal that a sidewalk isn't public domain?

D. Darling: It's still maintained by the adjacent property owner whether it's on an easement or it's owned outright.

T. Conser: Any questions?

D. Darling: I'd like to comment if I might, Mr. Chairman, on the statement they made about the private fire lane. If Russ Castleman said there was the ability to cite and tow, which I question he would say in the first place, but if he did was wrong; we have no mechanism by which we can regulate the use of private property. We can't cite people for parking on private property even if it's designated fire lane. And I don't know what good it does to tow a car while the house is burning down. So that's sort of an empty solution to the problem. It would take longer for the tow trucks to get there and get out of there then it would be to just run over it with a fire truck. So I don't think the solution of a private fire lane was a practical one the way it was proposed and I seriously doubt that's in fact what Mr. Castleman ment to imply. Same with the proposal the applicant has made to restrict some of the parking on private drives. If somebody parked there anyway there's nothing we can do because it's private property.

C. Tryon: Has staff examined Traffic Safety Commissions proposal regarding having the intersection at Caufield and Highway 43 entrance only from Highway

C. Tryon: (Continued) 43 onto Caufield?

Jim Montgomery: I've looked at that. The complications that would be involved with the Buck entrance to the Caufield/Highway 43 intersection make that proposal not workable.

J. Nims: Mr. Chairman, may I address the fire issue for about 30 seconds.

T. Conser: Sure.

J. Nims: To tell you a little bit about myself, I have been a city engineer in many cities, I have been a county engineer for many cities and in that capacity we have setup in larger building projects fire lanes. And those fire lanes are set forth on private and public property. A good example of that would be to get to a large building you have to build a fire lane. Whether it is paved or gravel, that fire lane must afford access to that building so that the engines can get close enough to put out the fire. I challenge the validity of the statement that you have heard here tonight of whether or not they have the right to cite people that are on fire lanes. I believe that is within the fire code and I stand by the report that I made.

M. Riley: I have a couple of questions on issue that were brought up. The first one is the overflow of the City reservoir or leaking reservoir causing downhill runoff, is there any evidence of that.

J. Montgomery: The reservoir built in 1915 does have an overflow pipe that is not used. It was recently tested, however, and it is considered sound. There's no water leaking out of the reservoir according to our latest tests but there is an overflow pipe that runs into a natural drainage soil.

T. Conser: Is that anything that we need to deal with tonight?

D. Darling: No. It wouldn't be any obligation on this developer to do that.

M. Riley: The other thing is about the grade on Caufield. I don't remember anything about such a grade.

J. Montgomery: The 30% grade would be at that righthand turn lane, southbound on Highway 43.

M. Riley: Would you care to comment on the 20 minute wait at 7:00 to turn left. It seems a bit excessive to me.

J. Montgomery: It seems odd to me that anyone would sit there for 20 minutes when you can turn right -- In the traffic analysis I did for West "A", which was in the afternoon time, typically 3 to 5 cars would sit at the combined intersections of Failing(phonetically), Elliott, and West "A" and traffic would come through in groups. And at the intervals of one to two minutes all 3 to 5 cars would enter onto the highway at virtually the same interval. It would continue on that way for peak hours.

P. Spir: Now although we may not doubt that she may have taken 20 minutes, one person doesn't constitute a representative sample from a statistical standpoint.

M. Riley: What about Lots 7 & 8, is that new news tonight?

Ryan O'Brien: That's the same number of lots that we've always had. It just didn't show up on the first set of plans.

T. Conser: Any additional questions? If none, is there a motion to close the public hearing? Is the Commission satisfied with the information they have available? If not, do they wish to direct or continue the public hearing for any additional information?

M. Riley: I move that we close the public hearing.

T. Conser: It's been moved and seconded. Any discussion? All in favor

signify by saying aye. (Aye) Opposed? (There were none.) The public hearing is closed at 9:29 February 22, 1988.

A short recess was then taken.

T. Conser: Okay, this issue is now open for deliberation by the Planning Commission. I know we need to go through the variance stage by stage.

D. Darling: Yes. I think you ought to reach a consensus on each variance and then if you are all in agreement and it agrees with the staff report then you can just adopt the staff recommendation.

T. Conser: What I would like to do is go through and listen to each one of your concerns at this time and I would like to start with Chuck, if possible.

C. Tryon: I largely agree with the staff report and staff recommendations with respect to all the issues. I feel strongly that we should keep Caufield as a public street. I agree with the staff's analysis on the roadway width on Lots 44 and 45. Frankly, I'm not sure I want to waive sidewalks on both sides. I also feel strongly that the private streets should be the width in staff's recommendations. I'm not entirely pleased what our options are on Caufield but I think we will just have to do the best we can with that. If this recommendation that staff has come up with is the best we can do, then I would endorse that.

J. Hart: Much of my feelings are the same as previously stated. I find myself in much agreement of staff's recommendations. I think it's necessary to have the wider private streets also. Private streets that I've seen in other parts of the City and a couple of private streets that I've seen in Oregon City, I don't think they work out well. I would prefer to have standard city streets in those areas but because of the limitations on the piece of property, there are some constraints. So I would agree to the private streets in Tracts C and D but I would agree with the staff's recommendation of 24 foot width, paved and curbed. You are not only going to have fire apparatus using those streets but you are going to have the garbage trucks and recycling trucks trying to get down there and turn around also. Any other comments would just repeat Mr. Tryon's comments.

M. Riley: I go along with the goal of condition one. I guess the concerns that I have is it possible to get that into the constraints that we already have (inaudible) I would name one condition and that is that we want the 32 foot standard to be implemented to the sidewalks and along the side, if at all feasible. Failing in that, there looks like there's not much other choice.

D. Darling: Let me caution you against a condition like that. I think it's your decision to make what the conditions of this approval are going to be. And if this developer can't meet them then you've got to deny it or he's got to come back with another plan. Saying that there is or is not good faith efforts to acquire rights-of-way, I think sort of ducks the issue. Is the right-of-way required? And if it is, require it. If it's not required, don't require it and good faith efforts don't matter. So deal with the issue of what you think is needed. If you don't think it is needed, then change the condition.

M. Riley: The other condition that I would like to cover is to have the developer install sidewalks on all the frontage lots. This would be the lots on the north side. Lots 33 through 37.

M. Hupp: I think I can't add a great deal to what's already been said. The staff report is very thorough. The Caufield situation isn't great but it's the only option that I can see at this point. I would like to see a condition added on for sidewalks. Other than that, with staff's recommendation and the condition that I stated, I have nothing further than that.

T. Conser: This is a tough piece of property. There's no denial of that. Nevertheless, we need to do the very best job we can to provide full city

T. Conser: (Continued) access streets that will eliminate as many potentials for accidents as possible. I do support the staff report and support approval with these conditions that have been stated. I'm not sure a sidewalk, even though it is a condition of the code, on both sides of the hairpin on down would be a requirement and I think it would be somewhat confusing to create that. At the sametime the applicant spoke to the fact that he would like to have a sidewalk adjacent to Lot 45 because of the nearness of the gargage and then spoke that he didn't want to have a sidewalk upon that same side because of the slope and difficulty of cutting into the bank and everything. So I get real confused on that. But with the recommendation of the Traffic Safety Commission and no parking extended to include along Lots 46, 41, 42, 43, and 8, which would also probably be 7 now, I think has its validity because of people coming around that corner. It's going to be a difficult corner to maneuver. Providing sidewalks on both sides of the streets I would tend to agree with the Traffic Safety Commission that sidewalks on one side would direct the pedestrian traffic to that one side. And I would personally probably be in favor of eliminating the sidewalks on both sides of that section. Since I may not get a chance to vote, it may be irrelevant. Fire lanes and private road, I think we have direction from staff that regardless of what conditions found in another jurisdiction, I would have to go with staff's recommendation or staff's interpretation that we cannot designate private property as fire lanes. The half-street improvement on Caufield will be critical. I can't tell you what's going to happen on Highway 43 but I've been here 12 years and I haven't seen any single improvement by anybody, especially by the State, in that period of time. I've seen some private improvements that have been either conditions of approval or forced by the access development of private property. So Exhibit G, even though lacking in overall solution of the problem, probably appears to be the best solution and least expensive for the applicant and still serving the existing needs without encumbering the -- it may be in the future when there is a widening by the State and if there is paying to be done it will be in conjunction with the overall access to Highway 43. Again, this is a difficult site to develop, but with the conditions that have been applied and the concerns that have been expressed I think we could approve this particular application. With that, is there a motion? Let me do this, I would like to go through the variance comments and look for a consensus.

D. Darling: It sounded like most of you said you were complying with the recommendation of staff, if that is consistent all the way through -- but as it was just pointed out which ones meet the variance request and which ones don't, you can just take those.

T. Conser: Okay. We will start with variance 2 . The applicant has requested a variance to allow continued use of an existing private driveway on Lot 45.

C. Tryon: I agree with staff's analysis of this on 2A.

T. Conser: And staff supports it.

And B which is the applicant has requested a variance from Section 46.130 which prohibits driveway grades from exceeding 12 percent. Instead, a grade of 15 percent is proposed for most lots. The criteria for the variance would be that we drop the 12% to the last 20 feet.

C. Tryon: I agree also with staff's analysis of this variance.

J. Hart: I agree with staff's analysis.

T. Conser: Okay. 3A which is a variance requested to install a sidewalk only on one side of Hillwood Drive between Lots 45 and 44 near West "A" Street. The code requires that they be installed on both sides of the street. Staff goes through the five criteria for that variance.

M. Riley: Maybe here we should address the sidewalks on both sides.

T. Conser: Well Mike, my feeling again is that if you have a sidewalk on just one side of the street you're going to direct people to that side. It gets them on the outside which gives the driver the greatest amount of view.

J. Hart: Where are they going to cross? They are going to cut the corner.

T. Conser: Basically, they are going to cross in this area. (indicating on map)

J. Hart: I would suggest that the pedestrians are going to cut the corner, particularly the kids.

T. Conser: They are going to walk around the inside of the curve?

J. Hart: Yes. So I would recommend sidewalks on both sides the entire length except for that one lot over there.

M. Riley: Well, then you'd be on the sidewalk down here and then you'd walk on the street to West "A".

J. Hart: Okay. Let's talk about requiring full right-of-way then. Double sidewalks all the way down to West "A". Do you want to consider that option?

M. Riley: We have to grant them access to their property at some point.

C. Tryon: I definitely agree that there should be sidewalks on both sides of the street as far as possible. I can be persuaded to grant a variance for that final stretch area. But I don't see it as being as critical as some of the issues you are dealing with.

T. Conser: In that last section there is only a 15 foot drop in the last 125 feet without sidewalk in there. I think under the circumstances to impose a full street improvement isn't practical at this point. Allowing for it to be extended in the future -- agreeing that Lot 44 and 45 should reorganize at some point. Okay. What's the consensus?

J. Hart: I say the same with the staff recommendation.

T. Conser: All right then 3A, we concur on that. Now 3B which is as follows: "The applicant has proposed to install two private streets to serve Lots 1-6. Section 92.000(1) Subdivision Required Improvements states that ...' all streets within a subdivision shall be graded for the full right-of-way width and improved to the City's permanent improvement Standards and specifications. The applicant states that, due to earlier development and the narrow shape of the parcel, Lots 1-6 have no alternate access routes. Also, accommodate full road improvements.

These physical constraints appear to justify the Variance, especially Approved Criteria 75,060(1), however, conditions should be imposed to prevent parking in these streets and to allow emergency vehicle turnaround."

As far as parking, I think we beat that to death. That's not something on a private street that we can do per staff's recommendation. Any opinions.

C. Tryon: The only question I have here is about Lots 7 & 8. Which way are they going to access? I understood them to say that they were going to have 8 access on the private street and 7 access on Hillwood Drive.

T. Conser: That was their original suggestion.

D. Darling: If you want to make sure that that happens that should be a condition requiring that access.

C. Tryon: Other than that clarification, I agree with staff's report.

T. Conser: Okay. Under variance request 3B do you agree with that? (All members of the Commission agreed with that.

All right. Under 3C the code requires 24 foot width to serve, we all agree that that is correct; however, there is only a 40 foot lot off of Webb Street. How do you wish to handle that?

C. Tryon: I agree with the staff report on this.

T. Conser: The only real variance that's being requested in this part C is for the first 108 feet between Lot 1 and Webb Street.

J. Hart: I would be inclined to grant the variance for that 108 feet.

P. Spir: We're stating that the applicant had suggested that it would be impossible to accommodate a public street 32 feet in width and we're saying that we are not necessarily requiring that. We are requiring a 24 foot wide, curb-to-curb.

T. Conser: Do we all agree with staff's recommendation? (All members agreed with staff's recommendation.)

I think in D we have already dealt with the fact that we need a full 32 foot on that and we really need to make a condition that reflects that.

C. Tryon: I agree with staff's analysis on that.

J. Hart: Agreed with staff's recommendation.

M. Riley: Agreed with staff's recommendation.

M. Hupp: Agreed with staff's recommendation.

T. Conser: Now, we've gotten through the variance process and we are ready for a motion.

D. Darling: A couple of additional things that I made notes on as you were doing that, that you may want to know.

I'd recommend that based on what you said about the variances, the ones being granted, all be conditioned on the development of this PUD. By that I mean that we can't keep the variances and change the PUD. They go hand in hand. So they are being granted only for the purpose of granting this PUD.

T. Conser: So all variances should be conditioned on the development of this PUD.

D. Darling: And that new condition that you talked round about but is not in the staff report deals with the realignment of that Caufield/Buck/Highway 43. And the condition should read that the developer shall realign Caufield/Buck/Highway 43 intersection to be consistent with Exhibit G and to the City engineer's approval.

T. Conser: One of the problems I see in this kind of situation, if we leave it loose like that it comes back to bite us.

M. Riley: Well, can we say subject to the City engineer's approval.

D. Darling: That is from the City engineer's office. That's their recommendation to you. If you don't want to accept it you don't have to. But I think you need to be a little more definite then to say fix the street and make the city engineer happy. You need a little more direction. You get back to that old problem of leaving so much to the discretion of the City engineer that that condition is at fault. So you can leave it, but give the City engineer some direction and what it is that you want to see them do.

T. Conser: What about parking between Lots 43, 42, and 41?

C. Tryon: I agree that there should be no parking.

J. Hart: What point was that?

T. Conser: That there would be no parking essentially from the top of the West "A" Street to the top of the hill between Lot 42 and 43.

Ryan O'Brien: Could you define that condition a little bit more or point to the map or something.

T. Conser: There would be no parking on Hillwood Drive from West "A" Street all the way to lot line between 42 and 43. Are we talking about no parking on both sides?

R. O'Brien: Which end of that lot line?

T. Conser: The uphill side. The back side of the hairpin curve.
Chuck, one side or both sides?

C. Tryon: I have thought it was both sides.

J. Hart: What kind of grade are we talking about here? If it's 15% I'm in favor of both sides.

M. Riley: The only problem with that is that you have an awful lot of no parking for visitors and stuff.

T. Conser: Is there a consensus on this that we favor both sides? (All were in favor of both sides.)

Now, is there anyone who would like to make a motion at this point? Your options are to improve with conditions, improve, or deny the application.

M. Riley: I'll take a shot at it. I move that we approve the tentative subdivision plan, planned unit development of Hillwood Park subdivision, file no. SUB-87-07/ZC-87-03/VAR-88-01. The conditions as outlined in the staff report February 4, 1988; condition four, the corrections to read Lots 23,24,25,26,27,28; condition six, has a type it should be a 10' section; condition seven, will remain the same; condition 8, as is; condition nine, as is; condition ten, changed to (inaudible); condition eleven, should be changed to, shall be paved curb-to-curb, and 24 feet wide with the exception of the 108' section of Webb Street in Tract C. And Tract D should be listed as Tract B; condition 15, should read that prior to final plat approval developer shall install sidewalks on the access sides of Lots 33,37, 41, and 43, 46 and 7-9. All deeds shall contain deed restrictions the sidewalks on the access side shall be the obligation of the lot owner at the time of issuance; this should also include Tract A; condition sixteen, that all variances are conditioned on the development of the PUD; condition seventeen, that the developer shall develop an intersection consisting of West "A", Caufield, and Highway 43 as outlined in Exhibit G and subject to City Engineering approval; condition eighteen, it shall be posted no parking on Hillwood Drive on the inside curb, on the boundary of Lots 42 and 43 and this section of "A" -- change that to no parking on both sides of the curb, on the boundary of Lots 42 and 43 and this section of "A".

D. Darling: The only condition you didn't address is whether or not you want them to restrict the access of Lot 8 to Tract B or it's okay to have the option to access on the street.

T. Conser: I have a motion, is there a second to the motion?

C. Tryon: I second. Any discussion on the motion?

J. Hart: You read off a list of Lot numbers where sidewalks would be required, could you read that list of Lot numbers again?

M. Riley: Lots 33 through 37, 7-9 --

J. Hart: Okay. I thought you said 7 and 9.

D. Darling: A comment that Mike made about 10 inch being a typographical error, Jim says that that is not a typographical error.

T. Conser: Any further discussion? All those in favor signify by saying aye (aye) Opposed? (There were none.) Okay. Application is approved.

If you desire to appeal the decision to the City Council, you must make application stating the grounds of your appeal to the Department of Development and Services within 14 days of the mailing of our final decision. That will probably be within the next day or so. Any appeal carries with it a \$150 fee which could be waived if you can get two or more of the Council to pick up the application themselves. Any other questions? Thank you very much.

Peter Spir went over the up coming meeting for staff and the Planning Commission. T. Conser asked about the letters that were to be sent to previous commission members. Peter said he would look into that.

T. Conser: Moved and seconded. All those in favor of adjourning the Planning Commission signify by saying aye.(aye) Opposed? (None)

Meeting adjourned at 10:36 p.m.

WEST LINN PLANNING COMMISSION
SPECIAL MEETING
 June 13, 1988

The West Linn Planning Commission Special Meeting of June 13, 1988, was held with the following members present: C. Tryon, W. Wright, J. Hart, T. Conser, R. Crawford, Debra Zachman. Staff members present were P. Spir, D. Darling, J. Montgomery, John Buckley and Pam Allen, hearings reporter.

This special meeting was held after a worksession from 7:30 p.m. to 8:30 p.m. where the West Linn City Council and Planning Commission discussed wetlands.

The Planning Commission meeting started at 8:30 by Mr. Conser as chairman, opening the meeting. He asked for any comments from the audience regarding issues that they would like to see in the future or any comments that anyone had. There were no comments from the audience. He then introduced a new commission member: Debra Zachman and explained her qualifications and abilities to serve as a Planning Commission member. Mr. Conser then went right into item number 3 on the agenda: Conditional Use and Design Review request for a reservoir site; located west of Suncrest Drive at Hunter Way; file no: CU-88-01/DR-88-06. He opened the public hearing on this agenda item at 8:37 and Peter Spir gave a brief history of this item to bring us up to where the City is today. Mr. Conser then began the public testimony with Phil Smith. Mr. Conser qualified the Commission.

Phil Smith: My name is Phil Smith and I am vice president of Murray, Smith & Associates, Incorporated; engineers and planners in Portland, Oregon. Our address is 121 SW Salmon Street, Portland, Oregon. With me tonight is David Leibbrandt from our firm. He is a project engineer on this particular project, and sitting to his right is Susan Oman of Oman/Jerrick Associates. Susan is the landscape architect that we retained for the project. Peter gave a real good history of the project, which I was going to do too, and I think I'll go ahead and do it anyway. This way maybe I can fill in some points in his presentation.

The water service to the Rosemont area -- I might just define the area we are talking about (Mr. Smith used a map on the wall) so you will have a better understanding here. Rosemont area, for water service purposes, is the area defined by this blue line -- above this blue line in elevation. The proposed site we are talking about is about in the center of that water service area. The Horton Pump Station is about at Horton Road and Santa Anita. Adjacent to it is the Horton reservoir, which is served by a pumping station at lower elevation down at the Bolton reservoir. The Bolton reservoir is served from Oregon City from the Southfork water supply. The water flows across the bridge, through a pipeline to the Bolton reservoir, which is the open reservoir. Water is pumped from there on to the Horton Reservoir and then from that reservoir to the Horton Pump Station. This pumps into the distribution system to Rosemont. The water supply system to the Rosemont zone began, as best as I can determine, about 1975 with the construction of the Horton Pump Station. The station as it was constructed back in 1975 and presently exists today, without substantial modification. At that time, the City had a water master plan in effect. It was a plan put in effect in 1969 that called for a reservoir in the Rosemont area, and why it wasn't built at that time I don't really know. But, nevertheless, the reservoir was not constructed. Rather the Horton Pump Station was designed to pump continually and to respond to a wide range of flow demands by a system of bringing pumps on and off in response to those demands. Also, that station included two gas-driven engines to serve as backup in case of a power failure.

In 1981 the City retained our firm to complete a water system master plan update of the 1969 plan. The prior plan was out-of-date and the population of the city had about doubled in that short period of time. The plan was completed in September of 1982 and, as Peter mentioned, there were many deficiencies noted in the water system, not just the Rosemont area but the rest of the system as well. And \$6 million of improvements were recommended.

I first became aware of the Rosemont zone and reservoir site in

Phil Smith: (Continued) January of 1982 when I had a meeting with the former city engineer, Mr. Wayne , and we were just getting starting gathering data on the water system and one of the items he brought up at the meeting was the fact that the Rosemont area had no reservoir and he was hoping that the particular site we are discussing tonight could be a site for a potential reservoir. He asked us at that time to look at it and advise him of whether this was a proper site for a reservoir. I think at that time he was beginning discussions with a developer. As this progressed, we did confirm that yes this was a good site for a reservoir. First of all, it was the highest point in the city. For that reason, an elevated reservoir, which would be required in this situation, it would require the least height of reservoir. In other words, in trying to achieve a water surface elevation and try to find the highest site to make the reservoir as short as possible. It also happens to be about in the center of the service zone which makes it most desirable. The Master Plan noted many deficiencies, but particularly in the Rosemont zone. The primary deficiency was no storage at a proper elevation. All the rest of the zones have proper storage and this is the only zone that does not. So the Master Plan recommended construction of a reservoir on the site that is shown in the plan and along with our Master Plan we had with the city was, at the time, working with the developer acquiring that site. This gives you some of the dates regarding how that progressed. Shown on Exhibit C, by February of 1982 that site had been identified and negotiations were proceeding and it was pretty well settled that that would be the site acquired and it would be donated to the city for a reservoir site.

During the Master Plan work we held a couple citizens meetings. We received public testimony at that time regarding the reliability problems of Horton Pump Station. There were a number of people indicating, complaining about low pressure and no water at times. So back in 1982, where our initial involvement began, was when the reliability problems of that station were identified. The Master Plan was completed in September of 1982, was submitted to the Council and adopted in Fall of 1982. The Council, in reviewing the plan, elected to proceed with the phase approach in implementing the recommendations of the plan rather than to go out for a \$6 million bond. The first phase was determined to be what is identified as emergency work. So you remember the emergency needs to help supply the Robinwood area. That project also created an intertie with Lake Oswego. So now the city has a backup source of supply, which it didn't have before. And there were several other pump station problems and that work was completed in 1984, as I recall. In 1985 the city staff became very concerned about continuing low pressure in the Rosemont area as development was continuing at a very rapid pace. So the Council determined to proceed with the Phase II program, and within that program were the recommendations for improvements to the Rosemont zone plus construction of a transmission main to the Willamette area. That was put before the voters and the voters rejected that bond. In the summer of 1986 the Council imposed odd and even watering in the Rosemont area to attempt to reduce peak demands during the hot summer months. The odd/even watering was instituted last year, I believe, and will be instituted this year as well.

The Council then created in 1987 the Water System Task Force whose purpose was to review the Master Plan, review where the city was heading in terms of improvements to the system, and make recommendations on the physical improvements, and also financing. And also site review of this particular construction. Peter has pretty well outlined what that task force determined, and they confirmed there was a critical problem in the Rosemont area. They agreed that it would get worse as development continued. They have stated that the solution is an elevated reservoir on a city-owned site. And they presented recommendations for findings in those improvements. The task force examined many alternatives to an elevated reservoir. And some of those alternatives were constructing an elevated reservoir on the present site. Other sites were looked at. They are available. It would be possible to build on them, but they would be more costly for several reasons. First of all, the city does not own any of these other sites. They would have to acquire the site. In all cases, the reservoir would have to be taller because the ground elevation at those other sites is lower. That would result in a more costly structural foundation. There would be longer pipelines in all cases for these other sites. There would be easement costs for several of them. And finally, there would be some costs that the city had already invested into their pipeline system to accommodate

Phil Smith(Continued) the Rosemont reservoir at the proposed site, where it's the Master Plan says the site should be here and the city had paid developers to oversize pipelines to accommodate that location. So all the sites were looked at, and estimates were made.

Other systems were also looked at including continuing with the present system, which is a system which requires continuous operation of pumps to create pressure in the flow. That's what's going on right now. As contrasted to creating pressure in flow from water that has already been pumped and is elevated and is in storage ready to serve. Several alternate pumping-only schemes were looked at. And then also hydropneumatic type system was looked at, also. This involved construction of pressure tanks that are partially filled with water and partially filled with compressed air and the compressed air creates the pressure that's used to move the water. That particular system was rejected as being impractical to the size of area and the pumping-only alternative was rejected because it has problems with its current unreliability. So one of the things that the task force recommended that the Council set up a Citizen's Design Review Committee to work with the tank designers to assist them, and to get some citizen input. A bond election was held in September of last year and the voters approved the bond for the Rosemont reservoir.

In December of 1987, the Citizen's Design Review Committee was formed and began working with our firm in our design process for the reservoir structure. That design is completed and the work committee is completed and the design reflects the technical requirements of the Design Review Committee. That's the history of the project up to this point. The reservoir will be a steel structure. It has a reinforced foundation to it. It is what is called a single-pedestal spheroid and the white model here illustrates the shape. It will be about 50 feet in diameter at its widest point and about 110 feet high. The Design Review Committee selected a bluish-grayish color. The site will be landscaped and an irrigation system will be installed. The site will be fenced with ornamental aluminum fencing. There will be no access to the site by the public. It will be access only by the city staff or authorized personnel. The structure will include aircraft lighting. The committee asked that we put aircraft lighting on the structure. The FAA does not require it. They would like to see it but it is not necessary. There will also be radio antennas on the top of the structure and that will be for city communication purposes. As part of the committee's work, they asked us to prepare a model, and it's standing on the table here. It's a two-scale model showing the site and houses, and we'd be happy to answer any questions you have regarding that.

The structures are only built by a couple of companies and these are their catalogs. That concludes my presentation. If you have any questions, I'd be happy to answer them for you.

W. Wright: Mr. Smith, what's the purpose of taking down the Marylhurst reservoir?

P. Smith: Well, the Marylhurst reservoir is about 80 feet too low. It will not supply pressure to the higher elevations in the Rosemont area. For example, on Suncrest Drive when the pumps go out, the Marylhurst reservoir comes on line but it only gives about 10 pounds out on the street. It's at the wrong elevation. It was built before the Marylhurst area and was incorporated into the city system but was never intended to serve that whole area.

W. Wright: But using that as a supplemental source is of no value?

P. Smith: Once the Rosemont reservoir is constructed, it would just be dead water to be sitting there and never be used.

W. Wright: My next question is the proposed 16-inch transmission main, is that to supply other parts of the city or to fuel the reservoir?

P. Smith: That's to provide a route from the Horton Pump Station to the reservoir and, also, to allow the water to be transmitted back into the other areas of the zone.

W. Wright: Thank you.

P. Smith: Mr. Chairman, I didn't finish my remarks. May I continue?

I guess I wanted to summarize a few points. The first thing that I wanted to say is that I think the City of West Linn has done in this project what a city should do and that's plan ahead, get a Master Plan, acquire a site for a public facility -- they did what they were suppose to do: to obtain a facility, obtain financing for it. So I think the city has done the right thing.

The alternatives have been examined in depth. The citizens group has examined those alternatives. The city has designed what I think most people would think is a very attractive structure. These are considered to be more attractive than the present water reservoir structures even though they are a bit more expensive than these other types.

The city has designed some very high quality amenities to the site including landscaping, fencing, and irrigation to assure that the landscaping looks good in the years to come. This reservoir is needed to correct a deficiency in the water supply system that serves the Rosemont zone. And it's a project that really affects the health, safety, and welfare in this community, and on behalf of the city, I would hope that you would approve the application this evening as the city staff has recommended. And we have no problems with the recommendations that the staff has put on there.

T. Conser: I would like to ask a couple questions regarding the landscaping. The vegetation and growth as shown, what level of maturity or what time line do you expect these to mature to the point to create a buffer or aesthetic environment to that structure.

P. Smith: The vegetation that's going in now and the trees on the outlying area will mature in about 15 years. Solid trees are 2 years and the outline trees are 15 years.

S. Oman: I feel that the trees aren't there to hide the structure, they are there to provide a buffer and add to the overall aesthetics of the area.

We can't guarantee how fast they are going to grow because they are living things. What we used were Douglas Fir and they can attain the height of 80 feet, but at no time is it intended that these are going to hide the structure. Because in our lifetime we aren't going to see them reach their fullest height. They will offer a screen to the structure.

T. Conser: Upon approval of this, what kind of construction time line are we looking at?

P. Smith: We would plan on a one year construction time for the contractor upon award. The activity on the site will be intense during certain periods of time, and others, there will be no activity. The painting of this structure is weather dependent; however, the structure can be built at any time regardless of weather. The painting will have to be done in the summer.

W. Wright: So it would be a year before it would actually be in use.

P. Smith: Yes, from the date of the contract award.

T. Conser: (The picture brochures of the different types of structures were made exhibits at this point.) Types of Storage we will make Exhibit E, and Water Storage Exhibit F.

At this point, I'd like to call Mr. Mallett.

Bud Mallett: My name is Bud Mallett. I live at 1701 Carriage Way, West Linn. We have lived here for 42 years. Eight years ago I sat at the same table, and I'm going to make the same statement when this subject of a water tower was discussed originally. We are abutting the property that the water tower is going to be built on. The only thing I have to say is there's nothing beautiful about a water tower unless your thirsty, you're taking a shower at five o'clock, or your house is on fire. Then a water tower is the most beautiful thing in the world. The only thing that I cannot understand is why 8 years has gone by now, and it isn't there. We need it, although we don't use West Linn water.

I might add, we have given the County and the City of West Linn over

Bud Mallett: (Continued) two-and-a-half acres of land at no cost to them. We've given them easements; we've done everything possible to help develop the city the way it should be developed but somehow, somehow it just isn't moving in the right direction. I don't know why.

Thank you.

T. Conser: Thank you, sir. I call Kim Elsey.

Kim Elsey: My name is Kim Elsey and I live at 1963 Sunburst, West Linn, Oregon. The previous gentleman made a point that I really want to make and that is that I think the real problem here is not necessarily -- we do have a water problem, and it should have been solved eight years ago. I think that most of the residents who live in the Sunburst II area bought in that area because of the aesthetics and did not realize that a water tower was scheduled to go in there. I think that if most of the people that bought property in the Sunburst II area realized that a 110-foot water tower was going to be in their neighborhood, they wouldn't have bought houses in that area. It's unfortunate and I think the problem would have been solved if the city had put a 110-foot water tower in the area in 1982 before the Street of Dreams went in there so the people could really see what they got when they bought property up there. We would have liked to see what we were really buying when we had a search done on the property based on search specifications. I think that most people were very unaware of what was going to be constructed in the area. The type that was chosen -- I believe that the landscaping that the lady mentioned isn't necessarily going to make much of a difference to the aesthetics to the reservoir.

I'd just like to close and say that the cities surrounding West Linn -- Lake Oswego in particular -- to my knowledge have no water towers in the city. Every reservoir that I've seen is either below ground level or at ground level. I would prefer that the City of West Linn follow that lead, and a constructed reservoir isn't really going to keep the City of West Linn looking as pretty as it is today. That's all that I have.

T. Conser: Any questions of Mr. Elsey? Thank you, Mr. Elsey.
I call Ms. Kirkpatrick.

Margaret Kirkpatrick: My name is Margaret Kirkpatrick, K-i-r-k-p-a-t-r-i-c-k. For the record, my office address is 900 SW 5th, Portland, Oregon 97204. I'm here tonight as a representative for Steve Breum, Rich Barakat, and a number of the other homeowners in the Sunburst II residential subdivision. I believe that gives me 20 minutes. I'll try to be as expeditious as possible.

A matter that really hasn't been addressed so far in the presentation tonight is that in order for the applicant to obtain the city approval of Conditional Use and Design Review in connection with the proposed reservoir, the applicant has to be able to demonstrate, and the city has to be able to find, that the proposal meets the Design Review Standards and the Community Development Code, the Conditional Use criteria in the Code, and any applicable policies in the West Linn plan. Unfortunately, four of the Design Review criteria, three of Conditional Use Standards, and a dozen or so Comprehensive Plan policies are violated by the proposal that's been presented to you tonight. I'll go through those as quickly as I can.

As a beginning matter, we have pulled together some evidence to support the things that I'm about to say. It's in this delicate looking book here. I would like to take you through it bit by bit but we would be here until midnight, and I would exceed my 20 minutes. So I would like to submit this as an exhibit, and I hope that you will have an opportunity to read through it and take a look at the evidence that's contained in it to support the points that I'm about to make.

D. Darling: Did you by any chance bring copies for all members of the Commission?

M. Kirkpatrick: I didn't.

D. Darling: Can you do that?

M. Kirkpatrick: It's going to be a little bit difficult because there are photographs and maps and that sort of thing. I'll do the best we can.

Margaret Kirkpatrick: (Continued) I'll have to take it back in order to do that.

Beginning with the Design Review Criteria, the criteria are contained in Chapter 55 of your Community Development Code. The first applicant criteria, and I'm taking these in the order that they appear in the Code, requires the finding that there will be adequate distance between the on-site building and on and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection. The chart, submitted by the applicant, attached to the plan staff's report, shows the proposed reservoir shadow patterns and this video tape addresses the same subject. This evidence demonstrates that the proposed reservoir will put 5 houses on the adjoining property into the shadow for varying periods of time depending on the location of the residence in relation to the reservoir and time of year. The information that you have in the records so far is based on a former location of the reservoir. The current location, I believe, is somewhat to the north and somewhat to the west of the location that was used to calculate. Nevertheless, we don't have update information about the new location. The old information shows that some of the houses will be in shadow up to two hours per day at certain times of the year. There's a possibility, I think, that the houses that will be put in shadow are the victims of violation of this particular standard.

The second pertinent criterion relates to scale. It requires that the proposed structure shall be of comparable scale with the existing structures on adjoining sites and shall have comparable architectural features with the structures on adjoining sites. The maximum building height in the R-10 zone, which is the height of the structures in this area, is two-and-a-half stories and 35 feet. The applicant's proposal calls for a 110-foot steel reservoir about 50 feet in diameter at it's widest point. The proposed structure is more than three times higher than the nearby residential structures, which clearly violates the comparable scale requirement. In addition, there are some photographs in this book that show the architectural features of the houses on the adjoining properties. I think when you look at those it will be clear that the architectural features of the proposed reservoir don't resemble the architectural features of the nearby houses. Again, violating this requirement.

The third Design Review Criterion relates to buffers. It says that there must be buffering between different types of land uses, and the adequacy of a buffer proposal will determine in part based on the buffers ability to provide a "visual barrier" between the different types of uses. Evidence, I think, demonstrates that the applicant hasn't been able to design a buffer that's adequate to provide a visual barrier between the residential structures and the reservoir use. Again, photographs in the book show the reservoir site from the back or front yards of some of the adjoining properties. They illustrate, by the use of a cardboard, cutout model of the reservoir, just how overwhelming the visual impact of the reservoir is going to be. There are also some photographs in the book of similar design reservoirs or water towers in Gresham and northwest Portland. These are only 100- and 105-feet tall, I believe, and they serve to demonstrate how inadequate a tree buffer can be. I think it's already been pointed out that the trees that are to be planted as a visual buffer initially will be 15- to 20-feet high. In 15 years, if things go well, they'll be 50-feet high. I think that the key factor here is that the extent the trees will buffer anything, they will buffer the stem of the pedestal, not the most offensive portion, which is the enormous bulb at the top. There are also some additional photographs in this book that demonstrate how difficult, if not impossible, it is to buffer a reservoir of this size from residential properties as close as these will be.

Finally, the Design Standards require that the applicant submit site analysis that addresses, among other things, potential natural hazard areas. The residents of the Sunburst subdivision have some concern about the wisdom of putting this structure in literally their backyards in light of some recent information that has come forth about the potential for earthquake hazards in this area. I won't go into a great amount of detail on this point, but the West Linn's Comprehensive Plan, both the present one and the past one, recognize that there are some faults in the area particularly in the area of where the reservoir will be located. Faulting in this area is not understood and the information is inadequate for making predictions about the likelihood of earthquakes. I think an earlier version of the plan notes that West Linn is vulnerable to an earthquake on either side of the

Margaret Kirkpatrick: (Continued) fault line, which is in the reservoir vicinity and the area along the bluffs facing northeast is particularly vulnerable, and that is the precise location of this reservoir. Perhaps more importantly, a number of things have indicated that the chances for a catastrophic earthquake in the Pacific Northwest, in the Portland area, are far greater than anyone had formerly thought. There are some articles in this book by a number of authors and geologists one of which says that based on current information that we will be looking at an earthquake registering 9.5 on the Richter scale. Nobody knows when, but it is a possibility. There's an article from the Oregonian that says "A lethal weapon in the form of one of the strongest earthquakes in history may be aimed at Portland and Seattle." This is based on information from the Canadian Geological Survey and has prompted USGS to commence a \$1.5 million, five-year study aimed at this question. Finally, in response to this new information, the State Department of Geology and Mineral Industry is urging municipalities to plan now for earthquakes including re-examing their building codes and zoning codes. I am afraid that this probably means that the current earthquake standards that exist in the Development Code may not be quite up to the things that they are predicting right now. I'd like to point out right now that you have some Comprehensive Plan policies about minimizing potential damage from earthquake, and I think this proposal violates the Comprehensive Plan policies right now. Given the inadequacy of the information that we have about the seismic activity in the area, new evidence of earthquake risk, and the fact that the proposed reservoir site is the most vulnerable to earthquake hazards in the West Linn area, it would be foolish to construct a water tower on this proposed site at this time.

Turning now to the Conditional Use criterion. In order for the city to grant the applicant's request, the city has to be able find that the site size and dimensions provide adequate area for aesthetic design to mitigate any possible or adverse effects for the use from surrounding property. Such finding would not be possible in this case. The evidence shows that some of the residences will be in the shadow, that's clearly an adverse effect. The evidence shows that the buffer will be inadequate. I think most importantly there are two appraisals contained in this book which demonstrate that property values of the surrounding neighbors will be pretty substantially damaged if the reservoir is constructed on the site proposed. The first is an appraisal prepared by Allied Real Estate in connection with Mr. Breun's residence that shows that the reservoir will increase the time it will take for him to market his property if he decides to sell it and will decrease the value of his property a minimum of 10%, more likely 20%. Secondly, there's a study by R. J. Frank done in 1982. That study examined the sales pattern for Lots located next to a number of water facilities located in the Portland metropolitan area: One, in-ground water tank in Milwauke; the second was a 50-foot tank and 80-foot tower in Gresham; and the third was a 50-foot tank in Tualatin. The study shows the loss of value to those Lots, due to the presence of the towers and tanks, ranged from 6 - 11%. The increase holding period brought that loss up to 16½%. The proposed reservoir is higher and, therefore, more offensive than any of the facilities that were looked at in the 1982 appraisal. I'm afraid that the loss in thousands and thousands of dollars to the property owners adjacent to the site are negative impacts that can't be mitigated by aesthetic design treatment so that Conditional Use criterion would be violated.

Second criterion was the site characteristics and that requires that the characteristics of the site be suitable for the proposed use considering its size, shape, location in topography, and natural features. The location of the proposed site in the middle of a residential development is inappropriate for two reasons: first, the appraisals and marketing studies demonstrate that the concurrent compatibilities between residential uses and a water facility of this size renders a site unsuitable in terms of location; secondly, the evidence about buffering shows the site too small for development of adequate visual barriers between the reservoir and the houses. That renders the site unsuitable in terms of size.

The final Conditional Use criterion that we're concerned with here tonight has to do with community need. The code requires the city to find that the grant of the proposal will provide for a facility that is consistent with the overall needs of the community. This standard isn't satisfied by the current proposal as the applicant's evidence of need is both out-of-date and contradictory. In addition, to the extent that need can be shown for

Margaret Kirkpatrick: (Continued) a facility in the area, it can be better satisfied by alternatives to the reservoir. Turning first to the question of need for the storage capacity. The 1982 water study that was done by Murray, Smith & Associates identified the need in the Rosemont area for a 1.93 million gallon facility. That was based on essentially four things: one, projections of population growth in the area; two, land use designations in the area; three, estimates of per capita daily water use requirements; and four, a finding that the area above the Robinwood zone would best serve the Rosemont zone. Five years later the applicant is saying that this area only needs a 400,000 gallon reservoir. The difference has been given is that the city decided not to build a school in this area, and that the population is growing less quickly than projected at the time of the 1982 study. An additional point, as I understand it, the applicant is also saying that this current 400,000 gallon reservoir is adequate to serve about 317 acres currently outside the urban growth boundaries. Not only is the applicant saying well, we needed 1.93 million in 1982; we only need 400,000 now and it will serve an additional 317 acres. There is no evidence I've seen justifying an 80% decrease in the size of the reservoir over the last couple of years. The huge discrepancy between the 1.93 million gallon size and the current 400,000 recommendation raises at least two concerns, and I have not heard either concerned addressed. The first is the possibility that if the need could have decreased 80% in the last five years, who's to say there is a need at all. I think you need to look closely at the figures and try to determine just what this 400,000 gallon is based on. Without any evidence to support the 400,000 gallon figure, it's tough to know what's required. If the reservoir isn't needed, the construction will be a useless expenditure of taxpayer's money and the harm to neighboring properties will be completely unjustified. I don't think that's a result that's consistent with the overall needs of the community. As a footnote, I think it's sobering to think about what would have happened if West Linn had rushed out and built a 1.93 million gallon reservoir in 1982 when it was first recommended. I'm sure that would have been a very costly endeavor, and a mere five years later it turns out not necessary. So I think it behooves you to look a little more carefully at the information underlying in the proposal. Now, that line of reasoning suggests (inaudible). The flip side of that is that if it was a 1.93 million gallon that was needed in 1982, how do you know that you need less than that now. As I say, the two reasons I've seen for the decrease in size: slower growth rate of population and no school being built. The evidence doesn't really demonstrate to me that the population growth in West Linn is slowing down all that much. 1977 figures, which were relied on in 1982, showed a year 2000 population of the city of 17,500; the 1981 figures that are relied on in the current plan, show a projected population of 17,300. Even if the population growth is slowing down, the 1.23 million gallon need was based on need by the year 2000, and 1.93 million gallon for ultimate build out of the Rosemont area. That ultimate build out is going to occur eventually whether it happens as quickly as they thought in 1982 or not. I think there's a possibility to suggest that a larger reservoir is needed. If that is true and this reservoir is built today, it's just going to be a stop gap measure because if the city is going to need a larger storage facility at some point in the future, you might as well get the information together and build a reservoir that you are going to need now. Sort of a legal point, I guess, and that is that the burden is on the applicant to demonstrate the compliance with these criterion. I'm raising questions. I don't have any answers. I think we need to look at the applicant and say justify your size, justify your figures.

Related point. If there is additional need for storage capacity, and I've heard many people say that, the need can be better satisfied by other alternatives that would be more in the public interest. Mr. Smith had indicated that the city had looked at some other alternatives in the past. The residents of Sunburst asked another engineer to take a look at this situation for them. There's a report from [unclear] who reviewed the 1982 water study and the alternatives, and concluded that the public interest would best be served by expansion and upgrading of the Horton Pump Station. I would urge you to take a look at that. The conclusion of the engineers is that it will provide the storage capacity that is needed, that the pumping is as reliable a method as gravity flow, and this is something that is shown in a number of reports that are in the evidentiary booklet here tonight. There is a statement by ISO, Insurance Service Office, that rates cities for their insurance, and ISO does not

Margaret Kirkpatrick: (Continued) distinguish between gravity flow and well-designed pumping systems in terms of insurance rates are equally reliable.

Also, there are some alternative sites for an elevated reservoir that I think would be more in conformity with the Design Review and Comprehensive Plan criterion. There's two sites west of the proposed site, one of which is pretty much the same elevation and the other one is a little bit lower. I think that given their distance from residential development, if it turns out that a larger reservoir is needed, either of those sites would be much more suitable because they aren't in the middle of a currently developed residential area. Again, I would urge for exploration of those alternative sites.

Finally, the proposal must, in order to be approved, comply with the applicable policies of the Comprehensive Plan. This proposal violates some of the public service policies. General policy number 10 requires capital improvements, programs for major public facilities to consider the required capacity based on the Comprehensive Plan, and the Comprehensive Plan indicates that perhaps a larger reservoir is needed than the one that is being proposed tonight. Also, facility plans have to consider the current 1982 Water Plan Study and that indicates that a larger reservoir is required. There are some residential policies in the Comprehensive Plan, one of which requires the city to protect existing residentially developed areas from incompatible land uses. We have incompatibility here in terms of review, impact, shade, particularly the property values. There's a policy requirement that the city minimize the removal of the community review area. I think that's violated. I've already mentioned the potential violation of the natural disaster and hazard area policy in the Comprehensive Plan.

One remaining category of Comp Plan Policies that I haven't mentioned are the urbanization policies. Generally, the crux of the urbanization policy is to ensure that the land inside the urban growth boundary is developed and development outside the urban growth boundary is scrutinized very, very carefully and is contained. As I've indicated, there's been some suggestion that this water tower would be designed to serve 317 acres outside the current urban growth boundary. I would suggest that if the reservoir is built and has that access capacity, that's going to build some momentum for development outside the urban growth boundary in contravention of the urbanization policies.

In summary, I think we've got some serious questions here about the applications compliance with the Design Review criteria, with the Conditional Use Standards, and with the Comp Plan Policies. I urge you to take a second look at it. I hope I haven't bored you too badly or run over too much. I'd be happy to answer questions.

T. Conser: Any questions of Ms. Kirkpatrick?

D. Zachman: I have one. Could you please repeat the two alternative sites that you mentioned?

M. Kirkpatrick: My understanding is that there is a site that's approximately 600 feet to the west. I don't know whether or not it is available, but I understand it is an alternative site. Again, to turn to the cost issue on the alternative sites, Mr. Smith had indicated that alternative sites would be more costly because of land acquisition, the tower would have to be a little higher, longer pipelines, and costs incurred by the city to date. I think both of the alternative sites that I have been informed of are in the general area, if the city would sell the site, it would have some money to use to put towards the acquisition of an alternative site. There's another a little further to the left, I believe it is outside the urban growth area in an undeveloped area. I would probably prefer to defer to Mr. Smith for further information on alternative sites.

J. Hart: Could you repeat the name of the people you represent?

M. Kirkpatrick: Yes. Steve Breum, B-r-e-u-m; Rich Barakat, B-a-r-a-k-a-t. They are representatives of the Sunburst II neighbors and neighborhood association.

T. Conser: Any further questions?

D. Darling: Tim, I have a couple.

Does your evidence packet contain any information regarding purchase price that Mr. Barakat or Mr. Breum or anyother members you represent paid for their Lot when they bought it?

M. Kirkpatrick: I don't believe so.

D. Darling: Do you know that information?

M. Kirkpatrick: No.

D. Darling: Do you know how the purchase price of their Lot compares to the purchase price of other Lots in the area or farther away from --

M. Kirkpatrick: No. There's a map with prices on it -- let me see if I can find what you're looking for.

D. Darling: It's been staff's assumption all along, it may be an incorrect one, that your argument regarding the decrease of property value was really taken care of because they paid less for their land to begin with; because it has always been known to be adjacent to a reservoir.

M. Kirkpatrick: Well, I'll tell you. Just by looking at this, if these are the prices that the Lots actually went for, it wouldn't bear that out. Because the closest one that I'm looking at shows \$155,000 and across the street is \$152,500. Again, the acreage might be different.

D. Darling: That's for the developed site. I'm talking about the initial purchase price of the Lot.

M. Kirkpatrick: I don't know. I don't have that information.

D. Darling: Okay. That's all I have.

M. Kirkpatrick: Just a quick question. Would you like me to take this and reproduce it for all of you.

D. Darling: I think you are being asked to mark it as an exhibit, which you are free to do. I would suggest that you make the video tape a separate exhibit. And I guess the question is, if you are going to review it do you want to take turns looking at that one or do you want individual copies.

T. Conser: How long would it take to get the copies?

M. Kirkpatrick: I could probably have them out here tomorrow afternoon. How many copies would you need?

D. Darling: I think you should make 8 because the 8th one will become part of the record and the staff will each need one.

T. Conser: And the videos the same? I have no idea what's on the video.

M. Kirkpatrick: The video tape is intended to demonstrate the shadow pattern of the reservoir. I haven't seen it. It demonstrates how the shadow moves around, over, and above the houses. I think that is actually the same information in the applicant's shadow pattern charts.

T. Conser: Has the applicant seen this video?

P. Smith: No.

W. Wright: Who prepared this video?

Steve Breum: I did.

T. Conser: Was it during the same time that the applicant was making their --

Steve Breum: No.

T. Conser: So, I can't see accepting that information unless the applicant has had an opportunity to see it. All this information --

D. Darling: You could mark it as an exhibit-- I think you should mark it as an exhibit, but I think you're saying whether or not you should close the public hearing.

T. Conser: That's true. And whether or not the applicant has an opportunity to rebut any information that they have not viewed. At this point, that has not been viewed by the applicant.

D. Darling: I think at this point your question is do we receive it as an exhibit or do we deny it. I think we should accept them both and mark them as exhibits. Exhibit G for the book, and Exhibit H for the video. Do you want copies of the video for all members?

W. Wright: I'm just interested in the qualifications of the people who made the video; are they solar engineers?

D. Darling: The issue -- if they want to offer this as evidence you take it, but the value you put in it depends on what you're told about how it was made and the qualifications they had. You're duty bound to take the exhibit.

W. Wright: I think the city in its handling of this new solar issue is so new that very few people in this room could intepret it.

M. Kirkpatrick: I think it has the same information and is intended to convey the same information that you have on the charts that are attached to the staff report. The problems with both those charts and the video tape is that they weren't made -- calculations weren't made based on the current location of the reservoir.

P. Spir: I take exception to that. They are in fact. They show two lines. One line shows the original location and the second set of lines shows the correct, new location.

T. Conser: We would need to have 5 copies of this based on the number of members who have said that they would like to view it. (referring to the video)

M. Kirkpatrick: I should be able to get those video copies to you by the end of the week.

W. Wright: I just have one other question. Where are the other two sites that are of interest to the homeowners association. Could somebody help me out?

P. Smith: I could probably help you out.

T. Conser: Could you merely point them out, at this time.

P. Smith: We were asked by the task group to pick alternate sites. Originally, north of the site is where all the radio antennas are -- (Mr. Smith used the map on the wall to indicate where the sites are located.)

T. Conser: All right. Any additional questions? I have no more requests for testimony at this point.

D. Darling: We need to make some clarifications on exhibits. We need to mark the large map as Exhibit I and the drawing as J. I don't think that the drawings themselves of the water tower have yet been marked.

T. Conser: We need to mark the model. That should be K.

D. Darling: Those drawings will be L. The specs will be submitted later by Mr. Smith.

T. Conser: If I get the drift of what's going on here, we probably need a continuation and if we wish to take additional information I think it should be provided. All of this here would be a preliminary process at this point, the final would be to the Council.

D. Darling: No. The final would be here.

T. Conser: Then we will need a copy of those specs.

D. Darling: And I think since Ms. Kirkpatrick has provided a copy of her evidence for the applicant, the same should be provided her.

T. Conser: I think we need to have the final specs and then staff would need to review those, and a copy of that needs to be available to Ms. Kirkpatrick. With that, is there further testimony at this time? We have an option of closing the public testimony, if the commission feels comfortable or continuing it. Rebuttal is available, but do we want to go into a rebuttal at this time because we are asking for more information.

D. Darling: I don't think you have the option to close the public hearing.

T. Conser: The applicant hasn't had a chance to review what we have accepted into evidence, and I'm sure his rebuttal would be affected by that information.

P. Smith: I think Ms. Kirkpatrick has raised so many issues that I think it would be impossible to respond tonight. Obviously, we need to review it.

W. Wright: I move we continue it.

D. Darling: To July 18th --

T. Conser: July 18th is Hillwood PUD.

P. Spir: Hillwood hasn't come in yet, so they are going to be continued anyway.

D. Darling: If this issue comes in first, then Hillwood will go to August.

W. Wright: All right. The 18th of July at 7:30.

J. Hart: Second.

T. Conser: It's been moved and seconded that the application be continued to July 18th at 7:30. Is there any discussion or concerns or questions? All those in favor signify by saying aye. (aye) Anyone opposed? (No one was opposed.)

Okay. Motion passes.

W. Wright: Excuse me. I'd like to make a request of our reporter. Could we have the minutes early on.

P. Allen: Yes. Is two weeks okay?

W. Wright: That would be fine.

P. Smith: I'd like to have a copy of the minutes, please.

At this point in the meeting a short break was taken. The meeting then reconvened at 10:30 p.m.

T. Conser: I call to to order the public hearing for the approval of the proposed City of West Linn street/utility design and construction standards at 10:25 p.m. Do any members of the Planning Commission wish to abstain? Do any members of the Planning Commission wish to declare a conflict of interest? Do any members of the Planning Commission wish to report any significant ex parte contact? Do any members of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge any individual member of the Planning Commission? To all those people wishing to testify, please be aware that if you fail to raise an issue either in person or by letter tonight, you will be unable to raise an issue at a subsequent time on appeal.

D. Darling: All the information regarding appeal does not apply at this time.

T. Conser: Does staff want to give a brief summary at this time?

P. Spir: This is primarily an engineering department proposal and planning department has taken a secondary role to this whole matter. We have some comments later on; however, not at this time.

T. Conser: Then moving right along, I call Earl Reed.

Earl Reed: My name is Earl Reed. I'm the Public Works Director/City Engineer for the City of West Linn.

What we have here before us tonight is the approximate culmination of a two-year period and more formally, the City Council has adopted the goal of adopting a street/utility design construction standards for the City as an outgrowth of a request by the development community of the city. I'd like to read into the record the list of firms that we have worked with on this: The Portland Metropolitan Homebuilders Association, The Technical Engineering Corporation; O'Brian Planning Engineering Corporation; Murray, Smith & Associates; West Linn Planning Department; West Linn Traffic Safety Commission; City Administrators; W. B. Wells Engineers and Surveyors; West Linn Fire Department; Tri-City Sanitation District; Priest Engineering Co.; R. A. Lawrence & Associates; J. M. Palmer Development Resource; OTAK Corporation; and DeHaase & Associates.

These are the firms and individuals that we worked with on this. We got their opinions and feedback in the forms of comments, wishes, modifications, and standards, and pretty much we all agree at this point in time. The background was given back on March 16, 1988, where we had a City Council/Planning Commission worksession. At that point in time, the concerns were the street widths and we've resolved those issues between our city staff and city council with respect to slight modifications and construction code on page 10. The primary change on page 10 is under Section 130.103. The additional wording that we added was the second sentence that says, "Street width is determined by a staff member or Planning Commission as applicable." That is really the main crux of the most recent discussions. Additionally, changes were agreed upon for the blue book pages 10 through 16. The difference between what you have in the book is on the right-hand side on the drawings. There's a designation, and it was agreed that we would remove that designation as that would be more in keeping with the Community Development Code and allow the Planning Commission the discretion of what street widths will be used.

The new item, through this whole process, is shown on the last sheet where it shows, "Alternative Streets for all classifications." It had been discarded at one time, but it's now back in the process. And what it does allow for -- It points out clearly that under special approval by the staff or Planning Commission, we can have a street that does not have curbs and gutters. It would have a shoulder and then a drainage ditch.

The only item that was outstanding beyond this was the issue of the Appeals Board. I won't go into the history of that in depth, but, basically, we had an Appeals Board that put together -- Originally, about six months ago we had the appeal process that if an applicant was dissatisfied with the City engineer's decision, then the process would be that the applicant would appeal that to the Planning Commission, and again, if the applicant was not satisfied with the Planning Commission's decision then he could appeal to the City Council. As it stands now, we would have that same process regarding street widths; however, on more technical issues the

Earl Reed: (Continued) engineer Board of Appeal would be establish. Our legal counsel feels that will address or solve the overlapping of the two appeals processes. I could go through this document and explain each item, if you would like.

T. Conser: Made the suggestion the a motion by made to approve this proposal based on the information, and the staff's recommendations to the Council, unless someone had some specific concerns.

C. Tryon: Had two questions: was everything appealable to the engineering board, except for street widths? (The answer to that was yes.) Mr. Tryon thought that it had been discussed at a previous worksession that things would not be appealable.

E. Reed: Stated that that had been discussed, but in reality they knew you had to have some kind of appeal process.

At this point in the meeting, there was discussion about what items were considered to be land use issues and those that were not. Basically, it was stated that how a sidewalk or bikepath was built was not a land use issue, but where it would be put was.

Mr. Conser asked about the bikepath plan of the City. Mr. Reed stated that there is an overall metropolitan area bikepath plan and West Linn is included in that plan. Mr. Conser asked about the Highway 43 bike plan and whether or not that was mandated by the state. Mr. Reed was not certain.

J. Hart: Mr. Hart explained that at one point there was a group of active cyclists that were called together to put that plan together, and they picked the routes that you see developed now. He explained that there are routes that connect parks and schools together; however, there is quite a bit of the proposal that is still undeveloped. He did not know how the route on the highway came about. The cyclists that worked together on this endeavor were local West Linn residents.

C. Tryon: Mr. Tryon asked about the consistencies of the definitions in the proposal.

E. Reed: Explained that he very carefully scrutinized the proposal for words changes in the definitions and most of them were word-for-word as before. He said that our Counsel had a comment on this. Her comment was, "The definitions in this title apply only to this title." And further stated, "to the extent there are inconsistencies in this title, this title shall control."

C. Tryon: Mr. Tryon asked if this was sitting well with the planning people.

D. Darling: Stated that she had worked on the appeals process. And had reviewed the process by which an engineer was pick for each project, eliminating that burdensome task from the Mayor and giving it to the City Engineer. She stated that she is still working on the working of these issues.

T. Conser: Asked if there were any provisions for easements along the front Lot lines, and, also, utility easements.

E. Reed: Explained that the City had a very reasonable setback limits and that the developer typically does not have a problem with giving an easement for utilities because that easement is still land that can be sold.

T. Conser: Asked the question if exisiting utilities are in a street that the City is going to widen it or pave it, who pays for it?

E. Reed: Answered that if the City was doing the work on an easement, that the City would pay for it; but if the work was being done on the city right-of-way, then the utility would be obligated to pay for it. If a developer was making an improvement, then it would be at the developers' costs.

J. Hart: Asked Mr. Reed if he was aware of any other standards used for bike paths, other than the ones referenced in the proposal.

E. Reed: Explained that that was the standard that he used, but, also, added that if Mr. Hart new of another set of standards or references that he would be happy to consider them.

J. Hart: Asked if any other areas were using these standards.

E. Reed: Stated that quite a bit of the information in the document came from materials that he had prepared for Washington County, so it's a standard that's been adopted by all the cities in Washington County. He did not know what the standards were that other cities used.

J. Hart: Asked how you intergrade a bikeway with a curb, as referenced on page 31 of the proposal.

E. Reed: Mr. Reed was not certain what that referred to in the proposal. Relating to the construction of the thickness, that is supposed to say or be worded so that it states to the thickness of the street. If you want to widen the street and move the path over, then it will have to be as thick in construction thickness as the street.

J. Hart: Asked if there was any latitude to vary the width of the bike lane.

E. Reed: Stated that bikeway widths, as well as travel lanes, would vary or would have to be a part of the Design Review Process. There is flexibility. As a city standard, I felt it was appropriate to go with a figure of 6 feet.

J. Hart: Suggested that in lieu of 6-foot bike lane you would allow paved width that would allow paved shoulder for a bike lane even though it wasn't described as a bike lane. He wasn't sure how it could be done, going by the current standards.

E. Reed: Stated that this would fall to the Design Review Committee, and would be subject to their discretion.

There was a discussion, at this point, about the replacement costs of the sidewalk -- who should pay for these costs -- should the developer or city damage or tear up the sidewalk for any reasons. (Walter Wright left the hearing at 11:10 p.m., before the public hearing was closed.)

T. Conser: At this point, the public hearing is still open. Is there any comments that anyone in the audience would like make? Any neutral comments from anyone? Would the staff like to make any comments?

P. Spir: No. I think Earl referenced to a meeting with Mike Butts and John Buol, that any problems that had been brought up at the earlier worksession had been worked out to everyone's satisfaction, primarily in the area of street widths. Things are looking good in this area.

T. Conser: Any input from traffic safety? (There was none)

D. Darling: I have some input. All the publications that are referenced for standards within the body of the document you are going to have to identify the date the document was incorporated. Unfortunately, everytime that document changes, you will have to modify the construction code to adopt to future changes. You can't just "blanket" adopt into the future, all future changes.

To be clear then on what you're looking at tonight, it's almost word-for-word the way you see it except for some changes in the appeals process. You don't have the final version of that. They are insignificant wording changes.

J. Hart: Mr. Chairman, I move that the public hearing be closed.

W. Wright: Second.

T. Conser: It's moved and seconded. All those in favor say aye. (aye) Opposed? (There were none.) We have a chance at this time to recommend to approve this proposal or any changes that anyone wishes to make. My

T. Conser: (Continued) understanding of this code is as any problems comes up we will deal with those and revise it as necessary based on that review process.

C. Tryon: Mr. Chairman, I move that we recommend adoption of the City of West Linn street/utility design and construction standards document as we discussed them, together with the appropriate changes and with the replacement pages that Earl provided tonight.

J. Hart: Second.

T. Conser: Moved and seconded. Any discussions?

J. Hart: I just have a comment. Not having seen the other standards for bikeways, there may be a better document available to use for standards, I feel there's enough flexibility in these standards and there's always an option for amending them later. I think this is a good document to start with.

T. Conser: Any other discussion or questions? It's been moved and seconded. All in favor signify by saying aye. (aye) Opposed? (There were none.)

Motion passes.

At this point in the meeting Mr. Conser asked for business from staff and they responded with a brief summary of the upcoming schedule.

D. Zachman: Motion to adjourn.

J. Hart: Seconded.

T. Conser: Moved and seconded. All in favor say aye. (aye) Opposed? (There were none.)

The meeting was adjourned at 11:20 p.m.

The West Linn Planning Commission meeting of March 28, 1988, with the following members present: W. Wright, T. Conser, M. Hupp, and Joe Hart. City staff members present were: J. Buckley, D. Darling, P. Spir, J. Montgomery and Pam Allen, hearings reporter.

The meeting started with a solar access presentation that was tape recorded but not reported as requested by the Commission and the staff.

T. Conser: At this time he asked for any future agenda items from anyone in the audience that they would like to have discussed or brought before the Commission. (No one responded.) Then he went to the approval of the February 16, 1988 minutes; and the February 22, 1988 special meeting minutes. Are there any corrections or additions to the minutes of February 16, 1988?

W. Wright: I move that we approve the minutes of the February 16, 1988, West Linn Planning Commission --

J. Hart: Would this be to approve them individually?

T. Conser: If you desire. Are there any corrections or additions -- (There were none.)

J. Hart: I move the minutes of both meetings -- The February 16, 1988, regularly scheduled meeting and the February 22, 1988, special meeting -- be approved.

W. Wright: Second.

T. Conser: It's been moved and seconded. All in favor say aye. (aye) Opposed? (There were none.) Okay. The minutes are approved. They are very concise and accurate and we thank you for that.

Next is item No. 5 which is the continuation of the amendment to a planned unit development and a tentative subdivision plan, terminating both Derby Street and Hunter Way in a cul-de-sac. The location is: Hidden Springs Summit subdivision. The applicant is Jerry M. Palmer, representative of Hidden Springs Summit, Inc. It is file No. MISC-88-04. I'd like to open the public hearing at 8:01 --

D. Darling: It's a continuation of the old hearing but I think you need to go back through and make sure there isn't any conflicts or ex parte contacts that would require extension or challenge.

T. Conser: Are there any members of the Planning Commission who wish to abstain from this hearing? (There were none.) Do any members of the Planning Commission wish to declare any ex parte contact at this time?

W. Wright: Yes. I have spoken to Mr. Cox and Mr. John B. our city administrator about the situation. But I do not feel as though I will be in conflict by having met with them.

T. Conser: Could you share some of these ex parte contacts with us?

W. Wright: The general approach of what I wanted to achieve was -- I wanted to find out some of things that we, as Planning Commission members now don't have. I was seeking for some fill in like what happened between A and B. I didn't get much satisfaction from any of them. It appears there were a number of verbal exchanges between staff and applicant, most of which was not documented. I'm really back to square one. Where did it all happen and when? The interesting thing that impacts my thoughts relating to hearing this tonight are the two memos to the Planning Commission from our Planning Director, Mr. Butts, dated March 2 and March 16. I really tried to see Mike before he went out of town. This generated my interest in talking to the people I was able to talk to.

T. Conser: Are there any other ex parte contacts?

The only other thing I wish to declare is that Walt and I did speak fairly extensively on the phone about missing items and information as to how we got to the situation where we are where the two cul-de-sacs got built and they were not on the plan. I spoke with Chuck briefly and his input was specifically about the letter of the 16th, which Mike wrote, which has to do with Mike expressing his concerns for the greatest advantage for the greatest number of people.

Mr. Palmer, have you received the packet which included these two letters? The one dated the 2nd and one the 16th?

Jerry Palmer: I'm very happy that the chairman has asked me that question. My name is Jerry Palmer and I live at 700 SW Taylor, #305; Portland, Oregon 97205.

T. Conser: I just wanted to ask that question of you. I will give you an opportunity to speak to these issues. I just want to get through the process of making sure that the Commission has not been faced with any other influences or information that we need to be aware of.

J. Palmer: I received the letter of March 2, the one written by Mike Butts, on Friday. That was sent to me by his staff after my call to him because I heard there was such a memo.

W. Wright: Have you read the one dated March 16?

J. Palmer: Yes.

W. Wright: You have both of those memos?

J. Palmer: Yes. The one dated March 16th I received a couple of weeks ago.

D. Darling: I think the next thing we need to do is to make sure that all four of the Commissioners that are here now were at the last hearing or have thoroughly read the packet with that information, and then go to the challenges.

T. Conser: Were we all present at the previous hearing? And we've all had an opportunity to review the information in the packet that has been provided? (All answered yes.) Do any members of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Do any members of the audience wish to challenge any individual members of the Planning Commission? This is reopening of the public hearing --

W. Wright: Mr. Chairman, before we start hearing public testimony, I think we asked things of Mr. Palmer and staff, should we address that now?

T. Conser: I think I would like to let Mr. Palmer speak first on this item. But what I was getting to first, if there is anybody who wishes to speak on this agenda item or the other agenda item, I ask that you fill out one of these half-forms or at least sign in so you can become a party of record. With that, I would like to ask Mr. Palmer to step forward and address his concerns tonight.

J. Palmer: I find myself in an unfortunate position. We are faced with some correspondence that we received late, on Friday of this week. That communication was to the Planning Commission dated March 2, 1988 from the Planning Director and without getting to emotional about it I will just speak to some of the substance about it. There are many items that were addressed in that memorandum which is unfounded by any information provided in that memorandum. It's just thoughts without facts, figures, dates, etc. There were decisions made by the Planning Commission, City Council, and Park Board relative to the decisions that were raised in those items in that memorandum. This Planning Commission has to deal with some of that information and I assume that staff is going to place that memo in evidence

T. Conser: (Continued) For all of you who wish to testify please be aware that if you fail to raise an issue tonight either by in person or by letter, you will be unable to raise an issue at a subsequent time of appeal. At this time I'd like to have that brief staff report.

P. Spir: The applicant, Luella Dunford, requested a minor partition at the corner of Rosemont Drive and Summit Street. This was to create two parcels of land. (Peter Spir then defined the applicable zone codes to this application and explained the denial.)

T. Conser: I'd like to call for the applicant's testimony. Russ Schumacher, 2151 Webb Street, West Linn. I am representing the applicant, Luella Dunford.

T. Conser: Mr. Schumacher, did you receive a copy of the staff report?

R. Schumacher: No, I didn't. (a copy was then given to him.)

Mr. Schumacher then stated that because Mrs. Dunford had lived in this area for over 30 years, she deserves top consideration in this matter as a longtime taxpayer. He also stated that she had paid taxes on this property all this time under the assumption that when the time came for her to divide it off that she could do so. The property has no value to her now. Mr. Schumacher then explained the size of her partition and the layout of her lot with the two existing driveways; he used a diagram that he had drawn. He explained her plan to use the existing driveway and also addressed the traffic safety issue. He feels that this would fulfill the traffic safety ordinance as he feels this was meant to control traffic, not control the property. There were no notifications to the people who lived on this street that this law had been passed. Most people on Rosemont are not aware that this street is a minor arterial. He stated that it seemed like this whole thing was done so fast -- before anybody could find out about it. He stated that if Mrs. Dunford had been given proper notification and chose to do nothing about it, then it would be fair but not when she hadn't been notified. He also mentioned that in the early 1950's Mrs. Dunford donated a piece of property to the City so the City could widen Summit. There seems to be no record of that in the City records. He feels that the city government has taken over this street and using it as a way to solve their traffic problems. (at this point on the tape Mr. Schumacher's testimony was inaudible.)

W. Wright: Do you know when this road was declared a minor arterial?

J. Montgomery: It would have been part of the Comprehensive Plan, when that plan was adopted.

J. Hart: Mrs. Dunford had part of her property developed?

R. Schumacher: Yes. She sold a portion to a developer.

J. Hart: Why, at that time, did she not sell the other piece?

R. Schumacher: She was saying it for a later time.

T. Conser: Any other parties who wish to speak in favor of this application?

Teresa Donovan: I'm a selling realtor. My address is 2660 Meridian Court, West Linn. Mr. Schumacher and I have spoken back and forth and we do agree that we are not creating another driveway. She is just basically moving the one she has.

J. Hart: Would you state what your relationship is to Mrs. Dunford?

Jerry Palmer: (Continued) to be used by the Planning Commission to reach their decision. I would like to ask staff if they intend to put that into evidence? I would like to have that staff report.

P. Spir: I think that's an appropriate part of our staff report.

T. Conser: That should be marked as an exhibit. This will be Exhibit No. 1.

J. Palmer: Because of the details that this memorandum represents, the items of discussion and the background that is required to address those issues, we ask for your continuance of this hearing so that we may prepare evidence and facts in a logical and concise manner that were not presented in that memorandum. And present it to the full body of this Commission for their consideration. So we ask for a continuance at this time until your next meeting.

W. Wright: How are we running on the time on this?

D. Darling: Would you be willing to grant us an extension of the 120-day rule for another 60 days?

J. Palmer: Yes, I would. I would like to see the property.

T. Conser: The 120-day rule is for the size of the property.

P. Spir: Would expire somewhere around April 20th, so that appeal period of 14 days would result in it going beyond the 120 days.

D. Darling: Jerry's indicated that he will give us a 60-day extension of the 120-day rule. You need a motion to continue to the 18th.

T. Conser: With that, do we have a motion?

W. Wright: I move that we continue this application until the next regularly scheduled meeting which is to be the 18th of April at 7:30 p.m.

T. Conser: I have a motion, do I hear a second on that?

J. Hart: Second.

T. Conser: It's been moved and seconded. Is there any discussion? (There was none.) All in favor say aye. (aye) Opposed? (There were none.)

Okay. We go now to agenda item No. 6 which is an appeal of a Planning Director decision denying a request for a minor partition. The location is the Northwest Corner of Rosemont Road and Summit Drive. The applicant is Luella Dunford and the file number is MISC-88-05.

(T. Conser then explained the hearing process for the members of the audience and asked if they had any questions or problems with the process. No one had any questions.) He then called the meeting to order at 8:38 and asked the staff to give a brief review. But first I would like to ask if there are any members of the Planning Commission who wish to abstain. Are there any members of the Planning Commission who wish to declare a conflict of interest? Do any members of the Planning Commission wish to report any significant ex parte contacts? (A brief break was taken before the introduction of agenda item No. 6 to await the arrival of Mrs. Dunford.)

W. Wright: Yes. Mr. Schumacher and I spoke by phone before the appeal was filed and I suggested that he go this route. I recommended that he go the appeals route.

T. Conser: Have all the commission members viewed the site? (yes) Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge any individual members of the Planning Commission?

D. Darling: Yes. The real prohibition is on page 3, Section 48.020(1).

W. Wright: This is verbatim?

D. Darling: Correct. "Direct individual access ...is hereafter prohibited,".

J. Hart: Is there any other deficiencies in the application?

P. Spir: No substantive ones, not really. There had been discussion of additional dedication of further right-of-way but preliminary staff studies would suggest there is adequate right-of-way on Summit.

D. Darling: I think the other thing would be there would have to be a restriction on any further development.

J. Hart: In case of minor partitions, there aren't any public improvements required?

P. Spir: Well, we can ask for right-of-way dedications. There have been requirements that sidewalks be installed but it depends on if that is a street that has sidewalks already.

T. Conser: Personally, I am concerned about the staff report which deals with specific issues but did not deal with all the issues. Therefore, if we were to override staff's decision on this, we don't want to hand staff a nightmare or the applicant a nightmare. We want to make sure that any interpretation of the code is interpreted properly.

D. Darling: If you are to interpret the code to allow this, to do with a motion to direct that you go back to staff to see if there should be additional conditions for approval.

T. Conser: Is there any questions of staff, at this time, before the applicant has an opportunity to come forward for rebuttal?

R. Schumacher: One of the things that was brought up. This lot has been sitting there for all eternity with no changes. You mentioned about notices. You know that the newspaper is full of notices but we just can't go to everything there is a notice to in the paper. In fact, there were notices to residents on West "A" Street that they want to put some sidewalks and curbs in there. I own a house on that street and I didn't get a notice. This notice thing is not really relevant. There was some talk earlier about the amount of traffic that is on that street and probably 90% of the traffic is in the morning when school starts. Addressing access, there is no other way to get off that lot. There is a house below it and a house beside it and there is Summit Street and Rosemont Street -- that's the only way to get off that lot. If you okay this, you probably will have four or five additional owners coming to you with this same type of problem. I can see that happening.

T. Conser: Okay. Thank you, Mr. Schumacher.

W. Wright: I move the public hearing be closed.

J. Hart: Second.

T. Conser: Any discussion? All in favor signify by saying aye. (aye)
Opposed? (There were no oppositions.) At this time I declare the public hearing closed at 9:31 p.m. Joe would you describe where you are sitting on this?

J. Hart: When the Comprehensive Plan was adopted and the codes were adopted, I think it was understood that there would be areas that we would want to examine later and I think this situation falls into that category. I would not be in favor of stretching the interpretation of this one section to allow

T. Donovan: I am the selling agent for Ian Aldrich, who is buying the lot from Mrs. Dunford. The lot is potentially sold.

J. Hart: Mr. Schumacher's relationship?

T. Donovan: He is the listing realtor.

T. Conser: Is there any other testimony in favor? Is there any testimony in opposition? Would staff like to expand on the report?

P. Spir: The basis for our decision was to go back to the Comprehensive Plan. This particular street in that plan is stated as a minor arterial. The intent is to take traffic from one area to another. The point was brought up that shared access could be allowed. We don't see that as any real solution. The Comprehensive Plan prohibits this kind of access. Based on these points, the explicit language of the development code, we had no other alternative but to recommend denial.

W. Wright: What kind of traffic count would there be in that area?

P. Spir: 1500 daily.

W. Wright: Would an access to Summit be any different?

P. Spir: It's the same problem as we talked about before as well as site problem and grade problem.

T. Conser: What are the dimensions of that lot?

P. Spir: It's about 120' from that intersection to the driveway that is existing.

T. Conser: John, do you have any recommendations from traffic safety?

W. Wright: I have another question of staff. Westerly along Rosemont there's a new house, was that always a tax lot that existed?

P. Spir: Apparently, or it would have run into the same situation.

J. Hart: Would the staff explain inverse condemnation?

D. Darling: Basically, it is condemnation without going through the hoops. I don't think the argument that this is inverse condemnation is a well-taken argument. You may say as of this date here's the rule and if you just didn't get lucky, you just didn't get lucky. I identify with where this lady is and with what her realtor is saying. We didn't get public hearing notices directly to their house, but there were public hearings. In the newspaper there were lots and lots of notices. We talked about what other avenues are available to this lady. I think there's a couple. I asked myself why she was not asking for a variance. You cannot vary a prohibition. A variance isn't open to her. The only alternative open to her is to change the code. She can initiate that herself or ask the Planning Commission to look at that. The only other way out you have is an interpretive one. Looking at page 3 of the staff report, it says, "Direct individual access..." is prohibited. The argument that the realtor is trying to make is that it is not direct individual access because we're going to use an existing driveway. Staff fears that if this is changed then it will happen on all similarly situated lots. It doesn't address the reason why that code section was put there in the first place. Beware of the long term effects of that interpretation. If you don't like the way the code is, I say we change the code.

W. Wright: Counsel, you interpret the prohibition as being in the quote on page 3?

T. Conser: (Continuing) I thereby alleviating the applicant from the \$650 fee for making changes in the code or bring forth a review of the code. But I would tend to want to leave the code intact as it is today because even if we only had 11 people on Rosemont that were affected, we still have other minor arterials as well as arterials that would certainly want to have equal consideration. I think we have to review the code as opposed to stretching what we have today. I probably won't get an opportunity to vote in this situation but I did want to express that.

What is the feeling of the Planning Commission? Is there a motion?

J. Hart: Mr. Chairman, I would move that the appeal be denied.

T. Conser: Is there a second to that motion?

M. Hupp: I'll second that motion.

T. Conser: It's been moved and seconded. Is there any further discussion? (There was none.) All those in favor of denial of the appeal signify by saying aye. (Aye) Opposed? (Nay) Would you please poll the Commission?

D. Darling: J. Hart, yes; M. Hupp, yes; W. Wright, no. Okay. The motion passes by 2 to 1 vote.

T. Conser: The appeal is denied. At this point the opportunities that you have available to you now are to continue the appeal to the final body which is the Council. That appeal must be filed within 14 days. I believe that that appeal would carry with it also a \$150 fee or if you can get the interest of two or more Council parties to pick up this appeal then they could bring it before them and waive that fee. That must be done within 14 days of the date of the final decision.

D. Darling: Does the Planning Commission want to initiate some looking into of this provision so she doesn't have to file to do that?

M. Hupp: I'd be very much in favor of us doing that, so that she would not have to file.

D. Darling: It would take a motion for the staff to look into possibly amending that code section and report back.

T. Conser: What that would be so that you can be aware, the code changes have already been identified and requirements for April which go before the Council for approval or denial in May. So between now and roughly August we would direct staff to review this particular section of the code and come back to us with the findings and that is support for leaving the code as is or changing it.

M. Hupp: I move that we direct staff to review 48.020(1) of the Development Code and report back their findings.

J. Hart: Second.

T. Conser: It's been moved and seconded. Is there any discussion? All those in favor signify by saying aye. (Aye) Opposed? (There were none.) The motion carries.

What we have done -- As a commission we have decided to uphold the Planning Director's decision on this issue thereby denying the appeal. As I explained to you, you can continue the appeal to Council at this time and it must be filed within 14 days which will be sometime in the next three days. The other things that we have done as a commission is recognize the possibility of either by discrepancies or circumstances that were not properly reviewed when the original Comprehensive Plan was adopted in 1983 -- The process is

J. Hart: (Continued) the sharing of a driveway. Mr. Schumacher says that to him this is not a serious problem but sharing of a driveway may not be equitable to people along Rosemont that want to divide their lots. So I would rather go back and look at this section in the code and see what its initial intent was and see if there is some way to accommodate the owner. If there is, then we will change it to accommodate it; and if it doesn't, then Mrs. Dunford and some of those people along Rosemont end up in the situation that many other people have found themselves in -- just out of luck. That's all I have.

T. Conser: Michelle?

M. Hupp: I tend to agree with Joe. I'm very much in sympathy with the situation and my concern is, is stretching it to an indirect and it's stretching. It is not horrible with one issue but when you are looking at a potential 12 or 11 -- this is the time to look at the code not trying to stretch this each time it comes up. I'm very much in favor of looking at the code.

T. Conser: Walt?

W. Wright: I have a question. If we set out to change the code or the wording of this particular area of this code, what time frame are we talking about?

P. Spir: We discussed this. I talked it over with Mike and he thought that with the case load of your reviews and so forth that it wouldn't be until the summertime before you would be able to give full consideration to this topic.

D. Darling: Which means a September date.

T. Conser: May is our next review and then September and January?

D. Darling: Yes. September would be the earliest.

T. Conser: There is something that I'd like to ask before we get any further. Here's a survey that was done in 1975, identified the property, identified the partition but there was no formal partition?

P. Spir: It has to be recorded.

T. Conser: And there was no actual partition filed?

R. Schumacher: Well, Don McIntosh did. Actually, when I talked with Mrs. Dunford she was under the impression that -- at first she said to go to the courthouse and check because she was sure it had been filed --

J. Hart: Mr. Chairman, I thought the public hearing had been closed.

T. Conser: I'm sorry. You're right. I apologize. I was just trying to clarify something.

W. Wright: I don't want to open a Pandora's box or start something that is going to be a precedent for skirting or stretching the code; however, I did listen to counsel's suggestion that if we chose to appeal the Planning Director's decision that the use of the driveway for commonality would probably be the best approach. I think accommodating Mrs. Dunford and her use of the commonality driveway would be what I favor.

T. Conser: I am personally inclined to want to stay with the code since the code is a changing, living code. I would be very strongly in favor of reviewing this application of this code and having staff come back to us and

T. Conser: (Continued) three times a year we look at the code and recommendation for changes are reviewed by this body and we make a recommendation to the Council, which would be the body that controls the Development Code. We implement it; they are the policy-setting body. The commission, by taking this step to review it, has eliminated a fee charge to the applicant. The only inconvenience is that between now and August you will be in sort of a limbo state as to what that decision will be. You are certainly welcome to continue testimony and input into this subject as it comes before various bodies between now and September. Is that clear to you?

R. Schumacher: Yes. If we get two City Council members then the \$150 will be waived?

T. Conser: Yes, that's correct.

R. Schumacher: What if we had a petition from a neighborhood group?

D. Darling: Not at this point. The only way you can get out of the appeal fee is to convince two City Council members to be the sponsor of the appeal.

T. Conser: Now, since we have already sponsored a review of the code, what is being referred to is that a neighborhood association can review and recommend review.

D. Darling: I'm checking on the fee waiver to see if there is any other way. No, there is no other way. It doesn't cover neighborhood associations.

T. Donovan: Is the reason that we can't get it on the April agenda is that we don't have the time or the Council is already full?

T. Conser: Primarily time to give it the proper study. The April agenda has already been set for us which means in May the Council will be reviewing any changes in the code. I'm sorry for the inconvenience but I would like you to know that also works very much in your favor as far as a land use code and although it has lots of flexibility to change, it's pretty well locked in by the community at large.

R. Schumacher: Thank you.

The staff and commission then discussed up coming meetings and schedules and the meeting was adjourned at 10:00 p.m.

The minutes of the West Linn Planning Commission regularly scheduled meeting on April 18, 1988, with the following Commission members present: M. Hupp, J. Hart, M. Riley, and Tim Conser. Members of staff present were: P. Spir, J. Montgomery, D. Darling, and J. Buckley. Also present: Pam Allen, reporter.

T. Conser: The applicant for the Hidden Springs Summit Subdivision has requested a continuation of their application to our next meeting, May 16th. Is that something that we can do?

D. Darling: Yes. What I think you ought to do is reopen the public hearing as to that item and then continue it to May 16th. That way we won't have to readvertise. Then we will put in a new application for the balance of the project and we will hear that, and a condition of that approval will be that they withdraw this application.

T. Conser: Okay. They are asking that it be continued to the June meeting. The 120-day time wavier has been signed previously.

D. Darling: Then you just need to continue it to the June meeting.

T. Conser: Now, Peter, that 120-day wavier would not cover us through June, at this point.

P. Spir: My understanding is that it goes to the end of July. We have checked the file.

T. Conser: I just want to make sure that it won't go into default because of that waiver.

Mr. Conser then spoke with two gentlemen in the audience, who were there for the purposes of hearing this item, and asked them if they would be interested in coming back on the 16th of May to see the proposal and they indicated that that would be fine. With that I'll go onto opening the public hearing.

I call to order the West Linn Planning Commission meeting of April 18, 1988, at 7:44; and I'd like to move directly to item No. 5 and reopen the public hearing for the purposes of continuing it to the June Planning Commission meeting.

Two gentlemen from the audience presented the staff with two letters for the staff to read. These two letters were given Exhibit Nos. O and P. A letter from Mike Butts was made Exhibit Q. Applicant's request was made Exhibit R.

With that, is there a motion to continue this hearing or are there any questions of the Commission?

J. Hart: I move that the public hearing be continued to the meeting of June 20, 1988, at 7:30 p.m.

M. Riley: Second.

T. Conser: There is a second; is there any discussion? All in favor say aye. (aye) Opposed: (There were none.)

Okay. The motion passes.

Would it be inappropriate to talk about my letter and the answer that I found out, that I assumed we would be discussing here tonight.

D. Darling: I think you should hold off until the public hearing. If there is other information that the Planning Commission wants for that meeting, I think it is appropriate to tell staff tonight. But to talk about new information is inappropriate.

T. Conser: The only thing I'm asking for in that letter is clarification of staff's position; history of the park, which you will be providing us, and history clarification on that cul-de-sac. I would like to know about changes that have been made concerning these projects.

Let's move to the second item, the open period for audience comments. Any comments or future agenda items? (There were none)

We will now go to the approval of the minutes of March 28, 1988. Are there any additions or corrections?

Pam Allen: Yes. On page 1 I put in a Mr. Cox, but I guessed at the spelling and I wasn't sure on the spelling for Mr. Buohl. That's about the third paragraph up from the bottom.

T. Conser: Any additional corrections?

There was some confusion, and I was hoping that Walter could be here

tonight to clarify this. The last paragraph on page 1 where he said, "I really tried to see Mike before he went out of town this generated my interest in talking to the people I was able to talk to." That is rather confusing and I was hoping that he could clarify that.

D. Darling: If you think he is going to want to amend that, you should not approve the minutes.

T. Conser: Are there any additional corrections to the minutes? Would the Commission want to hold these minutes over to the next meeting? Is there a motion to approve or to hold these minutes over to the next meeting?

J. Hart: I make a motion to hold these minutes until the next meeting, for approval.

T. Conser: Is there a second?

M. Riley: Second.

T. Conser: Any questions? All in favor signify by saying aye. (aye) Opposed? (There were none.)

Okay. I'd like to go to item No. 4, which is a one-year extension for Riverview Heights subdivision.

I'd call to order the public hearing at 7:55 for a one-year extension request for a tentative subdivision approval of Riverview Heights; location: bland acres area located northwest of Tannler Drive and Greene Street; applicant: Allen B. Pynn; file no.: MISC-88-12.

Are there any members of the Planning Commission who wish to abstain from this application? Are there any members of the Planning Commission who wish to declare a conflict of interest? Are there any members of the Planning Commission who wish to report any significant ex parte contact? Have all members viewed the site? Are there any members of the audience who wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge any individual member of the Planning Commission? For all those wishing to testify please be aware that if you fail to raise an issue in person or by letter tonight, you will be unable to raise that issue at a subsequent time of appeal.

At this time, I call for the staff report.

P. Spir: The applicant received tentative plan approval of the Riverview Heights subdivision on March 17, 1986, and the Planning Commission approved a one-year extension on March 30, 1987. The applicant is now requesting another one-year extension. The staff report said there are no changes in policies or ordinances for the tentative approval which would affect the application, and that is the basis for the approval of these extensions; it's come to the attention of staff that the Transportation Access Management study recommends that Tanner be reclassified from a collector street to a minor arterial. And with that new classification comes a prohibition on any direct individual access of Lots in the subdivision onto Tanner. For that reason, although we recommend the one-year extension, we also recommend (inaudible). We don't really see anything wrong with this, just that one issue about access.

T. Conser: My recollection of when this came up last year, is that we had asked to limit Lots 1 and 18 to access on Riverview Heights only. And Lot 19, we weren't quite sure what the requirement was. But I asked you to look into it. Subsequently, on the extension of 1986 there was a condition No. 12 added that stated upon review of the 1986 minutes regarding that, if access to Lot 19 continued to be restricted from Tanner Drive that those facts be included as a condition of approval.

P. Spir: It would be a good idea to include those in the conditions that Lots 1, 18, and 19 access Riverview Heights and 19 should do so by access easement across either 16, 17, or 18.

T. Conser: Since this a tentative plan would this fall under a Grandfather situation.

P. Spir: I don't believe so. Otherwise, we wouldn't have those types of approval criteria for extensions of tentative plans. I don't think it would enjoy any Grandfather status.

D. Darling: He's correct. Had they started to develop part of it and not been able to finish it in time, they would have gotten an extension, and they would have gotten Grandfather provisions. But because they had not started development, they have no vested right in the approval. So it's correct now to look at it as if it were a new one and apply whatever conditions you need to comply with changing the code since last time. So they don't develop at their peril.

T. Conser: Had the applicant been notified of the change in the code?

D. Darling: I don't think we're under any obligation to do so. He should be here tonight.

M. Riley: I have a question on the Greene Street part of it here. What's happened on that?

J. Hart: That's been vacated, I believe. I think that's a couple years old.

J. Montgomery: This plan calls for just 20 feet to be vacated, I believe. But the other portion may have vacated at that time or previously.

T. Conser: I was trying to quickly review about extensions and my understanding of extensions is they are limited to six months to a year. What is the maximum number of extensions or time period of extensions before you have to start anew?

P. Spir: Going by the Development Code in the approval criteria for the Development Code there's no mention of any limit just so long as we meet the criteria. I think it would be unreasonable though that they would be able to continue indefinitely.

T. Conser: No. 85.110 states that the Planning Commission has up to one year after an extension has been approved to act on that issue. It looks like the Commission is over the extension time of one year.

D. Darling: That's the way the Planning Director is interpreting the code. You can come back for no more than one year at a time. There is no limit as to how many of those extensions you can get.

J. Hart: I move that we close the public hearing.

T. Conser: Are there any questions of staff? Is there any further testimony on this application?

M. Riley: Second the motion.

T. Conser: It's been moved and seconded. All in favor signify by saying aye. (aye) Opposed? (There were none.)

Okay. The application, file no. MISC-88-12, is closed at 8:07.

What is the direction of the Commission?

M. Riley: I move that we accept the staff's recommendations on the extension of the subdivision approval of the Riverview Heights subdivision subject to the conditions as previously asserted and a new condition to wit: that access from Lots 1 and 18 be directly onto River Heights only and access from Lot 19 enter directly onto River Heights via easement and access easements through Lots 16 and 18 --

P. Spir: Could we state that it be a 15-foot wide easement?

M. Riley: -- and 15-foot wide easements?

J. Hart: Second.

T. Conser: It's been moved and seconded; is there any discussion? (There was none.) All those in favor signify by saying aye. (aye) Opposed? (There were none.) Motion passed.

T. Conser: (Continued) Any business from staff?

P. Spir: Stated what the upcoming issues would be for the next few months.

J. Hart: I move that we adjourn.

M. Riley: I second.

T. Conser: It's been moved and seconded. All in favor say aye. (aye)
Opposed? (There were none.)

The meeting was adjourned at 8:17 p.m.

WEST LINN PLANNING COMMISSION
SPECIAL MEETING
 June 13, 1988

The West Linn Planning Commission Special Meeting of June 13, 1988, was held with the following members present: C. Tryon, W. Wright, J. Hart, T. Conser, R. Crawford, Debra Zachman. Staff members present were P. Spir, D. Darling, J. Montgomery, John Buckley and Pam Allen, hearings reporter.

This special meeting was held after a worksession from 7:30 p.m. to 8:30 p.m. where the West Linn City Council and Planning Commission discussed wetlands.

The Planning Commission meeting started at 8:30 by Mr. Conser as chairman, opening the meeting. He asked for any comments from the audience regarding issues that they would like to see in the future or any comments that anyone had. There were no comments from the audience. He then introduced a new commission member: Debra Zachman and explained her qualifications and abilities to serve as a Planning Commission member. Mr. Conser then went right into item number 3 on the agenda: Conditional Use and Design Review request for a reservoir site; located west of Suncrest Drive at Hunter Way; file no: CU-88-01/DR-88-06. He opened the public hearing on this agenda item at 8:37 and Peter Spir gave a brief history of this item to bring us up to where the City is today. Mr. Conser then began the public testimony with Phil Smith. Mr. Conser qualified the Commission.

Phil Smith: My name is Phil Smith and I am vice president of Murry, Smith & Associates, Incorporated; engineers and planners in Portland, Oregon. Our address is 121 SW Salmon Street, Portland, Oregon. With me tonight is David Lebbbrandt from our firm. He is a project engineer on this particular project, and sitting to his right is Susan Oman of Oman/Jerrick Associates. Susan is the landscape architect that we retained for the project. Peter gave a real good history of the project, which I was going to do too, and I think I'll go ahead and do it anyway. This way maybe I can fill in some points in his presentation.

The water service to the Rosemont area -- I might just define the area we are talking about (Mr. Smith used a map on the wall) so you will have a better understanding here. Rosemont area, for water service purposes, is the area defined by this blue line -- above this blue line in elevation. The proposed site we are talking about is about in the center of that water service area. The Horton Pump Station is about at Horton Road and Santa Anita. Adjacent to it is the Horton reservoir, which is served by a pumping station at lower elevation down at the Bolton reservoir. The Bolton reservoir is served from Oregon City from the Southfork water supply. The water flows across the bridge, through a pipeline to the Bolton reservoir, which is the open reservoir. Water is pumped from there on to the Horton Reservoir and then from that reservoir to the Horton Pump Station. This pumps into the distribution system to Rosemont. The water supply system to the Rosemont zone began, as best as I can determine, about 1975 with the construction of the Horton Pump Station. The station, as it was constructed back in 1975 and presently exists today without substantial modification. At that time, the City had a water master plan in effect. It was a plan put in effect in 1969 that called for a reservoir in the Rosemont area, and why it wasn't built at that time I don't really know. But, nevertheless, the reservoir was not constructed. Rather the Horton Pump Station was designed to pump continually and to respond to a wide range of flow demands by a system of bringing pumps on and off in response to those demands. Also, that station included two gas-driven engines to serve as backup in case of a power failure.

In 1981 the City retained our firm to complete a water system master plan update of the 1969 plan. The prior plan was out-of-date and the population of the city had about doubled in that short period of time. The plan was completed in September of 1982 and, as Peter mentioned, there were many deficiencies noted in the water system, not just the Rosemont area but the rest of the system as well. And \$6 million of improvements were recommended.

I first became aware of the Rosemont zone and reservoir site in

Phil Smith: (Continued) January of 1982 when I had a meeting with the former city engineer, Mr. Wayne , and we were just getting starting gathering data on the water system and one of the items he brought up at the meeting was the fact that the Rosemont area had no reservoir and he was hoping that the particular site we are discussing tonight could be a site for a potential reservoir. He asked us at that time to look at it and advise him of whether this was a proper site for a reservoir. I think at that time he was beginning discussions with a developer. As this progressed, we did confirm that yes this was a good site for a reservoir. First of all, it was the highest point in the city. For that reason, an elevated reservoir, which would be required in this situation, it would require the least height of reservoir. In other words, in trying to achieve a water surface elevation and try to find the highest site to make the reservoir as short as possible. It also happens to be about in the center of the service zone which makes it most desirable. The Master Plan noted many deficiencies, but particularly in the Rosemont zone. The primary deficiency was no storage at a proper elevation. All the rest of the zones have proper storage and this is the only zone that does not. So the Master Plan recommended construction of a reservoir on the site that is shown in the plan and along with our Master Plan we had with the city was, at the time, working with the developer acquiring that site. This gives you some of the dates regarding how that progressed. Shown on Exhibit C, by February of 1982 that site had been identified and negotiations were proceeding and it was pretty well settled that that would be that site acquired and it would be donated to the city for a reservoir site.

During the Master Plan work we held a couple citizens meetings. We received public testimony at that time regarding the reliability problems of Horton Pump Station. There were a number of people indicating, complaining about low pressure and no water at times. So back in 1982, where our initial involvement began, was when the reliability problems of that station were identified. The Master Plan was completed in September of 1982, was submitted to the Council and adopted in Fall of 1982. The Council, in reviewing the plan, elected to proceed with the phase approach in implementing the recommendations of the plan rather than to go out for a \$6 million bond. The first phase was determined to be what is identified as emergency work. So you remember the emergency needs to help supply the Robinwood area. That project also created an intertie with Lake Oswego. So now the city has a backup source of supply, which it didn't have before. And there were several other pump station problems and that work was completed in 1984, as I recall. In 1985 the city staff became very concerned about continuing low pressure in the Rosemont area as development was continuing at a very rapid pace. So the Council determined to proceed with the Phase II program and within that program were the recommendations for improvements to the Rosemont zone plus construction of a transmission main to the Willamette area. That was put before the voters and the voters rejected that bond. In the summer of 1986 the Council imposed odd and even watering in the Rosemont area to attempt to reduce peak demands during the hot summer months. The odd/even watering was instituted last year, I believe, and will be instituted this year as well.

The Council then created in 1987 the Water System Task Force whose purpose was to review the Master Plan, review where the city was heading in terms of improvements to the system, and make recommendations on the physical improvements, and also financing. And also site review of this particular construction. Peter has pretty well outlined what that task force determined, and they confirmed there was a critical problem in the Rosemont area. They agreed that it would get worse as development continued. They have stated that the solution is an elevated reservoir on a city-owned site. And they presented recommendations for findings in those improvements. The task force examined many alternatives to an elevated reservoir. And some of those alternatives were constructing an elevated reservoir on the present site. Other sites were looked at. They are available. It would be possible to build on them, but they would be more costly for several reasons. First of all, the city does not own any of these other sites. They would have to acquire the site. In all cases, the reservoir would have to be taller because the ground elevation at those other sites is lower. That would result in a more costly structural foundation. There would be longer pipelines in all cases for these other sites. There would be easement costs for several of them. And finally, there would be some costs that the city had already invested into their pipeline system to accommodate

Phil Smith(Continued) the Rosemont reservoir at the proposed site, where its the Master Plan says the site should be here and the city had paid developers to oversize pipelines to accommodate that location. So all the sites were looked at, and estimates were made.

Other systems were also looked at including continuing with the present system which is a system which requires continuous operation of pumps to create pressure in the flow. That's what's going on right now. As contrasted to creating pressure in flow from water that has already been pumped and is elevated and is in storage ready to serve. Several alternate pumping-only schemes were looked at. And then also hydropneumatic type system was looked at, also. This involved construction of pressure tanks that are partially filled with water and partially filled with compressed air and the compressed air creates the pressure that's used to move the water. That particular system was rejected as being impractical to the size of area and the pumping-only alternative was rejected because it has problems with its current unreliability. So one of the things that the task force recommended that the Council set up a Citizen's Design Review Committee to work with the tank designers to assist them, and to get some citizen input. A bond election was held in September of last year and the voters approved the bond for the Rosemont reservoir.

In December of 1987, the Citizen's Design Review Committee was formed and began working with our firm in our design process for the reservoir structure. That design is completed and the work committee is completed and the design reflects the technical requirements of the Design Review Committee. That's the history of the project up to this point. The reservoir will be a steel structure. It has a reinforced foundation to it. It is what is called a single pedestal spheroid and the white model here illustrates the shape. It will be about 50 feet in diameter at its widest point and about 110 feet high. The Design Review Committee selected a bluish-grayish color. The site will be landscaped and an irrigation system will be installed. The site will be fenced with ornamental aluminum fencing. There will be no access to the site by the public. It will be access only by the city staff or authorized personnel. The structure will include aircraft lighting. The committee asked that we put aircraft lighting on the structure. The FAA does not require it. They would like to see it but it is not necessary. There will also be radio antennas on the top of the structure and that will be for city communication purposes. As part of the committee's work they asked us to prepare a model, and it's standing on the table here. It's a two-scale model showing the site and houses, and we'd be happy to answer any questions you have regarding that.

The structures are only built by a couple of companies and these are their catalogs. That concludes my presentation. If you have any questions, I'd be happy to answer them for you.

W. Wright: Mr. Smith, what's the purpose of taking down the Marylhurst reservoir?

P. Smith: Well, the Marylhurst reservoir is about 80 feet too low. It will not supply pressure to the higher elevations in the Rosemont area. For example, on Suncrest Drive when the pumps go out, the Marylhurst reservoir comes on line but it only gives about 10 pounds out on the street. It's at the wrong elevation. It was built before the Marylhurst area and was incorporated into the city system but was never intended to serve that whole area.

W. Wright: But using that as a supplemental source is of no value?

P. Smith: Once the Rosemont reservoir is constructed, it would just be dead water to be sitting there and never be used.

W. Wright: My next question is the proposed 16-inch transmission main, is that to supply other parts of the city or to fuel the reservoir?

P. Smith: That's to provide a route from the Horton Pump Station to the reservoir and, also, to allow the water to be transmitted back into the other areas of the zone.

W. Wright: Thank you.

P. Smith: Mr. Chairman, I didn't finish my remarks. May I continue?

I guess I wanted to summarize a few points. The first thing that I wanted to say is that I think the City of West Linn has done in this project what a city should do and that's plan ahead, get a Master Plan, acquire a site for a public facility -- they did what they were suppose to do: to obtain a facility, obtain financing for it. So I think the city has done the right thing.

The alternatives have been examined in depth. The citizens group has examined those alternatives. The city has designed what I think most people would think is a very attractive structure. These are considered to be more attractive then the present water reservoir structures even though they are a bit more expensive then these other types.

The city has designed some very high quality amenities to the site including landscaping, fencing, and irrigation to assure that the landscape looks good in the years to come. This reservoir is needed to correct a deficiency in the water supply system that serves the Rosemont zone. And it's a project that really affects the health, safety, and welfare in this community, and on behalf of the city, I would hope that you would approve the application this evening as the city staff has recommended. And we have no problems with the recommendations that the staff has put on there.

T. Conser: I would like to ask a couple questions regarding the landscaping. The vegetation and growth as shown, what level of maturity or what time line do you expect these to mature to the point to create a buffer or aesthetic environment to that structure.

P. Smith: The vegetation that's going in now and the trees on the outlying area will mature in about 15 years. Solid trees are 2 years and the outline trees are 15 years.

S. Oman: I feel that the trees aren't there to hide the structure, they are there to provide a buffer and add to the overall aesthetics of the area.

We can't guarantee how fast they are going to grow because they are living things. What we used were Douglas Fir and they can attain the height of 80 feet, but at no time is it intended that these are going to hide the structure. Because in our lifetime we aren't going to see them reach their fullest height. They will offer a screen to the structure.

T. Conser: Upon approval of this, what kind of construction time line are we looking at?

P. Smith: We would plan on a one year construction time for the contractor upon award. The activity on the site will be intense during certain periods of time, and others, there will be no activity. The painting of this structure is weather dependent; however, the structure can be built at any time regardless of weather. The painting will have to be done in the summer.

W. Wright: So it would be a year before it would actually be in use.

P. Smith: Yes, from the date of the contract award.

T. Conser: (The picture brochures of the different types of structures were made exhibits at this point.) Types of Storage we will make Exhibit E, and Water Storage Exhibit F.

At this point I'd like to call Mr. Mallett.

Bud Mallett: My name is Bud Mallett. I live at 1701 Carriage Way, West Linn. We have live here for 42 years. Eight years ago I sat at the same table, and I'm going to make the same statement when this subject of a water tower was discussed originally. We are abutting the property that the water tower is going to be built on. The only thing I have to say is there's nothing beautiful about a water tower unless your thirsty, you're taking a shower at five o'clock, or your house is on fire. Then a water tower is the most beautiful thing in the world. The only thing that I cannot understand is why 8 years has gone by now, and it isn't there. We need it, although we don't use West Linn water.

I might add, we have given the County and the City of West Linn over

Bud Mallett: (Continued) two-and-a-half acres of land at no cost to them. We've given them easements; we've done everything possible to help develop the city the way it should be developed but somehow, somehow it just isn't moving in the right direction. I don't know why.

Thank you.

T. Conser: Thank you, sir. I call Kim Elsey.

Kim Elsey: My name is Kim Elsey and I live at 1963 Sunburst, West Linn, Oregon. The previous gentleman made a point that I really want to make and that is that I think the real problem here is not necessarily -- we do have a water problem and it should have been solved eight years ago. I think that most of the residents who live in the Sunburst II area bought in that area because of the aesthetics and did not realize that a water tower was scheduled to go in there. I think that if most of the people that bought property in the Sunburst II area realized that a 110 foot water tower was going to be in their neighborhood, they wouldn't have bought houses in that area. It's unfortunate and I think the problem would have been solved if the city had put a 110 foot water tower in the area in 1982 before the Street of Dreams went in there so the people could really see what they got when they bought property up there. We would have liked to see what we were really buying when we had a search done on the property based on search specifications. I think that most people were very unaware of what was going to be constructed in the area. The type that was chosen -- I believe that the landscaping that the lady mentioned isn't necessarily going to make much of a difference to the aesthetics to the reservoir.

I'd just like to close and say that the cities surrounding West Linn -- Lake Oswego in particular -- to my knowledge have no water towers in the city. Every reservoir that I've seen is either below ground level or at ground level. I would prefer that the City of West Linn follow that lead, and a constructed reservoir isn't really going to keep the City of West Linn looking as pretty as it is today. That's all that I have.

T. Conser: Any questions of Mr. Elsey? Thank you, Mr. Elsey.
I call Ms. Kirkpatrick.

Margaret Kirkpatrick: My name is Margaret Kirkpatrick, K-i-r-k-p-a-t-r-i-c-k. For the record, my office address is 900 SW 5th, Portland, Oregon 97204. I'm here tonight as a representative for Steve Breum, Rich Barakat, and a number of the other homeowners in the Sunburst II residential subdivision. I believe that gives me 20 minutes. I'll try to be as expeditious as possible.

A matter that really hasn't been addressed so far in the presentation tonight is that in order for the applicant to obtain the city's approval of conditional use and design review in connection with the proposed reservoir, the applicant has to be able to demonstrate, and the city has to be able to find, that the proposal meets the design review standards and the Community Development Code, the conditional use criteria in the code, and any applicable policies in the West Linn plan. Unfortunately, four of the design review criteria, three of conditional use standards, and a dozen or so Comprehensive Plan policies are violated by the proposal that's been presented to you tonight. I'll go through those as quickly as I can.

As a beginning matter, we have pulled together some evidence to support the things that I'm about to say. It's in this delicate looking book here. I would like to take you through it bit by bit but we would be here until midnight, and I would exceed my 20 minutes. So I would like to submit this as an exhibit, and I hope that you will have an opportunity to read through it and take a look at the evidence that's contained in it to support the points that I'm about to make.

D. Darling: Did you by any chance bring copies for all members of the Commission?

M. Kirkpatrick: I didn't.

D. Darling: Can you do that?

M. Kirkpatrick: It's going to be a little bit difficult because there are photographs and maps and that sort of thing. I'll do the best we can.

Margaret Kirkpatrick: (Continued) I'll have to take it back in order to do that.

Beginning with the Design Review Criteria, the criteria are contained in Chapter 55 of your Community Development Code. The first applicant criteria, and I'm taking these in the order that they appear in the Code, requires the finding that there will be adequate distance between the on-site building and on and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection. The chart, submitted by the applicant attached to the plan staff's report, shows the proposed reservoir shadow patterns and this video tape addresses the same subject. This evidence demonstrates that the proposed reservoir will put 5 houses on the adjoining property into the shadow for varying periods of time depending on the location of the residence in relation to the reservoir and time of year. The information that you have in the records so far is based on a former location of the reservoir. The current location, I believe, is somewhat to the north and somewhat to the west of the location that was used to calculate. Nevertheless, we don't have update information about the new location. The old information shows that some of the houses will be in shadow up to two hours per day at certain times of the year. There's a possibility, I think, that the houses that will be put in shadow are the victims of violation of this particular standard.

The second pertinent criterion relates to scale. It requires that the proposed structure shall be of comparable scale with the existing structures on adjoining sites and shall have comparable architectural features with the structures on adjoining sites. The maximum building height in the R-10 zone, which is the height of the structures in this area, is two-and-a-half stories and 35 feet. The applicant's proposal calls for a 110-foot steel reservoir about 50 feet in diameter at it's widest point. The proposed structure is more than three times higher than the nearby residential structures, which clearly violates the comparable scale requirement. In addition, there are some photographs in this book that show the architectural features of the houses on the adjoining properties. I think when you look at those it will be clear that the architectural features of the proposed reservoir don't resemble the architectural features of the nearby houses. Again, violating this requirement.

The third Design Review Criterion relates to buffers. It says that there must be buffering between different types of land uses, and the adequacy of a buffer proposal will determine in part based on the buffers ability to provide a "visual barrier" between the different types of uses. Evidence, I think, demonstrates that the applicant hasn't been able to design a buffer that's adequate to provide a visual barrier between the residential structures and the reservoir use. Again, photographs in the book show the reservoir site from the back or front yards of some of the adjoining properties. They illustrate, by the use of a cardboard, cutout model of the reservoir, just how overwhelming the visual impact of the reservoir is going to be. There are also some photographs in the book of similar design reservoirs or water towers in Gresham and northwest Portland. These are only 100 and 105 feet tall, I believe, and they serve to demonstrate how inadequate a tree buffer can be. I think it's already been pointed out that the trees that are to be planted as a visual buffer initially will be 15 to 20 feet high. In 15 years, if things go well, they'll be 50 feet high. I think that the key factor here is that the extent the trees will buffer anything, they will buffer the stem of the pedestal, not the most offensive portion, which is the enormous bulb at the top. There are also some additional photographs in this book that demonstrate how difficult, if not impossible, it is to buffer a reservoir of this size from residential properties as close as these will be.

Finally, the design standards require that the applicant submit site analysis that addresses, among other things, potential natural hazard areas. The residents of the Sunburst subdivision have some concern about the wisdom of putting this structure in literally their backyards in light of some recent information that has come forth about the potential for earthquake hazards in this area. I won't go into a great amount of detail on this point, but the West Linn's Comprehensive Plan, both the present one and the past one, recognize that there are some faults in the area particularly in the area of where the reservoir will be located. Faulting in this area is not understood and the information is inadequate for making predictions about the likelihood of earthquakes. I think an earlier version of the plan notes that West Linn is vulnerable to an earthquake on either side of the

Margaret Kirkpatrick: (Continued) fault line, which is in the reservoir vicinity and the area along the bluffs facing northeast is particularly vulnerable, and that is the precise location of this reservoir. Perhaps more importantly, a number of things have indicated that the chances for a catastrophic earthquake in the Pacific Northwest, in the Portland area, are far greater than anyone had formerly thought. There are some articles in this book by a number of authors and geologists one of which says that based on current information that we will be looking at an earthquake registering 9.5 on the Richter scale. Nobody knows when, but it is a possibility. There's an article from the Oregonian that says "A lethal weapon in the form of one of the strongest earthquakes in history may be aimed at Portland and Seattle." This is based on information from the Canadian Geological Survey and has prompted USGS to commence a \$1.5 million, five-year study aimed at this question. Finally, in response to this new information, the State Department of Geology and Mineral Industry is urging municipalities to plan now for earthquakes including re-examing their building codes and zoning codes. I am afraid that this probably means that the current earthquake standards that exist in the Development Code may not be quite up to the things that they are predicting right now. I'd like to point out right now that you have some Comprehensive Plan policies about minimizing potential damage from earthquake, and I think this proposal violates the Comprehensive Plan policies right now. Given the inadequacy of the information that we have about the seismic activity in the area, new evidence of earthquake risk, and the fact that the proposed reservoir site is the most vulnerable to earthquake hazards in the West Linn area, it would be foolish to construct a water tower on this proposed site at this time.

Turning now to the Conditional Use criterion. In order for the city to grant the applicant's request, the city has to be able find that the site size and dimensions provide adequate area for aesthetic design to mitigate any possible or adverse effects for the use from surrounding property. Such finding would not be possible in this case. The evidence shows that some of the residences will be in the shadow, that's clearly an adverse effect. The evidence shows that the buffer will be inadequate. I think most importantly there are two appraisals contained in this book which demonstrate that property values of the surrounding neighbors will be pretty substantially damaged if the reservoir is constructed on the site proposed. The first is an appraisal prepared by Allied Real Estate in connection with Mr. Breun's residence that shows that the reservoir will increase the time it will take for him to market his property if he decides to sell it and will decrease the value of his property a minimum of 10%, more likely 20%. Secondly, there's a study by R. J. Frank done in 1982. That study examined the sales pattern for Lots located next to a number of water facilities located in the Portland metropolitan area. One in-ground water tank in Milwauke. The second was a 50 foot tank and 80 foot tower in Gresham, and the third was a 50 foot tank in Tualatin. The study shows the loss of value to those Lots, due to the presence of the towers and tanks, ranged from 6 - 11%. The increase holding period brought that loss up to 16½%. The proposed reservoir is higher and, therefore, more offensive than any of the facilities that were looked at in the 1982 appraisal. I'm afraid that the loss in thousands and thousands of dollars to the property owners adjacent to the site are negative impacts that can't be mitigated by aesthetic design treatment so that Conditional Use criterion would be violated.

Second criterion was the site characteristics and that requires that the characteristics of the site be suitable for the proposed use considering its size, shape, location in topography, and natural features. The location of the proposed site in the middle of a residential development is inappropriate for two reasons: first, the appraisals and marketing studies demonstrate that the concurrent compatibilities between residential uses and a water facility of this size renders a site unsuitable in terms of location; secondly, the evidence about buffering shows the site too small for development of adequate visual barriers between the reservoir and the houses. That renders the site unsuitable in terms of size.

The final Conditional Use criterion that we're concerned with here tonight has to do with community need. The code requires the city to find that the grant of the proposal will provide for a facility that is consistent with the overall needs of the community. This standard isn't satisfied by the current proposal as the applicant's evidence of need is both out-of-date and contradictory. In addition, to the extent that need can be shown for

Margaret Kirkpatrick: (Continued) a facility in the area, it can be better satisfied by alternatives to the reservoir. Turning first to the question of need for the storage capacity. The 1982 water study that was done by Murray, Smith & Associates identified the need in the Rosemont area for a 1.93 million gallon facility. That was based on essentially four things: one, projections of population growth in the area; two, land use designations in the area; three, estimates of per capita daily water use requirements; and four, a finding that the area above the Robinwood zone would best serve the Rosemont zone. Five years later the applicant is saying that this area only needs a 400,000 gallon reservoir. The difference has been given is that the city decided not to build a school in this area, and that the population is growing less quickly than projected at the time of the 1982 study. An additional point, as I understand it, the applicant is also saying that this current 400,000 gallon reservoir is adequate to serve about 317 acres currently outside the urban growth boundaries. Not only is the applicant saying well, we needed 1.93 million in 1982; we only need 400,000 now and it will serve an additional 317 acres. There is no evidence I've seen justifying an 80% decrease in the size of the reservoir over the last couple of years. The huge discrepancy between the 1.93 million gallon size and the current 400,000 recommendation raises at least two concerns, and I have not heard either concerned addressed. The first is the possibility that if the need could have decreased 80% in the last five years, who's to say there is a need at all. I think you need to look closely at the figures and try to determine just what this 400,000 gallon is based on. Without any evidence to support the 400,000 gallon figure, it's tough to know what's required. If the reservoir isn't needed, the construction will be a useless expenditure of taxpayer's money and the harm to neighboring properties will be completely unjustified. I don't think that's a result that's consistent with the overall needs of the community. As a footnote, I think it's sobering to think about what would have happened if West Linn had rushed out and built a 1.93 million gallon reservoir in 1982 when it was first recommended. I'm sure that would have been a very costly endeavor, and a mere five years later it turns out not necessary. So I think it behooves you to look a little more carefully at the information underlying in the proposal. Now, that line of reasoning suggests (inaudible). The flip side of that is that if it was 1.93 million gallon that was needed in 1982, how do you know that you need less than that now. As I say, the two reasons I've seen for the decrease in size: slower growth rate of population and no school being built, the evidence doesn't really demonstrate to me that the population growth in West Linn is slowing down all that much. 1977 figures, which were relied on in 1982, showed a year 2000 population of the city of 17,500; the 1981 figures that are relied on in the current plan, show a projected population of 17,300. Even if the population growth is slowing down, the 1.23 million gallon need was based on need by the year 2000, and 1.93 million gallon for ultimate build out of the Rosemont area. That ultimate build out is going to occur eventually whether it happens as quickly as they thought in 1982 or not. I think there's a possibility to suggest that a larger reservoir is needed. If that is true and this reservoir is built today, it's just going to be a stop gap measure because if the city is going to need a larger storage facility at some point in the future, you might as well get the information together and build a reservoir that you are going to need now. Sort of a legal point, I guess, and that is that the burden is on the applicant to demonstrate the compliance with these criterion. I'm raising questions. I don't have any answers. I think we need to look at the applicant and say justify your size, justify your figures.

Related point. If there is additional need for storage capacity, and I've heard many people say that, the need can be better satisfied by other alternatives that would be more in the public interest. Mr. Smith had indicated that the city had looked at some other alternatives in the past. The residents of Sunburst asked another engineer to take a look at this situation for them. There's a report from (redacted name) reviewed the 1982 water study and the alternatives, and concluded that the public interest would best be served by expansion and upgrading of the Horton Pump Station. I would urge you to take a look at that. The conclusion of the engineers is that it will provide the storage capacity that is needed, that the pumping is as reliable a method as gravity flow, and this is something that is shown in a number of reports that are in the evidentiary booklet here tonight. There is a statement by ISO, Insurance Service Office, that rates cities for their insurance, and ISO does not

Margaret Kirkpatrick: (Continued) distinguish between gravity flow and well-designed pumping systems in terms of insurance rates are equally reliable.

Also, there are some alternative sites for an elevated reservoir that I think would be more in conformity with the Design Review and Comprehensive Plan criterion. There's two sites west of the proposed site, one of which is pretty much the same elevation and the other one is a little bit lower. I think that given their distance from residential development, if it turns out that a larger reservoir is needed, either of those sites would be much more suitable because they aren't in the middle of a currently developed residential area. Again, I would urge for exploration of those alternative sites.

Finally, the proposal must, in order to be approved, comply with the applicable policies of the Comprehensive Plan. This proposal violates some of the public service policies. General policy number 10 requires capital improvements, programs for major public facilities to consider the required capacity based on the Comprehensive Plan, and the Comprehensive Plan indicates that perhaps a larger reservoir is needed than the one that is being proposed tonight. Also, facility plans have to consider the current 1982 Water Plan Study and that indicates that a larger reservoir is required. There are some residential policies in the Comprehensive Plan, one of which requires the city to protect existing residentially developed areas from incompatible land uses. We have incompatibility here in terms of review, impact, shade, particularly the property values. There's a policy requirement that the city minimize the removal of the community review area. I think that's violated. I've already mentioned the potential violation of the natural disaster and hazard area policy in the Comprehensive Plan.

One remaining category of Comp Plan Policies that I haven't mentioned are the urbanization policies. Generally, the crux of the urbanization policy is to ensure that the land inside the urban growth boundary is developed and development outside the urban growth boundary is scrutinized very, very carefully and is contained. As I've indicated, there's been some suggestion that this water tower would be designed to serve 317 acres outside the current urban growth boundary. I would suggest that if the reservoir is built and has that access capacity, that's going to build some momentum for development outside the urban growth boundary in contravention of the urbanization policies.

In summary, I think we've got some serious questions here about the applications compliance with the Design Review criteria, with the Conditional Use Standards, and with the Comp Plan Policies. I urge you to take a second look at it. I hope I haven't bored you too badly or run over too much. I'd be happy to answer questions.

T. Conser: Any questions of Ms. Kirkpatrick?

D. Zachman: I have one. Could you please repeat the two alternative sites that you mentioned?

M. Kirkpatrick: My understanding is that there is a site that's approximately 600 feet to the west. I don't know whether or not it is available, but I understand it is an alternative site. Again, to turn to the cost issue on the alternative sites, Mr. Smith had indicated that alternative sites would be more costly because of land acquisition, the tower would have to be a little higher, longer pipelines, and costs incurred by the city to date. I think both of the alternative sites that I have been informed of are in the general area, if the city would sell the site, it would have some money to use to put towards the acquisition of an alternative site. There's another a little further to the left, I believe it is outside the urban growth area in an undeveloped area. I would probably prefer to defer to Mr. Smith for further information on alternative sites.

J. Hart: Could you repeat the named of the people you represent?

M. Kirkpatrick: Yes. Steve Breum, B-r-e-u-m; Rich Barakat, B-a-r-a-k-a-t. They are representatives of the Sunburst II neighbors and neighborhood association.

T. Conser: Any further questions?

D. Darling: Tim, I have a couple.

Does your evidence packet contain any information regarding purchase price that Mr. Barakat or Mr. Breum or anyother members you represent paid for their Lot when they bought it.

M. Kirkpatrick: I don't believe so.

D. Darling: Do you know that information.

M. Kirkpatrick: No.

D. Darling: Do you know how the purchase price of their Lot compares to the purchase price of other Lots in the area or farther away from --

M. Kirkpatrick: No. There's a map with prices on it -- let me see if I can find what you're looking for.

D. Darling: It's been staff's assumption all along, it may be an incorrect one, that your argument regarding the decrease of property value was really taken care of because they paid less for their land to begin with; because it has always been known to be adjacent to a reservoir.

M. Kirkpatrick: Well, I'll tell you. Just by looking at this, if these are the prices that the Lots actually went for, it wouldn't bear that out. Because the closest one that I'm looking at shows \$155,000 and across the street is \$152,500. Again, the acreage might be different.

D. Darling: That's for the developed site. I'm talking about the initial purchase price of the Lot.

M. Kirkpatrick: I don't know. I don't have that information.

D. Darling: Okay. That's all I have.

M. Kirkpatrick: Just a quick question. Would you like me to take this and reproduce it for all of you.

D. Darling: I think you are being asked to mark it as an exhibit, which you are free to do. I would suggest that you make the video tape a separate exhibit. And I guess the question is, if you are going to review it do you want to take turns looking at that one or do you want individual copies.

T. Conser: How long would it take to get the copies?

M. Kirkpatrick: I could probably have them out here tomorrow afternoon. How many copies would you need?

D. Darling: I think you should make 8 because the 8th one will become part of the record and the staff will each need one.

T. Conser: And the videos the same? I have no idea what's on the video.

M. Kirkpatrick: The video tape is intended to demonstrate the shadow pattern of the reservoir. I haven't seen it. It demonstrates how the shadow moves around, over, and above the houses. I think that is actually the same information in the applicant's shadow pattern.charts.

T. Conser: Has the applicant seen this video?

P. Smith: No.

W. Wright: Who prepared this video?

Steve Breum: I did.

T. Conser: what it during the same time that the applicant was making their --

Steve Breum: No.

T. Conser: So, I can't see accepting that information unless the applicant has had an opportunity to see it. All this information --

D. Darling: You could mark it as an exhibit-- I think you should mark it as an exhibit, but I think you're saying whether or not you should close the public hearing.

T. Conser: That's true. And whether or not the applicant has an opportunity to rebut any information that they have not viewed. At this point, that has not been viewed by the applicant.

D. Darling: I think at this point your question is do we receive it as an exhibit or do we deny it. I think we should accept them both and mark them as exhibits. Exhibit G for the book, and Exhibit H for the video. Do you want copies of the video for all members?

W. Wright: I'm just interested in the qualifications of the people who made the video are they solar engineers?

D. Darling: The issue -- if they want to offer this as evidence you take it, but the value you put in it depends on what you're told about how it was made and the qualifications they had. You're duty bound to take the exhibit.

W. Wright: I think the city in its handling of this new solar issue is so new that very few people in this room could intrepret it.

M. Kirkpatrick: I think it has the same information and is intended to convey the same information that you have on the charts that are attached to the staff report. The problems with both those charts and the video tape is that they weren't made -- calculations weren't made based on the current location of the reservoir.

P. Spir: I take exception to that. They are in fact. They show two lines. One line shows the original location and the second set of lines shows the correct, new location.

T. Conser: We would need to have 5 copies of this based on the number of members who have said that they would like to view it. (referring to the video)

M. Kirkpatrick: I should be able to get those video copies to you by the end of the week.

W. Wright: I just have one other question. Where are the other two sites that are of interest to the homeowners association. Could somebody help me out?

P. Smith: I could probably help you out.

T. Conser: Could you merely point them out, at this time.

P. Smith: We were asked by the task group to pick alternate sites. Original north of the site is where all the radio antennas are -- (Mr. Smith used the map on the wall to indicate where the sites are located.)

T. Conser: All right. Any additional questions? I have no more requests for testimony at this point.

D. Darling: We need to make some clarifications on exhibits. We need to mark the large map as Exhibit I and the drawing as J. I don't think that the drawings themselves of the water tower have yet been marked.

T. Conser: We need to mark the model. That should be K.

D. Darling: Those drawings will be L. The specs will be submitted later by Mr. Smith.

T. Conser: If I get the drift of what's going on here, we probably need a continuation and if we wish to take additional information I think it should be provided. All of this here would be a preliminary process at this point, the final would be to the Council.

D. Darling: No. The final would be here.

T. Conser: Then we will need a copy of those specs.

D. Darling: And I think since Ms. Kirkpatrick has provided a copy of her evidence for the applicant, the same should be provided her.

T. Conser: I think we need to have the final specs and then staff would need to review those, and a copy of that needs to be available to Ms. Kirkpatrick. With that, is there further testimony at this time? We have an option of closing the public testimony, if the commission feels comfortable or continuing it. Rebuttal is available, but do we want to go into a rebuttal at this time because we are asking for more information.

D. Darling: I don't think you have the option to close the public hearing.

T. Conser: The applicant hasn't had a chance to review what we have accepted into evidence, and I'm sure his rebuttal would be affected by that information.

P. Smith: I think Ms. Kirkpatrick has raised so many issues that I think it would be impossible to respond tonight. Obviously, we need to review it.

W. Wright: I move we continue it.

D. Darling: To July 18th --

T. Conser: July 18th is Hillwood PUD.

P. Spir: Hillwood hasn't come in yet, so they are going to be continued anyway.

D. Darling: If this issue comes in first, then Hillwood will go to August.

W. Wright: All right. The 18th of July at 7:30.

J. Hart: Second.

T. Conser: It's been moved and seconded that the application be continued to July 18th at 7:30. Is there any discussion or concerns or questions? All those in favor signify by saying aye. (aye) Anyone opposed? (No one was opposed.)

Okay. Motion passes.

W. Wright: Excuse me. I'd like to make a request of our reporter. Could we have the minutes early on.

P. Allen: Yes. Is two weeks okay?

W. Wright: That would be fine.

P. Smith: I'd like to have a copy of the minutes, please.

At this point in the meeting a short break was taken. The meeting then reconvened at 10:30 p.m.

MINUTES OF THE WEST LINN PLANNING COMMISSION
SPECIAL MEETING OF JUNE 27, 1988

Members present at the meeting were Ron Crawford, C. Tryon, M. Riley, D. Zachman, W. Wright, J. Hart; staff members present were P. Spir, D. Darling, Earl Reed, John Buckley and Pam Allen, hearings reporter. Mr. Tryon was chairman for this meeting. Meeting began at 7:30 p.m.

C. Tryon: Opened the meeting by explaining to the members of the audience how a planning commission meeting works and invited any comments from the audience regarding any comments they would like to make or any items that they would like to see put on future agenda. He explained that if they wanted to speak or go on record as having a concern, they must fill out one of the forms on the back table and hand it to the staff. He also explained the time limits on testimony and the process by which staff and audience will have their chance to present information.

The first public hearing will be item No. 3 on the agenda, which is a zone change request from FU-10 to R-10. The location is the end of Warwick Street, bounded by Parker Road and Lancaster Street. The applicant is Mark Bevel and the file number is ZC-88-01.

First of all, you need to be aware that if you fail to raise any issue tonight by public testimony or written letter, you will not be able to raise that issue at a subsequent time on appeal. Do any members of the Planning Commission wish to abstain from these proceedings? Does any member wish to report any ex parte contact on this issue? Does any member of the Planning Commission wish to challenge the jurisdiction of any individual member to hear this matter? Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge the jurisdiction of any individual member of the Planning Commission to hear this matter? At this time I would ask for a brief summary from staff.

P. Spir: Gave a brief summary of staff's findings in which he stated that staff recommends approval of the change from FU-10 to R-10.

C. Tryon: Thanked Peter for his brief summary and asked if the applicant was present, and would he like to give a presentation.

Mark Bevel: My name is Mark Bevel. My address is 2794 Lancaster. Mr. Bevel stated that he was justing applying for this rezoning as stated for a proposed building site. He had read the staff report and was familiar with it.

C. Tryon: Does anyone have any questions for Mr. Bevel? Okay. Thank you. Does anybody in the audience wish to testify in favor of this application? Does anyone wish to testify in opposition? Does anyone wish to testify on a neutral stand or have any general questions? Okay. Then I will ask for a complete report from staff.

P. Spir: Explained what this application was about. A simple zone change from FU-10 to R-10 that the city recommends be done. Staff did not provide any conditions for approval.

C. Tryon: Asked if there were any questions of staff.

M. Riley: You did not comment on whether or not it had been annexed.

P. Spir: It was annexed in September of 1977.

C. Tryon: Asked if there were any further questions of staff.

R. Crawford: I make a motion that we close the public hearing.

D. Zachman: I second.

C. Tryon: It's been moved and second that the public hearing be closed.

C. Tryon: (Continued) All in favor. (aye) Opposed? (There were none.) Public hearing is closed. Does the Planning Commission have any general comments or could I hear a motion.

M. Riley: I move that we accept the recommendation of the Planning Staff on file no. ZC-88-01 to approve the zone change from FU-10 to R-10.

J. Hart: Second.

C. Tryon: It's been moved and seconded that this application be approved. Is there any discussion? (There was no discussion.) All in favor? (aye) Opposed? (No one was opposed.) Motion carried. Application approved.

I open the public hearing for the amendment of the tentative subdivision/PUD development for Hidden Springs Summit, Phase III. File No. SUB-88-01/ZC-88-02. The applicant is Jerry Palmer.

Mr. Tryon explained the rights of the people attending the meeting regarding testifying and appeal, then he qualified the commission. Mr. Riley abstained from this public hearing because he had abstained before on this issue.

Mr. Tryon then called for a brief summary report from staff.

P. Spir: Gave a brief history of this issue stating that the applicant is proposing to amend the Tentative Subdivision Plan/PUD for Hidden Springs Summit which was approved by the Planning Commission on June 30, 1986. The approved plan/PUD called for 14 duplexes and 43 detached single-family units, plus a 2.8 acre parcel of land which at one time was the proposed site of an athletic club and later was designated as a "future study area". This amendment proposed just 43 detached single-family units with an average lot size of 15,000 square feet.

To approve a Planned Unit Development, the provision of Section 24.180 must be met. Approval criteria 24.180(A) requires compliance with the Land Division Code (Chapter 85). Those provisions will be satisfied later in the findings for the subdivision. Criteria 24.180(B) requires compliance with Chapters 33, 34, 38, 40, 42, 44, 46, 48 and 52.

Again, I remind you that the variance that was originally called for has been deleted.

C. Tryon: At this time, I'd like to ask the applicant to step forward.

Jerry Palmer: My name is Jerry Palmer. My address is 700 SW Taylor, #305; Portland, Oregon 97205. I am representing the Hidden Springs Summit, Inc. Mr. Palmer stated that the proposal being presented tonight has been thoroughly worked through with staff and does not call for any additional modifications of the PUD. He is here tonight requesting approval for the third and final phase of Hidden Springs Summit. He stated that he concurs with the staffs findings and recommendations and that he concurs with the recommendations of Earl Reed in his memorandum of June 20, 1988, which states that the cul-de-sac width should be 32 feet and not 28 feet.

Mr. Palmer stated that he had no further testimony at this time but would like to reserve the right to respond to the questions that the Planning Commission may have or to questions of staff or the audience.

C. Tryon: Thanked Mr. Palmer for his testimony and asked that the following memorandum from Earl Reed, Public Works Director/City Engineer, be read into the record:

"To: Chairman Tim Conser, and the West Linn Planning Commission
From: Earl R. Reed, Public Works Director/City Engineer
Date: June 20, 1988
Subject: Hidden Springs Summit P.U.D.

The "HIDDEN SPRINGS SUMMIT P.U.D. PROPOSED AMENDMENT PLAN" is in agreement with the CITY OF WEST LINN STREET/UTILITY DESIGN AND CONSTRUCTION STANDARDS except for the three, short cul-de-sacs that intersect Bellevue Way. These three cul-de-sacs have a curb-to-curb width of twenty-eight (28) feet while the recommended minimum width in the STREET/UTILITY DESIGN AND CONSTRUCTION STANDARDS is

C. Tryon: (Continued)

thirty-two (32) feet. The Public Works Department, the Engineering Department, the Traffic Safety Commission, the Fire Department and the Police Department all recommend the thirty-two (32) foot curb-to-curb width as a minimum for cul-de-sacs. They also recommend that if the twenty-eight (28) foot width is constructed, prior to issuance of any building permits, "No Parking Anytime" signs should be installed to provide for safe traffic operations. The City has experienced operational problems with twenty-eight (28) foot wide streets in the sense that parking cannot be allowed as well as providing two lanes for moving vehicular traffic. The only solution (however undesirable) is the installation of no parking signs."

Next, I would like to ask for anybody in favor of this application to please come forward now and testify.

Gary Taylor: My name is Gary Taylor. My address is 2923 Bluegrass Way. I'm representing Bluegrass and Ascot. Mr. Taylor presented a petition with 46 signatures on it from the Bluegrass and Ascot neighborhood. He stated that they are generally in favor of the proposal but are concerned about the street widths that are being proposed. This petition was marked as an exhibit.

Kelly Bean: My name is Kelly Bean and I live at 1931 Hunter Way, West Linn. Mrs. Bean spoke on this issue stating that she was in favor of the overall plan but thought that issue no. 9 had been resolved at an earlier meeting. She did not think that Hunter Way/Derby should become a thoroughfare. She approved of the plan other than no. 9.

C. Tryon: Okay. Is there anyone else who wishes to testify in favor of this application?

Diane Tirjer: My name is Diane Tirjer and I live at 1930 Aztec Ct., West Linn. She was in favor of this application with one exception and that is that she wanted a Lot line adjustment between Lots 11 and 12 in order that the view from her residence not be affected. She then pointed out the Lots she was talking about on the map on the wall. Mrs. Tirjer also asked about a few trees on Hidden Springs Road and what was the status of those trees. She was told that staff would address that issue later on in their presentation.

Audience Member: Spoke regarding Section 9 in the application. She was generally in favor of the application stating that she thought that Hunter Way should go through giving greater access to the park.

C. Tryon: Then asked if anyone wished to testify against this application. (There were none.) He then asked if anyone wished to speak on a neutral basis or just speak in general about this application. (There were none.) Then he asked for the staff report.

P. Spir: Referred to the staff report that the Commission members had and said that he would touch on some of the more important points. He said that staff had referred to Chapter 24 of the Development Code for this Planned Unit Development. Chapter 33 deals with Density Computation and Limitations. The underlying zone is R-10 with a 10,000 square foot minimum lot size. The proposed lots range from 10,400 to 23,750 square feet, averaging 15,500 square feet. The underlying zone allows for up to 68 lots (10,000 square feet each), so the proposed 43 lots are well below the maximum density permitted. All lots do meet the dimensional requirements. Chapter 34, 38, 40, 44, 46, 48 are not applicable. Chapter 42 deals with Clear Vision Areas. They do apply at all intersections. All plantings, landscaping, walls, or signs must be below three feet within the clear vision areas. Referring to Criteria 24.180(C): Relationship to Natural and Physical Environment. The site slopes gradually so that the

P. Spir: (Continued) street and lot configuration is unaffected by topography. There are no site constraints. The large lots shall provide adequate distance between homes for light and air circulation. Approximately 23 of the lots are oriented on the north-south axis to take advantage of the sun. Moving down to Criteria 24.180(H): Landscaping and Open Space. The 25 percent requirement for landscaping is satisfied by the large lot sizes. The streets will be lined with Maples, Ash, and Pear Trees. Arborvitae hedge will be planted on Hidden Springs Road. The developer is providing well in excess of the 25 percent requirement for this landscaping. Criteria 24.180(I): Access and Circulation. The three access points to the subdivision are adequate. The circulation is laid out to provide emergency access to the various phases of Hidden Springs Summit via Bay Meadows Drive off Hidden Springs Road. Sidewalks will be provide

Turning now to the approval criteria for the subdivision as contained in Section 87.070 of the Development Code, referring to Section 87.070(3a) which requires compliance with the Comprehensive Plan Map. The Comprehensive Plan designates the area as residential, and Section 87.070(3b) requires compliance with the Zoning Code which was satisfied earlier in the P.U.D. approval criteria. Section 87.070(3c) relating to the Hillside Protection and Erosion Control Standards, is not applicable since there are no significant slope conditions within 200 meters of the project.

Moving along to the recommendations. Based upon the stated findings, staff recommends approval of the amended Planned Unit Development and Subdivision. The conditions listed in the report are considered appropriate and shall replace and supersede any conditions previously imposed on this phase of the development:

1. Design or locate masonry and landscape entry treatments to satisfy provisions of Chapter 42, Clear Vision Areas, subject to Planning Director approval.
2. Establish CC&R's which limit removal of trees of six-inch or greater caliper after home construction; said CC&R's shall be subject to City Attorney approval.
3. All roadways shall have one-piece curb and gutter.
4. Proposed fill areas must be engineered, subject to acceptance by the City Engineer.
5. Street trees shall not be planted within sixty (60) feet of any intersecting streets without approval of the City Engineer.
6. Utility plans and phasing shall be subject to City Engineer approval.
7. The right-of-way for the completion of Hidden Springs Road shall be dedicated to the City of the time of development of Phase III or the submittal of the Final Plan for this phase.

There are some changes on condition no. 8:

8. The cost for a full one-half street improvement plus a 10-foot travel lane on Hidden Springs Road shall be determined by the City Engineer. Applicant shall deposit funds toward the development of Hidden Springs Road. The road shall be completed no later than September 15, 1989. THE NEXT TWO SENTENCES SHALL BE DELETED: Applicant shall deposit funds at the rate of 1/50th of 120 percent of the total road cost for each acre of Phase IV, V, and VI that is developed. The deposit can be waived by the City Staff upon satisfactory proof that the equivalent funds have in fact been spent on the road improvements. It should continue to read, Upon acceptance of street construction plans or final plat approval, whichever is first, applicant shall set aside through an irrevocable letter of credit or other agreement acceptable to the City, sufficient funds in excess of the existing deposit to equal the cost of the total street improvement as set forth above. Applicant may obtain building permits (DELETING THE WORDS PHASE IV, V, VI) prior to actual completion of Hidden Springs Road if the above fund guarantee is provided. Applicant may draw on the deposit fund for use on the street upon the City Engineer's consent. (ADDING THE WORD ENGINEER'S AND DELETING THE WORD STAFF'S) If the road is not completed by September 15, 1989, then applicant shall immediately forfeit to the City the balance of the deposit fund and the letter of credit sufficient to complete the street improvement on Hidden Springs Road. All funds deposited shall be specifically earmarked for

P. Spir: (Continued) development of Hidden Springs Road.

Condition no. 9 has some changes also. It should read, To facilitate internal circulation by emergency vehicles on Derby Street in Hidden Springs Summit, Phase II, Derby Street, shall be extended, prior to issuance of building permit, (ADDING THE WORDS, PRIOR TO ISSUANCE OF BUILDING PERMIT) to connect with Hunter Way in the Sunburst Subdivision. The temporary cul-de-sacs shall be removed. (DELETING THE NEXT SENTENCE: THE CITY SHALL DEED BACK THE 16-FOOT RESERVE STRIP.) In place of that sentence we will put that the applicant will pay for condemnation of the 16-foot strip. The remainder of condition no. 9 will be unchanged.

10. Fire hydrant on Lot 17 must be moved to the southwest corner of Lot 18.

11. Bay Meadows Street shall be named Bay Meadows Drive.

We go now to the new condition that states that the pending amendment application to create permanent cul-de-sacs on Hunter Way and Derby Street shall be withdrawn. This would fit in with condition no. 9.

Condition 13 shall read: The 10-foot tree protection deed restriction shall be established for the west edge of this phase by CC&R conditions and restrictions.

W. Wright: Why weren't these sent to us prior tonight, Peter?

P. Spir: We weren't able to make the packet deadline by the time it was sent out.

Peter addressed the subject of trees on Hidden Springs Road and referred the audience and staff to the staff report where there is a tree map that shows where trees will be planted. Some trees would be saved but he did not have that information tonight.

J. Hart: Wanted to know if changing the Lot lines would preserve the view of other lots.

P. Spir: Stated that just because Lot lines were changed did not mean that that would preserve a view on any particular lot.

D. Darling: Brought up the issue of Hunter Way/Derby Street being a through street. Would the Commission care to address that issue.

E. Reed: Mr. Reed stated that he though this had been determined by City Council when they authorized the condemnation procedure. In his mind, this issue had already been resolved.

At this point in the meeting there was a discussion about condition no. 9 and the fact that it seemed redundant to previous conditions. There was a discussion between D. Darling, P. Spir, and W. Wright. C. Tryon then read the following memorandum from the West Linn Traffic Safety Commission to the West Linn Planning Commission dated June 21, 1988, into the record:

"The Traffic Safety Commission strongly supports the recommendations in Earl Reeds June 20, 1988 memo. Twenty-eight feet curb-to-curb is only wide enough for one twelve-foot travel lane with parking on both sides. As Mr. Reed points out one solution is to post "No Parking" signs, which in a residential area, greatly inconveniences the public. The other solution is to have developers build the proper width street (32 feet) for its intended use."

Jerry Palmer: Stated in his rebuttal that he concurred with the conditions of staff as presented here tonight. He stated that it was nothing new to him, that it went back to the original proposal. He was aware of the 14 conditions in June of 1986, as this went back to the original proposal. Mr. Palmer used the map on the wall to indicate where trees would and would not be planted and/or removed. Mr. Palmer stated that, per agreement with staff, that construction of Hidden Springs Road will begin this year. Their intention is to bring all the lots, all the construction on line immediately. Mr. Palmer then explained to the Commission what Hidden Spring Road will look like by using the map on the wall. Mr. Palmer stated that the developers agreed to withdraw their application to cul-de-sac Hunter Way and Derby Street as a condition of

J. Palmer: (Continued) this approval. Mr. Palmer then mentioned ⁶ again that they are in agreement with the conditions that have been stated by staff.

Gayle Clark: My name is Gayle Clark, and I live on Hunter Way. Ms. Clark stated that if Hidden Springs Road was going through, she didn't see why Hunter Way and Derby needed to go through, also. She stated that she felt there would be more parking available for the park if you would leave both those streets as cul-de-sac. She felt that there would be no more circulation in this area if these two streets were to go through.

At this point in the hearing Walter Wright asked about funding and property that had previously been given to the City for this park and he wanted to know if this was a dead issue.

D. Darling: The funding issue is over when he made his application for amendment to make those permanent cul-de-sacs. Now that the street is going to go through, the money will be spent putting the street in. I don't know about the additional lots.

Mr. Palmer then showed the Commission, by using the map, what lots he thought Mr. Wright was referring to. There were four lots in the original 1986 proposal that he thought Mr. Wright was asking about, and it was, in fact, what Mr. Wright had thought.

J. Hart: Asked about flag lots and future division of these lots.

J. Palmer: Stated that through deed restrictions these lots would be prevented from further division, and that it was certainly not their intention that any of these lots should be further divided.

W. Wright: Mr. Chairman, I move that the public hearing be closed.

D. Zachman: Second.

W. Wright: I withdraw the motion.

At this point in the hearing Gary Taylor of 2923 Bluegrass Way came forward and asked if his question could be answered about the width of Hidden Springs Road. He wanted to know if it had been agreed that 31 feet would be the width of Hidden Springs Road, and staff stated that it would be. Mr. Taylor again stated that that would not be wide enough for this road. He also wanted to know if the road would be paved all the way through. Mr. Reed explained that it would be paved as far as they had right-of-way.

W. Wright: I move that the public hearing be closed.

D. Zachman: Second.

C. Tryon: It's been moved and seconded that the public hearing be closed. Is there any discussion? All those in favor say aye. (aye) Opposed? (There were none.)

The public hearing is closed. Any questions or discussion in this issue? (There was none.) Does anyone care to make a motion?

D. Zachman: I'm concerned about the further division of these lots. She stated that she would like to have it listed as a condition in the CC&R's that no further division of these lots should be allowed.

D. Darling: Explained that this is perfectly legal and the Commission can do this. When the City lists a condition in the CC&R's, they can and do enforce these CC&R's.

C. Tryon: Any further comments or discussion? Does anyone care to make a motion?

J. Hart: Mr. Chairman, I move that the tentative subdivison/PUD development for Hidden Springs Summit, Phase III be approved with the conditions as explained and the amendments by staff with an additional condition No. 15:

J. Hart: (Continued) that the CC&R's shall prohibit flag Lots and further division of Lots in that subdivision.

D. Zachman: Second.

C. Tryon: Any discussion of the motion? Does everyone understand the motion? Does anyone care to comment on the Derby Street/Hunter Way issue? It's condition No. 12.

J. Hart: That's also condition No. 14; wouldn't it be?

C. Tryon: Yes, it is.

J. Hart: I'm in favor of including that in the proposal.

C. Tryon: Any further discussion? Call for the question. All in favor say aye. (aye) Opposed? (There were none.)

Okay. Motion passes; application approved.

Let the record show that Walter Wright abstained from voting on this issue for lack of information concerning the conditions that were presented here tonight.

Okay. The next item on the agenda is a public hearing for Conditional Use and Design Review request approval of two settling ponds proposed at the Lake Oswego Water Treatment facility. The location is 4260 Kenthorpe Way. The applicant is the City of Lake Oswego, and the file no. is CU-88-02/DR-88-14.

This is a public hearing. Does anyone on the Planning Commission wish to report any conflict of interest or ex parte contact? Does any Planning Commission member wish to abstain or challenge any other Planning Commission member? Does any member of the audience wish to challenge the Planning Commission or any individual member of the Planning Commission to hear this matter? Please be aware this is a public hearing and if you fail to raise an issue tonight either in person or by letter you will not be able to raise an issue at subsequent time of appeal. At this time, I call for staff report.

P. Spir: Thank you. The City of Lake Oswego has applied for a Conditional Use Permit to construct two shallow drying beds at the City of Lake Oswego Water Treatment Center. The applicable codes are: Development Code Chapter 60.000, Conditional Uses and Chapter 55.000 -- Design Review. The Parcel Size is 6.05 acres and the zoning is R-10.

The City of Lake Oswego has operated their water treatment facility on Kenthorpe Way for a number of years. The main two-story building parallels Kenthorpe Way with the purification/settling and pumping equipment contained in the building and behind it. In the water purification process the water goes through a variety of filters, ponds, and tanks, which physically or chemically, through the use of alum, separate suspended sediment from the potable water. The sediment eventually settles to the bottom of the tanks and is piped/transported to sludge ponds. As the applicant has stated, this material has the consistency of chocolate pudding. The sludge is then transported by up to 300 truck trips per year in its near-liquid state to a City of Lake Oswego approved fill site.

The proposed solution would be to pump the sludge via a two-inch pipe to the drying ponds. The pump is submerged and is operated for only seven hours just a few times a year. When the sludge gets to the drying pond, the heavy material quickly settles to the bottom, leaving water on top. This water is then piped back to the sludge pond within the first few days. It then takes three to four weeks for the moisture content of the sludge to be reduced from 50 percent down to six percent. The sludge is then scooped up and transported off-site. Due to the moisture loss, what originally took 300 truckloads will now require only 30 truckloads.

This process of drying the sludge is recommended by the American Water Works Association.

C. Tryon: At this point, I'd like to ask the applicant to step forward.

6

Duane Cline: My name is Duane Cline. I live at PO Box 369, Lake Oswego, Oregon 97034. I'm here tonight representing the City of Lake Oswego. Mr. Cline summarized what Peter Spir had just reported on, and in conclusion he stated that he felt it would have a positive impact on the neighborhood because with the new proposal, with lessened amount of sludge, it would only take perhaps 4 days of hauling per year as opposed to the current two weeks per year. He stated that they are prepared to conform to recommendations of staff.

C. Tryon: Thank you. Are there any questions?

M. Riley: Asked what the primary composition of the sludge is?

Duane Cline: Explained the essentially it is silt from the Clackamas River. He also stated that they had had it analyzed, and it is made up many, many different chemicals, but the major portion of it is silt.

J. Hart: Asked if Mr. Cline could foresee any other improvements to this site.

Duane Cline: There is the potential that the plant itself could need to be expanded. He stated that Lake Oswego's water facility is not capable of meeting the full community needs, so expansion may become part of the Water Master Plan for Lake Oswego.

C. Tryon: Is there anyone who wishes to testify in favor of this proposal? We have two people who wish to testify against this proposal. Is Mr. Wagner present?

Richard Wagner: My name is Richard Wagner. I live at 4068 S. Kenthorpe Way, and I'm testifying against this proposal. Mr. Wagner asked many questions of the Planning Commission about this water treatment facility. He wanted to know what is the sludge is made of, why is it in West Linn when it is a Lake Oswego facility. He stated that he felt that the staff had not done their homework, that some of the information in this report is incorrect. He told the Planning Commission that they should go over to this site and see what the sludge ponds look like. Mr. Wagner said that he had lived there for three years and had never seen the convoy of trucks that Mr. Cline talked about. He stated that the Water Treatment facility had been good neighbors and treated the neighbors very nice. He felt that by giving this approval to expand this facility that it would be giving them the red light to fully expand it in the future.

John Merine: My name is John Merine, and I live at 4351 Kenthorpe Way. I am also testifying against this. Mr. Merine referred extensively to the staff report and felt that staff had not done a very good job in preparing their report. Mr. Merine questioned the complianced of this facility with certain criteria as stated in the report, the water needs of the City of Lake Oswego, future expansion of this facility. Mr. Merine felt that the report prepared by staff was grossly in error and that staff had not done their homework on this proposal. In summary, I would ask you to conclude that the applicant doesn't meet the criteria for approval, and that you not grant approval until they present acceptable comprehensive plan to correct the existing problems before they are allowed to create new ones.

David L. Caraher: My name is David Caraher. I live at 4388 Kenthorpe Way, which is right next to the water treatment facility. I'm not strongly opposed to the proposal, only slightly opposed. Mr. Caraher questioned the need for sidewalk construction at that facility because there isn't enough foot traffic, it's a dead end road, and the road isn't wide enough, and it would be inconsistent with the landscape of the area. Mr. Caraher stated that he has found the water treatment facility to be very good neighbors; however, it is noisy. A lot of night noise. He stated that living next to this facility is livable, but that any expansion of this facility is going to reduce that livability. And it is going to reduce the property values.

C. Tryon: Thank you. Any questions of Mr. Caraher? Any other testimony in opposition?

Okay. I would like to read into the record a letter from Mrs. Paul Maier, 4546 Kenthorpe Way, West Linn, Oregon 97068, to the West Linn Planning Commission. It reads as follows:

"We are concerned about the expansion of the Lake Oswego Water treatment facility at 4260 Kenthorpe Way. Probably at the time of the original construction of the facility, this area was mostly vacant land or very few houses. Also, being located at the edge of Lake Oswego city limits the plant did not adversely effect any residential property in Lake Oswego or West Linn.

While this facility has been a good neighbor regarding landscaping and noise et., Lake Oswego officials and residents do not have to live or try to sell their homes next door to the water treatment facility. In a residential area, a treatment plant of any kind causes a decrease in property values. Future expansion can only make the facility more visible.

Is there a master plan or site development plan by the City of Lake Oswego for this facility? This would reduce or eliminate these additional requests every two years for future expansion. Also, the area residents should have access to such a plan and perhaps a copy.

If there is no master plan, I would recommend that the West Linn Planning Commission not approve any changes in the facility until such a plan is approved.

Thank you for your cooperation."

C. Tryon: Does anyone wish to testify in a neutral position in this matter?

Gene Cantwell: My name is Gene Cantwell and I live in the back boarding this facility. My address is 4315 S. Mapleton Drive, West Linn. He stated that this facility has been a good neighbor. He did concur with Mr. Caraher about the lack of need for a sidewalk.

C. Tryon: At this time I would like to ask for the staff report.

P. Spir: Peter gave an extended report referring to the staff report. He went over all the criteria needed to approved this application as stated in his report. Staff recommends approval of this application.

Earl Reed: Addressed the issue of street lighting and stated that that is an issue separate from this and could be brought up at another time.

P. Spir: Continued on that staff recommends approval of the Conditional Use Permit, CU-88-02, and the Design Review, DR-88-14, for the Lake Oswego Water Treatment Facility drying pond proposal with the following conditions recommended:

1. Install a fence which effectively screens the site from properties on the south side of the property.
2. That the construction and location of the drying pondings conform with the submitted site plan.
3. Meet the requirements of the 25 percent rule for street improvements.

At this point in the proceedings a five-minute break was taken so the hearing reporter could change her paper.

Duane Cline: At this point in the hearing Mr. Cline gave his rebuttal. He gave a brief history of the water treatment facility. He explained that the proposal that was being addressed tonight was not a proposal for xpansion of the plant. It was an expansion for use within the facility. He also addressed the lighting issues and sidewalk issues. He explained where this sludge is dumped now and where it is proposed to be dumped in future. He said that if the plant was not in compliance with some previous conditions, they will correct those immediately. He stated that try very hard to be a good neighbor and will continue to do so.

on: We have a choice now to either continue the public hearing or t.

M. Riley: I move that we close the public hearing.

D. Zachman: Second.

C. Tryon: It's been moved and seconded that the public hearing be closed. All in favor say aye. (aye) Opposed? (Nay)

Call for the poll: J. Hart, no; D. Zachman, yes; M. Riley, yes; R. Crawford, yes; W. Wright, yes.

D. Darling: Motion passes.

J. Hart: Stated that the only reason he objected to the public hearing being closed was of a concern of lighting. He thought it would take some research to adequately address that issue and find out all the facts.

W. Wright: Asked if a motion was made for approval with conditions, would the conditions be written after it or what?

C. Tryon: Stated that the conditions would need to be include in the motion.

J. Hart: I move to approve the Condiitonal Use and Design Review permit submitted by the City of Lake Oswego for the water treatment plant with the recommendations 1 through 5, with an additional condition that the existing lighting shall not allow for off-site glare and based on the findings in the staff report.

D. Zachman: Second.

C. Tryon: Now does everyone understand the current motion? Is there any discussion to the motion? Call for the question. All in favor of the motion say sye. (aye) Opposed? (There were none.)

Motion carried. The application approved with the condition mentioned. Mr. Tryon explained the appeal process to the audience. Staff business. There was brief discussion about the future meetings: dates and time. The meeting was adjourned at 11:17.

WEST LINN PLANNING COMMISSION
REGULARLY SCHEDULED MEETING
July 18, 1988

The West Linn Planning Commission regularly scheduled meeting of July 18, 1988, was held with the following commission members present: J. Hart; M. Riley; W. Wright; T. Conser; R. Crawford; C. Tryon; D. Zachman. Staff members present were P. Spir; D. Darling; J. Montgomery; and Pam Allen, hearings reporter. Tim Conser was chairman for this meeting.

Before the meeting was officially opened, time was taken to letter and mark new exhibits pertaining to the hearing for the Conditional Use and Design Review request for a reservoir site. After discussing and agreeing on exhibits, staff and commission left off with "P" as the last exhibit.

The Planning Commission meeting was called to order at 7:40. Mr. Conser asked for any audience comments on future items they would like to see on the agenda or concerns in general. (There were no comments.)

T. Conser: With that I'd like to go to the approval of the minutes for the June 13, 1988, special meeting. Are there any corrections or additions to the minutes?

C. Tryon: I'd like the minutes to reflect that I abstained from the public hearing on the Conditional Use and Design Review for the proposed reservoir.

P. Allen: Thank you. I'll make a notation of that.

W. Wright: I move that we approve the minutes, as corrected, of the June 13, 1988, special meeting of the Planning Commission.

R. Crawford: Second.

T. Conser: It's been moved and seconded. All in favor say aye. (aye) Opposed? (There were none.)

Mr. Conser called to order the public hearing continuation for Conditional Use and Design Review request for a reservoir site. Location: west of Suncrest Drive at Hunter Way; file no: CU-88-01/DR-88-06; applicable zone section: 55.000 and 60.000.

Do any members of the Planning Commission was to abstain from this hearing? CHARLES TRYON ABSTAINED FROM THIS PUBLIC HEARING. Mike Riley stated that although he was not present at the first hearing on this issue, he has read all the literature and reviewed all materials presented by staff very carefully. Do any members of the Planning Commission wish to declare a conflict of interest on this issue? Do any members of the Planning Commission wish to report any significant ex parte contact? ALL MEMBERS OF THE PLANNING COMMISSION HAD VIEWED THE SITE. Do any members of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge any individual member of the Planning Commission? To those who are wishing to testify here this evening, please be aware that if you fail to raise an issue either in person or by letter tonight, you will be unable to raise that issue at any subsequent time of appeal.

D. Darling: Stated that since this was a continuation of a public hearing and not a reopening, that anybody that wants to speak tonight must be given that opportunity.

T. Conser: Stated that he thought with the new evidence that had been presented to the Planning Commission that Ms. Kirkpatrick should have between five and ten minutes to rebut this new information. All members of the Planning Commission agreed with this. Mr. Conser then asked for the full staff report.

P. Spir: I'll start with the Conditional Use findings. The approval criteria is included in Section 60.070. Section 60.070(A)(1)(a) asks

whether the site size and dimensions provide adequate area for needs of the proposed use. The reservoir design, as proposed, will occupy only six percent (6%) of the almost-full acre. This area will also accommodate any required service vehicles which may need to access the site.

Section 60.070(A)(1)(b) asks whether the area is adequate for aesthetic design treatment to mitigate any possibly adverse effect from the use on surrounding properties and uses. All that means is that we must look at the word "mitigate." Webster's Dictionary definition for mitigate is: "1. To cause to become less harsh or hostile; 2. To make less severe or painful any possible adverse effects." We are therefore not required to remove or eliminate impacts just to make them less harsh or severe.

As the Citizen Design Review Committee found after extensive study and site tours, on-site landscaping should minimize the visual impact of the structure on adjacent residences. They also determined that there was enough area for screens of Douglas Firs and other trees. Once the trees are grown out, the reservoir will be substantially screened. Regarding views, the proposal will obstruct some existing long range views of the Tualatin Valley to the southwest. However, these views would have been blocked if the site had been developed for residential use. Instead of views of the backs of houses and backyards, the short range views will be improved by azaleas and other plants and trees.

The effects of shadows have been mitigated by an average setback from the reservoir to adjacent homes of 118 feet which will produce, at the most, two hours of shade per day depending upon time of year and the location of the house.

The Planning Staff interviewed John Kaufman, a Solar Specialist from the Oregon Department of Energy, to determine the impact of this shade. According to Mr. Kaufman, two hours of shade per day results in only an eight-percent loss in passive solar heating effectiveness.

The impact on the appraised value of the homes has also been mitigated by the landscaping, setback, and color scheme. Certainly, the diminution in value would be greater without these amenities. Staff has also shown in its report that the reservoir site was clearly indicated on the Sunburst Tentative and Final Plat of 1982. Further, and this point is made in the homeowners evidence package, the developer of the subdivision had an appraisal conducted with the reservoir in mind. It was on the basis of that appraisal and the understanding that the reservoir would be built -- at that time a 100-foot tall x 80-foot wide stovepipe reservoir was proposed -- that the developer sold adjacent undeveloped property at a reduced price. Therefore, since the impact of the reservoir was already mitigated by the developer's lower price, it is unfair for that property owner to turn around and ask for any additional relief from any diminution in property value.

Section 60.070(A)(2) asks whether the characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features. As the applicant states, the location at the highest point within the City minimizes the height of the water tower required to serve the City's highest water service pressure zone. The site's gentle sloping topography will facilitate construction of a conventional base foundation without excessive footing depths or slope cuts. Studies of underlying geology and soil showed suitable foundation conditions. Grubbing and clearing of some existing trees will be required. This criteria is not concerned with meeting the needs of adjacent uses, only those of the proposed use.

Criteria 60.070(A.3) requires that "granting of the proposal will provide for a facility that is consistent with the overall needs of the community." The homeowner's attorney suggests that all of the city's needs must be satisfied by this facility. Clearly, the criteria does not require that.

The facility will meet the needs of the Rosemont Pressure Zone area as is documented in the original staff report and explained in the report submitted by the engineering firm of Murray, Smith & Associates. Further, a Citizen's Water Task Force, which included members of nearby homeowner groups, made findings that construction of this reservoir at this location was of the highest priority. A 1987 public vote approved bonding for this and other lesser water projects. The overall community need and support is self-evident.

P. Spir: (Continued) Further, testimony by the homeowner's attorney asks questions on the efficiency of gravity systems versus pump systems and whether the size of the reservoir is too big or too small. None of these questions relate to any of the established approval criteria for Conditional Use Permits.

Section 60.070(A)(4) asks that all required public facilities have adequate capacity to serve the proposal. The City has been anticipating the construction of the reservoir for some time and has designed and oversized area piping to support the facility. A new water main along Rosemont Drive will link the reservoir with the Horton Pump Station.

The homeowner's attorney moved on to Section 60.070(A.7) which requires that the use comply with applicable policies of the Comprehensive Plan. The staff report went through each plan chapter and adequately responded to each applicable goal and policy. It found that the majority of the goals and policies were positively served by the reservoir plan. Some of the relevant policies included the public facilities and services general policies such as: Continue to provide an adequate level of service and facilities which promote the public health, safety, and welfare of all people in the community. Second policy of that section is that we should ensure development will coincide with the provision of adequate public facilities and services including, but not limited to access: drainage, water and sewer services. Fourth policy is that we should provide for the conversion of land within the Urban Growth Boundary to urban uses by the provision of urban level public facilities and services.

There are also policies in the water storage and distribution section which state that we must provide municipal water service for fire and domestic uses within the corporate boundaries of West Linn. The second policy states that we should ensure future water storage and distribution facilities will be constructed in accordance with the City's water plan -- The Comprehensive Water System Plan, West Linn, Oregon; September, 1982, which was updated in 1987.

The homeowner's attorney took issue with Public Facilities/Services General Policy 10. That policy requires the preparation and maintenance of the on-going planning process, a capital improvements program for major public facilities which implement this plan. To respond, the City has prepared and adopted a Water Master Plan, which was updated in 1987. The City's Capital Improvement Program identifies the reservoir as a top priority. This high priority was obviously due to the result of a complete and total lack of water storage in the Rosemont Pressure Zone which implies a threat to health, safety, and welfare due to the lack of adequate fireflow and the need for water rationing over the last few summer months.

The required capacity, to be discussed by Murray, Smith and Associates Engineering Firm, was determined to be 400,000 gallons.

Another policy of concern to the homeowner's attorney was Residential Policy 1 which seeks to protect existing residentially developed areas from incompatible land uses. While the driving force behind this policy is to keep industrial parks or shopping centers out of residential areas, but it is not intended to prohibit needed public facilities. Strict interpretation of this policy, as suggested by the homeowner's attorney, would keep schools, fire stations, and power substations out of residential district. Clearly, that is not the intent.

Residential General Policy 5 is also cited. That policy states that minimizing the removal of the community's natural amenities, vegetation and views. To respond, a selection of a pedestal reservoir which tapers at ground level minimizes view loss over a stovepipe-type reservoir. Views in other directions will remain. The landscaping will increase vegetation in the area.

The homeowner's attorney concludes by discussing the urbanization element of the Comprehensive Plan and suggests that excess capacity in the water tower and the ability to serve areas outside the urban growth boundary contravenes the plan's intent or policies. In fact, no plan, policy, or preamble speaks against the capacity to serve undeveloped areas either inside or outside the Urban Growth Boundary. Regardless, it is the intent and purpose of this water reservoir to serve a specific and identified need in the Rosemont Pressure Zone area as explained in the original application and staff report.

Examination of the video tape which is shown as Exhibit H showed

P. Spir: (Continued) a demonstration of how shadows would be cast by the reservoir upon adjacent homes at different times of the day and year. This material was available in graphic form in the original staff report as Exhibit B.

Section 60.070(C) lists the mitigating measures and conditions available to the Planning Commission in the event that they are needed. There are about twelve conditions. I'd like to move on to the Design Review findings as contained in Chapter 55. The approval criteria also requires that the provision of Chapters 33, 34, 38, 40, 42, 44, 46, 48, and 52 be met. These are discussed in the staff report. I don't think it is necessary to get into that right now but I do direct your attention to the staff report for discussion on those points.

The Attorney focused upon approval criteria Section 55.100(A.2.C.) which requires that adequate distance between on-site buildings and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection. As the staff report noted, the average distance between the reservoir and the adjacent homes is 118 feet with the nearest home being 85-feet away. This provides ample room for adequate light and air circulation. Conversely, the separation between homes can be low as 10-15 feet. Fire protection is not a problem, and emergency personnel and apparatus will still be able to access all the homes on the site. The reduction in sunlight, created by shade, will be at most two hours per day.

The second point raised deals with approval criteria. 55.100(A.2.d) which states that the structure be of comparable scale with the existing structure and have comparable architectural features with the structures on the site and on adjoining sites.

It is agreed that there is a difference in elevation between a 110-foot reservoir and adjacent 40-45 foot tall homes. Contrary to statements by the homeowner's attorney, the actual height of homes exceeds the 35-foot height, stated in the Development Code, by up to 5-10 feet. The reason is that the height of homes is measured from the lowest point of the house at grade to the midpoint of the roof -- not the peak. This method is approved by the Uniform Building Code. However, there will be the trees which are expected to mature to a height of over 80 feet. So, combining the trees and the average 118-foot buffer, the visual transition in scale from 40-45 foot tall homes to the top of the reservoir should be acceptable.

The photographs and montages provided by the homeowners were found to be misrepresentations of the visual effect of the reservoir since they fail to show any landscaping, they are not prepared to any verifiable scale, and the reservoir is shown as being black rather than pale gray.

Although every reasonable attempt has been made to adequately screen and buffer the reservoir, it is impossible to build a reservoir that possesses the same architectural features of the adjacent homes. Obviously, if every public facility (power transformers, school, etc.) allowed by CUP were held to this test, then none would be built.

The third criteria cited by the homeowners is Section 55.100(A.3) which is Compatibility between Adjoining Uses, Buffering, and Screening. After reviewing this criteria, it is clear that the main purpose of the buffer is to screen views of the reservoir from stationary viewers in adjacent homes. The proposed landscaping plan with a mixture of year-round conifers, deciduous trees, shrubs, and bushes, some of which will mature to over 80 feet in height is adequate.

Section 55.100(4) addresses privacy and noise. The reservoir site will provide greater privacy and much less noise for adjacent homes than if land were developed for housing. Adjacent homeowners will not have neighbors looking into their backyards. The only noise will be generated during construction.

Sections 55.100(5) through 55.100(15) are discussed in the staff report.

The next point raised deals with Section 55.110(2.f), and the need to identify potential natural hazard areas. The homeowners focused on earthquake potential and cite the West Linn Comprehensive Plan. In response to this hazard potential, the reservoir has been specifically designed to withstand earthquakes of appropriate magnitude. As the homeowner's evidence package stated, a geologic foundation investigation was conducted by L. R. Squier Associates, Ltd., a geotechnical consultant firm. Their report showed stable underlying geomorphology and explained the occurrence of earthquakes in the region. The area is in Seismic Zone 2 on a scale topping out of 7. The reservoir will be built to handle a Zone 2

P. Spir: (Continuing) earthquake. In full accordance with the Uniform Building Code and the footings will be designed for a Zone 3 occurrence. These findings were presented to the Design Review Committee in Exhibit A of the staff report. Construction of the reservoir using these approved methods is an appropriate response to the possibility of earthquakes in the future.

In finalizing, staff recommends approval of the Conditional Use Permit and the Design Review, CU-88-01/DR-88-08, based on the findings contained in the staff report and this memorandum. Staff recommends the following conditions:

1. That the reservoir site plan, the reservoir design and planting plan as submitted by the applicant shall be the basis for the final design and plans. Any changes to these plans shall not materially alter the proposal or its anticipated impacts.
2. Construction will not begin until 7:00 a.m. and end no later than 6:00 p.m. There shall be no construction on Saturdays or Sundays or statutory holidays.
3. During construction, dust shall be reduced by a water tanker spray truck.

That concludes the staff report.

T. Conser: Can you give me an estimate of the number of approved Lots that are not built on?

P. Spir: In the Rosemont area, in the Pressure Zone, 400 would be a conservative estimate.

Peter also stated that there are several large parcels of land that border the Urban Growth Boundary which have been denied annexation until the City has adequate water supply. At this point, Peter pointed out the areas in the Urban Growth Boundary by using the map on the wall.

T. Conser: Mr. Conser asked for the applicant to step forward with his rebuttal.

Phil Smith: My name is Phil Smith; I'm with Murray, Smith & Associates, Incorporated in Portland. Our address is 121 SW Salmon Street, Portland, Oregon.

Mr. Smith referenced a detailed letter that was submitted by his firm on July 13, 1988.

The first point that we wanted to clarify is that Ms. Kirkpatrick had alluded to the fact that some of the exhibits did not show the revised sun shadow patterns. Those exhibits do in fact reflect those actual sun shadow patterns. The only reason we put that in there is to show that this is a public facility and public facilities are exempt from ordinances regarding sun shadows.

The next issue that Ms. Kirkpatrick raised was related to seismic considerations. I would just like to point out that the design of the reservoir exceeds the present code requirements. We designed the foundation and structure to meet seismic zone 3 requirements so if the state of Oregon ever changes their requirements to zone 3, then we would not have to retrofit this structure. Ms. Kirkpatrick included some information on megaguakes. We have included three design memorandums in our package. Two of these were written to Earl Reed, City Engineer, and also there is a design memorandum to L. R. Squier & Associates in Lake Oswego to ourselves. That memorandum is specifically relating to a meeting we held with L. R. Squier regarding this very subject. Mr. Gary Peterson from their office and Mr. Scott Mills were present at that meeting. In finalizing regarding seismic conditions, the structure is designed to exceed present day standards for seismic forces.

Ms. Kirkpatrick questioned the size of the reservoir and the use of alternative systems. We concluded that hydrophneumatic system was not an appropriate application of a system of this size.

Mr. Smith explained the history of alternative sites and how they arrived at the current reservoir system. He explained that this site was selected in 1982 because it was the highest point in elevation in West Linn, therefore, it would be the most reliable and economical. The city

Phil Smith: (Continued) acquired this site at no cost.

I think, in summary, we have addressed the primary, technical issues raised by Ms. Kirkpatrick. We are concerned about the schedule of approval on the project. It's a one-year construction project. Time is getting limited in order to have it constructed by the end of summer next year. It is weather dependent.

The City has planned this reservoir from as early as 1981. It's been identified in Master Plans. The City has proceeded with improvement based on the assumption there would be a reservoir at this location and the City has planned properly to provide water service to this area. With that, I would be happy to answer any questions.

M. Riley: Asked if Lake Oswego had any elevated towers.

P. Smith: Stated that he was not that familiar with their system.

M. Riley: Just one more question. It seems like it is an all-or-nothing situation. Either it's 110-feet or not have it at all. Could it be divided into smaller zones and have more than one reservoir.

P. Smith: Sometimes that makes sense. This area, because of the elevation and shape of the land, could not be used with any other type of system. It's just not economical.

T. Conser: Asked about Portland's water system. What type it is and how many people it served. He also asked about Lake Oswego's system and did it serve the Marylhurst area. He also asked if Mr. Smith could give him a dollar cost if the entire project was to be built today, recognizing that it will be built in phases. This is if it were built to seismic zone 3 specifications.

The answer was inaudible.

T. Conser: Since there are no further questions, I'd like to call Margaret Kirkpatrick.

Margaret Kirkpatrick: My name is Margaret Kirkpatrick and I'm here tonight representing the Sunburst Association and my address is 900 SW 5th, Portland, Oregon 97204.

The bulk of the information presented in the staff report was essentially directed to the interpretation of the Design Review Criteria and Conditional Use Criteria. There is some factual information that I guess you don't all have which is summarized on charts attached to the City attorney's information or excuse me, her memorandum. I would like to discuss that for a couple of minutes.

The point that is made in the City attorney's memorandum is addressed to the requirement in the Conditional Use Criteria that site size be adequate so that aesthetic design treatment can occur so that adverse impact on adjacent property owners can be mitigated. The city attorney and the planning staff have said that the owners of the property adjacent to the reservoir site need a lot less for their property than other people near by. So, in effect, their hardship has already been taken into account. I'm afraid that just isn't so. What we have on the charts shows -- I guess the most important one on the chart -- that's directed to block 7 -- shows Lots 9 and 10 as having a purchase price of \$16,800 and Lots 7 and 8 as having a purchase price of \$15,290. The remaining Lots cost in the vicinity of \$33,00 to \$38,000. Lots 9 and 10 only add up to one building site. That's also true of Lots 7 and 8. Lots 16 and 17 are one building site, Lots 1 and 2 are one building site. It is a misrepresentation of the purchase price facts to pretend that a \$16,800 cost is the cost of a building site. In fact, the cost of that building site was \$32,600 and that is in line with the cost of properties which are much farther away from the reservoir site.

Ms. Kirkpatrick used the map to show the costs of neighboring Lots in the area of the reservoir. And she stated that there was no purchase price available for Lots 11 and 12, which is a single building site.

In a related point. The memorandum says that the Lots around the reservoir site have been assessed at half the value. The same error has been made here.

With respect to the information contained in Murray, Smith & Associates

Margaret Kirkpatrick: (Continued) report, that information only came into our office at the end of last week. Most of it is technical and I have not had the opportunity to go through it the way that I would like and prepare a rebuttal to the new evidence that is in fact presented here. Specifically, there are some reports on the seismic that I think warrants a little further consideration and also, some of the information concerning the down sizing of the reservoir. You may or may not be required to give us an opportunity to rebut that information. I would, however, request about a week to take a look at that and give you a written response. I don't think it's necessary to have another hearing on this or an opportunity for oral rebuttal but I would like to be able to have a week to take a look at that.

A part from that, I really don't have anything additional to add to the rest of the information that was present tonight. The only other question that I have is that after our presentation on behalf of the owners last week, the applicant was given an opportunity to rebut the information the homeowners presented. In rebuttal, however, there was evidence, argument, memorandum submitted from the city attorney's office and planning staff's office as well as Murray, Smith & Associates representing the applicant. The question in my mind is whether the planning staff and city attorney's office is functioning as the applicant in this case or is advisory to the Planning Commission?

T. Conser: Personally, I took the information as a review of some of the testimony that was given. Procedurally, we expect the staff to respond to testimony, especially of ideas or questions that are brought up during public testimony, and give us recommendations on those concerns.

D. Darling: I don't think you are particularly concerned with the answer. You just want to put the question on the record so you can argue about it later.

M. Kirkpatrick: That's right.

D. Darling: So the answer doesn't matter. Part of what we are doing here you need to understand, is not making a record for the purpose of your decision, but making a record for the purposes of somebody else's decision once this leaves our hands. So a lot of what may seem to be a waste of time, it is not. It is critical.

T. Conser: Any additional question of this testimony?

D. Darling: Those lots sold as two lots are platted as separate lots. They meet the PUD. They are the minimum size 5,000 square foot lots.

T. Conser: There has been a request for additional information to be submitted for lack of availability of Murray, Smith & Associates report dated July 13 --

Phil Smith: Mr. Chairman, that report was delivered to her office at 2:00 p.m. on July 13th.

M. Kirkpatrick: It's date stamped the 14th. I was out of the office that day.

T. Conser: Do I need to close the public hearing to get a vote on this?

D. Darling: I don't think you want to close the public hearing yet because a specific request has been made to continue it so that they can make their presentation which then the applicant would have the right to say that they need another week to respond to that. I think what you want to do is get a consensus as to whether or not you want to grant the additional week to this party.

T. Conser: I want to get a consensus as to whether the commission feels that additional information that would be presented in rebuttal would be pertinent to your decision.

W. Wright: I don't think it's pertinent to my decision.

R. Crawford: I'm not too sure. I don't think it will be pertinent.

D. Zachman: I would like some clarification of what are the items that Ms. Kirkpatrick is concerned with.

M. Kirkpatrick: There were some reports submitted on the seismic question and the down sizing of the reservoir.

W. Wright: Did you have access to the original study done on this?

Ms. Kirkpatrick: Yes, I did.

D. Zachman: I don't think that information would be pertinent in my decision.

M. Riley: Yes. I would say that more data is needed. Yes, I would like to have more information.

J. Hart: I think the opponent has had an adequate amount of time. I think the additional information would not be pertinent to my decision.

R. Crawford: I don't believe that information would be pertinent to my decision.

T. Conser: Mr. Smith, would you like to have a final say?

P. Smith: This letter was delivered on July 13. I don't want to quibble about it; I just want the record to reflect that.

T. Conser: Are there any further questions of the applicant at this time or any concerns that we may have missed? (There were none.) Thank you, Mr. Smith.

With that, do I have a motion to close the public hearing?

D. Zachman: I so move that we close the public hearing.

M. Riley: Second.

T. Conser: It's been moved and seconded. Are there any concerns or discussion? All those in favor signify by saying aye. (aye) Opposed? (No one was opposed.)

I think I would like to get a consensus of the Commission on their general feeling and then go item by item on the conditions. I'll start with myself.

I would support this application merely because of lack of city facilities mean a stop in growth. It's been identified to my satisfaction that there is a need. I personally feel that we need to deal with this application that additional alternative issues and sites are not what this application is about. Is this application appropriate and is it within our guidelines to grant this application or has testimony shown that there is not information supporting this application? I think this is the appropriate site. There will be many homes that will benefit from this public facility that is intended on this site.

The issue of mitigating has been covered. Comparable scale has been covered. I believe that buffering has been taken care of. The earthquake issue is a tough one. I think there is a strong community need for this public facility.

W. Wright: You covered all the points I have to make.

R. Crawford: Inaudible.

D. Zachman: I also agree but I would like to bring up one additional point. And that is that this water tower is not just for growth, it's a necessity right now, and that can be shown by the fact that we are on odd-even system of water use in that area. The area is a real fire hazard.

M. Riley: I'm going to take a contrary position in it. A couple points that come to light to me are: 1) that particular location is going to be the Western entrance to West Linn and the predominant feature of that

M. Riley: (Continued) entrance is going to be the water tower; 2) there was no mitigation based on the price of the lots; 3) you don't think of a 110-foot water tower as a reservoir. I don't think this is what the purchasers thought the reservoir was going to be; 4) it was the best building site in 1982 when there were very few homes in that area, but now that it is fully built up, that will be a big eyesore. Today it seems to be the most convenient site. The city is in a very strong position to negotiate for a different position; 5) technically, this proposed water tower will only provide about 30% of the peak flow needed; 6) I don't think that color is going to help to lessen the sight of this water tower. Now is the time to do it right, there is money available to do it, and I think now is the time to find the right site. So I am opposed to this application.

J. Hart: I was a member of the volunteer fire department before development ever started on the hillside up there, and I was aware of the water problems as they developed on top of the hill. From that vantage point, it became very evident to me that improvements were needed. A plan was developed to meet that need and I think that the problem we see today is largely because of delays. I think the City has assessed the need, developed a plan, and made every effort to meet people's expectations. There's been no effort on the City's part to hide the reservoir from the developers or purchasers. I would be in favor of approving the application.

T. Conser: Okay. The consensus is for approval.

I'm going to go back over my notes and touch base on some of these issues, thereby giving staff some direction on why we favored one thing or another.

We had testimony from Mr. Mallett. He was concerned about the eight-year delay. That is an issue that we have addressed.

Mr. Elsey gave testimony that he was concerned about the delay and the aesthetic impact. He was also concerned about no towers in Lake Oswego. He wanted to know why a tower and not a ground level reservoir.

D. Darling: I need some direction regarding your interpretation of the code regarding "need" for this water tower. Do you find the need issue meaning to be broad you need water help or do you find it to be more narrow, we do or don't need a tower. I will need some direction from the Commission.

T. Conser: I think Murray, Smith & Associates has demonstrated that the need is there, not only with their testimony but with the Water Task Force testimony. I personally feel comfortable that the need is there. I think that Murray, Smith & Associates has shown that the gravity system is the most economical system for our city, based on the information that has been provided.

W. Walter: I understand the main reason for the reservoir is pressure. The secondary reason is for a short-term supply of water should the pumping fail. I think that everybody accepts the fact that we need it. I don't think we can try to second guess what we need. I think that the Citizen's Task Force has been played down a little bit. They put a lot of time into this working with staff to come out with the same conclusions that we have been talking about here.

D. Zachman: I think that's a good point to bring out, Walter. Because the Task Force has looked at all the alternatives. I think we need to seriously consider their work.

M. Riley: There was some evidence present that the Task Force did not look at all the sites.

D. Zachman: Not that I can see. It verifies that they have seen all the sites here in a memo of September 10, 1987 from Murray, Smith & Associates to John Buohl.

T. Conser: Okay. We have identified the need and that this application

T. Conser: (Continued) satisfies that need. I think we need to get a little bit more detailed on the shadow impact -- what information, based on the shadow impact, has led us to believe that the impact is less than the need?

W. Wright: I don't think the code is intended to be followed to the letter of the law. To me, obviously, the betterment of the whole is involved here.

T. Conser: So you are saying that the need to the community exceeds the Conditional Use of the shadow impact --

W. Wright: Right.

T. Conser: Scale was discussed as a concern. Do public services, public systems fall into scale?

J. Hart: It would be my interpretation of the code that they do not.

M. Riley: We have an example of the Lake Oswego Water Treatment facility was cited to even higher standards. It was required to put more shubbery around it.

D. Darling: By the same token, the City Council approved a 110-sign at the 10th street interchange. They denied it -- they reversed it.

D. Zachman: I think Mike has a good point. However, you have to take into consideration the type of tower that is being built. It is narrow at the bottom which minimizes the impact.

W. Wright: Well, I think what we've said here in the last couple of exchanges is that most of our Development Code applies to other than city-owned facilities for the betterment of our community.

D. Darling: I don't think to say that Conditional Use criteria doesn't apply to public facilities is going to hold up; they do. What you have to interpret is to what degree and balance them against everything else. They apply.

W. Wright: Can you give me some examples?

D. Darling: Well, everyone of these Conditional Use standards apply to everything proposed to be a Conditional Use zone. You have to interpret how you find it applicable and how you find it met and balance one against the other. You can't just say that public facilities don't have to meet the scale requirement because they are a public facility. That's not appropriate.

J. Hart: I think the example that Mike brought up is a good example. The Lake Oswego Water Treatment facility is more to scale with its surroundings. An elevated water reservoir isn't to scale. It's the most economical system that you want to use but the scale is obviously not in line with its surroundings.

T. Conser: Based on the fact that the tank is required to provide a minimum of 40,000 pressure, which is what I think the city requires, must fall at least 100 feet hydraulically -- that's how we create pressure in a gravity system. Therefore, you have a structure whose minimum requirement is 100 feet. Under that situation, I don't feel that the scale applies in this case in order to meet that criteria. I don't think an interpretation on scale is intended to meet those kinds of situations. I believe that the code is not applicable.

Buffering. Buffering is a visual barrier to mitigate the impact.

W. Wright: I don't think that's possible immediately. It's going to take 20 years for the -- look at the ages of the plantings around the Lake Oswego Water Treatment plant.

T. Conser: I think the key there again is mitigate.

T. Conser: (Continued) I don't think there is intent on anybody's part to cover up the tank. Therefore, you are trying to minimize the impact. Based on the landscaping, based on the fact that the gates are being recessed back to the property, that they are putting extensive plantings, I think that buffering is mitigated. That is an obvious effort to mitigate the impact of this site. Not to cover it up but to soften it.

I think also that the Citizen's Design Review Committee has made an effort to review that particular factor.

Site analysis. Has the site had a site analysis? Is there documentation that the site has been analyzed properly? There are several engineering reports that show that the site was analyzed for soil content, in fact, there was documentation on sightly concerns. There is testimony, written and oral, for earthquake hazards and concerns could be increased in the future should the area be rezoned. I feel that we have made an effort to address that subject, to my satisfaction.

D. Zachman: I think some of the information presented did not specifically reference Portland but the northwest as a whole. In fact, a lot of that information referred to the Seattle area, referencing the letter of January 12, 1988, from L. R. Squire & Associates to Murray, Smith & Associates.

T. Conser: Okay. Conditional Use. Is the size of this site adequate for this structure? Based on the information provided, with 76 percent of the land area left for landscaping and ground coverage, this site size is adequate. Based on the staff report, it meets the Conditional Use for adequate size.

Property values impact. Does the code provide for impact on property values? The lots were developed, sized, and priced accordingly for the impact of that site, referencing a report from Wayne Rodgers.

D. Darling: Do you happen to have that date of that Wayne Rodgers report?

T. Conser: April 1, 1982.

After looking through this documentation, I feel that the impact has been adjusted accordingly.

The next question in testimony was that the location was incompatible for the use and overall needs of the community. Does anybody wish to address that or any direction from staff?

W. Wright: I don't think that's good logic. Because you put it where it's needed not --

T. Conser: Traditionally, you put it where it's least expensive to develop. Clearly, the highest point in the city would be the least expensive place to put it because it would require the minimum height.

Overall needs of the community. I think that's been identified. There was a question at one point about the size of the water tower. I would refer to the applicant's rebuttal and calculations that identify this need.

The next question is there a need. I think clearly there is a need. Based on the applicant's testimony, the staff's testimony, the Task Force testimony, there is definitely a need.

The next question was other alternatives. It's been pointed out that this application is an application for a water tower and not other alternatives.

Larger reservoir. I follow staff's direction when they say that this is adequate.

Does staff see any holes that we need to fill?

D. Darling: No. I think you have done a real good job of giving us direction. I think now if you want to approve it and direct staff to come back with findings.

T. Conser: With that, is there a motion?

D. Darling: The motion you make tonight is not a final decision. That will be when you adopt the findings. You can direct staff to come back with findings of fact and then you can either adopt those findings or

not adopt them. The adoption will be the official approval -- at the time of adoption.

Mr. Hart: Mr. Chairman, I move that we direct staff to compile the facts and conditions in support of the approval of this application for our discussion and possible adoption, and that would include the three conditions on page 14 of the original staff report with the addition that condition number two will state that the construction will be limited from 7:00 a.m. to 6:00 p.m., excluding Saturdays and Sundays and statutory holidays.

W. Wright: I second.

T. Conser: It's been moved and seconded. Is there any discussion? All in favor signify by saying aye. (aye) Opposed? (yes) Would you poll the Commission please.

D. Darling: J. Hart, yes; M. Riley, no; D. Zachman, yes; R. Crawford, yes; W. Wright, yes.

Passed, four to one.

D. Darling: When do you want this to come back?

At this point in the meeting, staff and Commission discussed when they could have all the necessary information ready. They decided on a special meeting to be held August 1, 1988. Council chambers at 7:30 will be the place and time.

T. Conser: If there is a desire to appeal this decision, that appeal must be filed within 14 days of the final decision. Assuming that we make the final decision on the 1st, it is typed up and notices sent on the 2nd, then within 14 days an appeal must be filed. That appeal would go before the council and they would adhere specifically to the items that we have heard and discussed here tonight. In other words, they will hear not new information, but information that has been presented tonight. So it is a review or appeal of our decisions. That carries with it a \$150 fee. That fee could be waived if two or more of the council wish to bring that before the council body themselves. I believe, and correct me if I am wrong, that fee can also be waived if the homeowner's -- not homeowner's but neighborhood association wishes to have that appeal taken before the city council. Are there any questions on the appeal process? Thank you for your time. I appreciate your input. I know it's difficult and stressful.

At this point in the hearing, a brief break was taken.

T. Conser: I'd like to call to order the public hearing regarding VAR-88-05/MISC-88-19, amendment to the tentative subdivision/PUD plan approval. Applicant is Fred Woods and Land Development Consultants. Location is south end of Caufield Street and Hillwood Park subdivision. Do any members of the Planning Commission wish to abstain? Do any members of the Planning Commission wish to declare a conflict of interest?

W. Wright: I'd like to comment on that, if I could.

When the applicant was here last time, I declared a conflict of interest because he had contacted a realtor in our office and since that time I am no longer with that brokerage house. I wish everybody to know that I'm in real estate sales and it would be pretty ridiculous for me to try to pretend that I have no interest in the development of West Linn. So I'm almost borderline at any time. So any time that anyone would like to challenge me, feel free to do so. I don't think that my ability and logic to make a proper decision are effected by the field that I'm in. I just want everyone to know that I am a real estate salesman and will have an interest in the development of this town.

T. Conser: Do any members of the Planning Commission wish to report any significant ex parte contact? Has everyone viewed the site? (everyone had viewed the site) Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter?

T. Conser: (Continued) Do any members of the audience wish to challenge any individual member of the Planning Commission? To all those wishing to testify please be aware that if you fail to raise an issue either in person or by letter tonight or fail to sign in, you will be unable to raise that issue at any subsequent time of appeal. We would ask that if you don't wish to speak tonight or give testimony, that you sign in so if you wish to appeal, you will have standing.

At this time, if staff could give us a brief overview.

P. Spir: The Hillwood Park Subdivision/PUD received tentative plan approval from the West Linn Planning Commission in February 1988. That went on appeal to the City Council, which has handed it back to the Planning Commission. That appeal process was dropped and the applicant has submitted a new subdivision plan. That plan called for 44 lots and a loop road going from Caufield Street, through the subdivision onto West A Street. The conditions of approval and tentative plan are shown in exhibits "A" and "B". In this application, the applicant proposes to reduce the number of lots to 17. The average lot size will be 33,413 square feet with a range from 10,000 to 55,235 square feet. A 1100-foot long cul-de-sac is proposed in this plan. The applicant's application is contained in exhibit "C".

Essentially, we are looking at a reduction in the number of lots and changing the configuration of the road from a loop to a cul-de-sac.

T. Conser: At this point, I'd ask the applicant to step forward.

Ryan O'Brien: Mr. O'Brien stated that he agreed with all of staff's recommendation except one and that he would like to make a few comments on the others. He questioned the width of 32 feet for the roadway, stating that he felt that 26 feet would be adequate to provide curbing, gutters, and sidewalks and still have a passable street. It is extremely difficult to build a 32-foot wide road. He stated that they will have to cut the hillside out to make the road work. He asked if anyone had any questions about their stand on the 32-foot wide street.

J. Hart: Asked where the excavation would take place. Would it effect any of the adjacent lots.

R. O'Brien: Said that excavation would take place between lots 1 and 2, 3 and 4, and maybe a little of 5.

Mr. O'Brien used the map on the wall to indicate where the excavation would take place and what lots would be effected.

T. Conser: Asked if Mr. O'Brien had received a copy of the letter from Earl Reed, city engineer, to the Planning Commission dated July 5, 1988.

R. O'Brien: Yes, I have received that.

T. Conser: Are you aware of his condition "A" in that letter? Would you like to comment on that.

R. O'Brien: It's way too wide. I don't know of a city in the Portland Metropolitan area that would make that a requirement. They don't have them that wide for a couple of reasons. One, they are very hard to develop; and two, the city has to maintain them after they are completed.

W. Wright: Mr. O'Brien, have you received Exhibit "E"?

R. O'Brien: No, I haven't.

T. Conser: Let's read it into the record. To: The West Linn Planning Commission; from: West Linn Traffic Safety Commission; July 12, 1988; referencing file no: VAR-88-05/MISC-88-19; Hillwood Park Subdivision. "The Traffic Safety Commission has viewed the proposed subdivision and find that because of the extended length of the cul-de-sacing, being the only access to the subdivision that the street width should be the same its entire length. It should have the following:

1. 36-foot curb-to-curb or
2. 32-foot curb-to-curb with no parking

T. Conser: (Continued) And that letter closes with a signature by John Buckley, Traffic Safety Commission."

R. O'Brien: The only thing I can say to that is that I don't know of a town or city in the Portland Metropolitan area that would require that width of a street for a dead end road. 28 feet is pretty common for a road like this.

As far as parking, I think it is very difficult to imagine that more than three or four cars would be parked on this road for any length of time at any one time. There's plenty of parking for the duplexes and apartments.

W. Wright: Asked Jim Montgomery what the collector street width is.

J. Montgomery: The collector street width would be 42 feet, but as a cul-de-sac or residential street this would be a minimum of 32 feet, and the possibility of a 36-foot wide street.

Jim Nims: I'm a registered Civil Engineer in the state of Washington, and state of Oregon. I heard Mr. O'Brien address the planning aspect of this and I would like to address the engineering aspects of this project.

I have several concerns, one of them is item no. 14: between the subdivision and Highway 43, half-street improvements to Caufield Street shall be made. We agree with that condition.

Mr. Nims used the map to show what sections of this development they own and which they do not, pertaining to street improvements.

Referring to item no. 4: improvements to Caufield Street/Highway 43 intersection shall be made as shown in Exhibit "4", which is contained in Exhibit "C". This particular intersection was presented to the State for improvements and was turned down. I bring this to your attention to get this condition changed to one that reads, "as approved by the City Engineer and the State of Oregon." All of these improvements are on property that is maintained by the State.

Item 5: a storm drain line (6" pipe) should be run down a dedicated easement between lots 6 and 7. Easement to be created. We would like to have the words added, "for the purposes of draining the reservoir."

Item 6: the applicant shall provide, at the direction of the City Engineer, an easement from the city's water reservoir to Drainage Tract "A" for the purpose of accommodating a drainage pipe." I would like to see that changed to identify the purpose of this condition.

Item 10 is the land that is directly adjacent to what we're creating as the public right-of-way. There is a long piece of land marked Tract "C". It has always been our intent that we do not retain this property, nor do we want the city to retain this property. We want this property to go to the adjacent land owner for several reasons. We would like to trade this long piece of property (about 700 feet) to the adjacent land owner for this little piece of land. (indicating on the map) We would like to have item 10 altered to: Tract C shall be traded with the existing landowner to accrue the existing and proposed right-of-way to(inaudible).

D. Darling: Who owns the little piece that you want?

J. Nims: The same property owner.

D. Darling: Do they want to trade it?

J. Nims: Yes. They have no objection to making a trade.

Item 11, there was a question we didn't understand. We didn't understand why we would want to identify the location of the reservoir. We feel that if we have to draw the reservoir in, the plat map will be twice as big. We would just like to list it. We think the intent will be there.

Item 12, we would be concerned about this 4-inch diameter water line from Firwood Drive. We don't think that will be adequate if there isn't sufficient water pressure.

Item 13, we don't know what that means. It says, "All existing utility lines on the property shall be located and shown on the recorded plat along with easements to the City for these lines." We are not

J. Nims: (Continued) really sure what that means. If that wording could be altered in some way to reflect our concern we would appreciate that.

Item 14, we agree with.

Item 15, we have some concerns about because we have in fact made a report. We just wanted you to know there was a geology report.

That's basically all I have to say at this time.

W. Wright: Asked Mr. Nims to show which lots were affected by water run off from the reservoir and Mr. Nims used the map on the wall to identify those lots.

T. Conser: Any further questions of Mr. Nims?

I'd ask that Fred Woods come forward.

Fred Woods: My name is Fred Woods. I own the proposed subdivision. To clarify the point about the water coming out of the reservoir -- we did have a study done on the property; however, staff had a second study done and that study was not conclusive as to whether the water was coming from the reservoir. However, they have made the decision since to line the reservoir.

In our last application we had 12 lots and now we are down to 4 directly below the reservoir. The reason for that was the instability of the soil from the slope directly below the reservoir. We identified the underground springs and the surface water, the water comes out of a very narrow portion which happens to lay directly below the reservoir. We had that water tested and there was a trace of chlorine in the water which was conclusive to us that it was coming from the reservoir. We think the actions of the city to line the reservoir speaks for itself. However, we don't want that to be a heavy factor on whether or not this application is approved. Staff is recommending that this be approved because of our superior plan.

I understand that the new code for 32-foot road is now code for the area. As the owner, we are probably going to have to concede on that point. We just wanted the Commission to know that the reason we did go to larger lots and fewer was because of the reservoir.

One of my questions being why are we required to have two different drain pipes from the reservoir, when you can get by with one. Why is staff requiring two instead of one? I've asked this question of staff and never received an answer.

That's all I have. Are there any questions for me?

T. Conser: Is there any more testimony in favor of this application? (There was no more testimony in favor) Is there any testimony against this application? (There was no one testifying against this application) All right. I have neutral testimony from Betty and Dwayne Osburn.

Dwayne Osburn: My name is Dwayne Osburn, 5910 West A. We have a neighborhood association -- Hillwood Association. I am representing John Miller, who has a residence next to our lot. John Miller is concerned about the easement between the two lots. Originally, it was a 15-foot utility tract/easement. Now it's become an alley. His concern was can the city change the original plot plan for utility tract into a road? And secondly, if the 10-foot alleyway is being approved, is there any possibility of moving that 10-foot road a little bit away from his bedroom? These are questions that he wanted me to ask tonight. We realize that this area should be developed and that these larger lots make good sense, but one thing came up into our discussions: Can the deed restriction be waived at a later date?

Mr. Osburn also stated that the alleyway would have to have a good sized pipe in order to carry the water away from their properties. He stated that according to the storm/sewer plan he could find nothing indicating a pipeline for that alleyway.

That's all I have. Thank you for your time.

T. Conser: Questions?

D. Osburn: Oh, I'm sorry I have one more concern regarding John Miller.

D. Osburn: (Continued) His concern of the reduction of property value of his home if this goes through. He's worried about the value of his home and his property.

M. Riley: Who owns the property where the alleyway runs now?

D. Osburn: The property is owned by the builder.

T. Conser: Okay. I have no more testimony sheets. So, at this point, the direction is to continue to public hearing.

It's obvious to me that a staff report that was written on the 30th of June and the applicant comes in with questions/and changes on those conditions, it seems to me that many of those issues could have been worked out. So I would like to direct staff and the applicant to get together on these issues, and if they cannot get together, I guess that is our job to determine what they are. The applicant is acting like he doesn't know what these things mean.

Fred Woods: Taking into consideration I don't think we are going to be able to change to 32-foot road recommended by staff, mostly what we are asking for is clarification by staff of what they are saying. We are not actually asking for any of the conditions to be changed, just clarified. We are agreeing with staff on almost every point, however, we want to know "why" if they will just explain it to us. As long as we can work it out with staff, we are willing to go along with what staff is recommending for approval. If you go into a continuance for another month, then it looks like we are going to be delayed another year like we already have been on this project. If we miss this construction window, we will be delayed another year. We aren't asking for any changes, we are just asking for clarification. Does that make it a little bit clearer?

T. Conser: Not 100 percent. I guess my feeling is that many of these things should have been clear in your mind. If I were making application I would want to know what the conditions meant prior to the meeting so that I could say, yes, this is good or no, this isn't good. Saying that I don't understand it is a lack of communication. It is the responsibility of both parties to say they understand and make sure they communicate because there are dollars setting here, and you certainly want to know what those dollars are going to be spent on.

W. Wright: As I take here, staff is pretty big on approval. I don't know that specific testimony is going to do us a lot of good. I would just like to see the wording revised on the conditions that staff's already arrived at. And it's certainly no mystery to our planning department, this piece of ground.

J. Hart: Mr. Chairman, I'd like some additional clarification on the water pressure issue; I'd like to know the size of the water main serving the hydrants.

J. Montgomery: Staff was prepared this evening to answer any of those questions. We are prepared right now to answer any questions.

M. Riley: I move that we continue the public hearing on the Hillwood development to our next special meeting to be August 1, 1988, at 7:30 p.m.

W. Wright: I second.

T. Conser: It's been moved and seconded. All those in favor say aye. (aye) Opposed? (There were none.)

At this point in the meeting, staff told of upcoming business.

The meeting was adjourned at 11:30 p.m.

WEST LINN PLANNING COMMISSION
SPECIAL MEETING
AUGUST 1, 1988

A special meeting of the West Linn Planning Commission was held August 1, 1988, with the following commission members present: Charles Tryon, Ron Crawford, Debbie Zachman, Joe Hart and Walter Wright. Staff members present were Jim Montgomery, Engineering Department; Peter Spir, Planning Department; John Hutchison, City Attorney's Office. Pam Allen was not present for this meeting. Minutes are typed from the tapes of the meeting. Charles Tryon was acting chairman for this meeting.

The first item discussed this evening was the review of the findings of the West Linn Planning Commission in the matter of the application of the City of West Linn for Conditional Use and Design Review approval for a water tower.

CHARLES TRYON STEPPED DOWN AS ACTING CHAIRMAN AND FROM THE PLANNING COMMISSION ON THE WATER TOWER ISSUE. Joe Hart was designated as acting chairman for this issue.

Joe Hart: The public hearing has been closed. So we are here just for the adoption and final order. Any staff comments?

P. Spir: Preparation of the final order document took place last week and it wasn't finally completed until late today. You have before you an item 19 pages long with the findings of fact to support your decision to approve the Conditional Use Permit and Design Review for the water tower. I think it would be appropriate, because you received it so late, to go through the list and review it at this time.

We went from 160 findings to 156.

J. Hart: Before we get into that, are there any declarations that we have to make before adopting findings, like we do in a public hearing.

J. Hutchison: No. That should have all been taken care of before at the public hearing.

J. Hart: Any discussion from commission members? Any questions or comments on any of the conditions or conditions that we received in the mail or any comments on any of the conditions on the final order that we have received tonight?

I have a question on condition 91. It says, "Only one adjacent home (inaudible) will have two additional hours of shade per day."

P. Spir: Are you referring to the old --

J. Hart: The number I gave you was off the old document.

P. Spir: With the changes that occurred, it has altered the numerical sequence on the new document.

J. Hart: It appears that has been dropped completely from the new document. The reason I asked about that is because it sounded as if there was one lot that would have two additional hours of shade --

P. Spir: Yes. We thought that misrepresented the facts. In fact, there were a number of other dwellings nearby which would be receiving two hours of shade per day. So to state that that one address was receiving all the shade wasn't accurate at all. So we removed that one.

J. Hart: The facts still are that no lot receives more than two hours of shade per day.

P. Spir: Correct.

W. Wright: On the new copy of conditions, number 127, should that be 4 feet apart?

P. Spir: The fence posts/spikes will be 4-inches apart. Not the posts that secure the fence to the ground, but the ones along the length of the fence. We could call them spikes or spears.

J. Hart: Peter, do you know which ones have been dropped? I just wonder if there is some way of speeding up this process without going through the entire document.

P. Spir: Peter stated that it was ones that they felt had been misrepresented or overstated. He also stated that there had been an attempt on the part of the staff to cover every possible challenge that they could think of.

J. Hart: I have a question on number 77 regarding the Insurance Office rating. It's a rating of the Fire Department and Water Department services for Fire Department emergencies for fires, and normally the water system is a large part of the credit that you get. So deficiencies in the water system weigh quite heavily. The water problem in that area could reduce the rating by the Insurance Services and would probably result in lowering of the rate city wide. This tends to suggest that it would be likely that the Rosemont area will have a lower rating. It was a change in the rating that affected the whole city.

P. Spir: I'm not familiar with that rating system. But it does make sense.

J. Hutchison: May I suggest that the change read, starting near the end of the second line, it is likely that the city will have a lower rating if the Rosemont water problem is not solved resulting in higher fire insurance rates for the city.

P. Spir: We have a few housekeeping changes. Early on in the findings, talking about the creation of the water task force in 1987 and in the previous items before that, there was talk about a task force created in 1986, and we don't believe there was one created at that time. This is around item number 16. We want to leave the one that says, "that in April 1987 the Water System Task Force was created to study the water problems and solutions." We wanted to make it clear that it was just that Water Task Force followed by the Design Review Committee.

J. Hart: Referenced number 122. It originally stated that the tower would generate no traffic, no dust, and no noise. That has been changed to no noise, no dust, and minimal maintenance traffic.

P. Spir: That's correct.

J. Hart: At this point in the hearing Mr. Hart stated to the Commissioners that he would like to be sure they have all had enough time to look through the document, so please let him know when they had had sufficient time to read the findings.

P. Spir: There were some changes made on number 97 in the West Linn Development Code Chapter 52. The original findings said that that does not apply. That is being changed to state that it does apply only so far as a small sign may be installed on the entry gate to identify the site.

Item number 98, we have added two more sections to that R-10 code: 11.080 and 11.060.

W. Wright: Peter, just as a matter of information, do you recall how that number may have been generated -- 1500 new services are anticipated?

P. Spir: I can't recall exactly. But there has been talk of 1,000 to 1,500. Number 74 references the amount of undeveloped land in the Rosemont area.

Much of the modification was just to take the edge off some of the statements that you might have considered absolutes. We were just qualifying those statements or making them more accurate.

J. Hart: We have addressed all the questions I have from going over the earlier ones. On the newest document here, I don't have any corrections to make.

W. Wright: Neither do I.

J. Hart: Does anyone else need additional time? (There was no response.)

Okay. Sounds like we have sufficiently reviewed the final order. We have come up with wording changes on three of the items: 74, we changed the word acre to land; 77, wording of the lower water rates will now read, lower rates because of the water problem; and 127, which was the changing of

J. Hart: (Continued) fence posts to fence pickets.

Mr. Hutchison, is it just a matter now of adopting by motion?

J. Hutchison: That's correct.

W. Wright: I make the motion that we adopt the final order CU88-01 and DR88-08 as submitted in the matter of Conditional Use and Design Review Approval for the water tower.

J. Hart: There's been a motion, is there a second?

D. Zachman: I second.

J. Hart: Any discussion? (There was none.) All those in favor? (Aye) Opposed? (No one was opposed.)

The final order is adopted.

MR. HART STEPPED DOWN AS CHAIRMAN AND MR. TRYON RESUMED POSITION AS ACTING CHAIRMAN FOR THE NEXT ITEM ON THE AGENDA.

C. Tryon: The next item on the agenda is a continuation of public hearing for amendment to the tentative subdivision/PUD plan approval and variance request. The applicant is Fred Woods and Land Development Consultants, and the location is south end of Caufield Street and Hillwood Park subdivision.

We would note that we have just tonight received a new list of staff recommendations on this. Has the applicant been provided a copy of this?

P. Spir: Yes, he has. At the instruction of the Planning Commission at the last meeting, the staff has met with the applicant and come to agreement on most of these points. It seems to be general agreement on the majority of these items.

At this point in the hearing a ten minute recess was taken while the Planning Commission reviewed the new staff report.

C. Tryon: I will now reopen the public hearing in the matter of tentative subdivision/PUD plan approval and variance request for file number VAR-88-05/MISC-88-19, regarding the property located at the south end of Caufield Street. My recollection is that we left off last meeting right at the point where we were to have the staff report. We had directed staff to meet with the applicant to resolve some unanswered questions and areas of misunderstanding or disagreement on some items and to try to reach an agreement with the applicant. At this time I would like to ask for a staff report.

P. Spir: The area of greatest conflict was on the recommendations. We will get to that later. Right now I would like to give the staff report on this.

As you will recall, the Hillwood Park Subdivision did receive their tentative plan approval from the West Linn Planning Commission in February, 1988. They were looking at 44 lots and a loop road going from Caufield Street, through the subdivision, and exiting onto West A Street.

This application is considerably toned down from that in terms of the number of lots. We are looking at 17 lots. The average lot size will be 33,413 square feet. Ranging from 10,00 square feet for the smaller lots up to 55,000 square feet for the larger ones. Instead of the loop road, we are looking at a 1,100 foot long cul-de-sac.

The applicant's application is contained in Exhibit C. For a planned unit development the provision of Chapter 24 must be met. Mr. Spir quickly covered the approval criteria as mentioned in the staff report.

Section 87.070(5) this was an area of contention between staff and the applicant, and we have since resolved this. It is concerned with the design and widths of streets. After discussion with the applicant, we agreed upon a 32-foot wide street throughout the subdivision and leading all the way down to Highway 43 intersection. There will be sidewalks on the northwest side of the road that leads from the subdivision down to Highway 43 and within the subdivision there will be sidewalks on each side where there are lots contiguous to that street.

Mr. Spir spoke directly from the staff report that the Planning Commission members had in hand.

Recommendations, based on the stated findings, staff recommends approval of the subdivision/PUD amendment and variance with the following conditions: We are proposing that Caufield Street(also known as Hillwood Drive) from Highway 43 shall be paved to a width of 32 feet between the curbing; sidewalks shall be installed adjacent to all lots of the subdivision and shall extend down to Highway 43 on the northwest side only. We are keeping condition number

P. Spir: (Continued) two which stated that the flag lot access for lots 10 and 13 shall be widened from 12 feet to 15 feet. We are also keeping the third condition of approval which stated that curbing, gutters, and sidewalks shall be installed contiguous to the subdivision and shall be the responsibility of the developer, except sidewalks which shall be the responsibility of the individual property owner and home builders. We've made a slight change to condition No. 4: improvements to Caufield Street/Highway 43 intersection shall be approved by the city engineer and the Department of Transportation. So we have removed reference to Exhibit C and the diagram which that contained. No. 5, a storm drain line 6-inch pipe should be installed by the developer at the city's expense. The line would run down a dedicated easement between lots 6 and 7. The easement shall be created to drain to city reservoir. No. 6, the cul-de-sac curb radius shall be 45 feet. No. 7, the developer shall establish and record with the plat, a covenant, condition, and restriction otherwise known as a CC&R document which prohibits the creation of any additional lots. Take out the words, partition of any, and in there place write creation of any additional lots. This way the developer will be able to do some lot line adjustment, shift some lots around, but there will be no more lots created. No additional trip generation in those impacts. No. 8, fire hydrants must be provided at the end of the cul-de-sac and between lots one and five. The same as earlier condition. Tract C shall be deeded or traded to the existing property owners so there will not be a landlocked property to the street. No. 10, the recorded plat shall have the words "city reservoir private property" in the location of the reservoir and shall identify the property lines on both sides of the property without necessarily showing the entire reservoir property. No. 11, extend waterline on Caufield Street to the site. This water system shall be established to the satisfaction of the city engineer and construction code. (This replaces an earlier condition No. 12) No. 12, all existing and identifiably utility lines shall be located and shown on the recorded plat along with easements to the city for these lines. No. 13, building permits and any major earthwork shall be withheld for lots 5, 6, 7, 8, and 9 until a suitable geotechnical investigation has been completed, which includes as a minimum, excavation of numerous test pits to disclose subsurface conditions along the site combined with one or two borings; comprehensive geologic map for the property identifying material types of geological hazards; laboratory testing of soil samples to develop design recommendations; slope stability analysis for proposed cut slopes; design recommendation to address specific geologic hazards and geotechnical concerns including subsurface drainage, foundation design, retaining wall design, earthwork recommendations including cut slopes. No. 14, storm sewer improvements on Caufield Street shall follow the Master Plan; No. 15, street grades shall not exceed 15%. No. 16, the applicant will identify/tag those trees in the public right-of-way to be removed; all other trees as defined in the Development Code shall be retained unless approval has been obtained from the Planning Director. No. 17, all conditions shall be completed by the applicant and approved by the Planning Director prior to issuance of building permits on any portion of the PUD subdivision.

That concludes the conditions. Again, I think the ones that we had a little problem with: No. 1, talking about the street widths and those ones talking about water service to the site and a few others. Were there any questions?

C. Tryon: I have two testimony forms filled out here. Both are neutral. Mr. Osburn testified at the last meeting. Mr. Miller did not. I would like to waive the normal procedures just to this extent: if Mr. Miller has something to say or a question to ask that hasn't already been addressed satisfactorily then he may come up then; Mr. Osburn, you can come up if you have anything new to say or any questions about anything that has been presented tonight.

John Miller: My name is John Miller. I live at 5888 West A Street. I guess my question is about what is this easement technically. When I bought this property last summer it was called a storm drainage/sewer drainage or something like that.

J. Hutchison: It has an easement in it, but if you look on the tax lot it has a tax lot designation and it does have an owner. It has a number like any other tax lot would have. You may have some encumbrances against it, but it is a tax lot. It is a piece of property.

John Miller: In other words, it can be used in any way, shape, or form that these people want to use it.

J. Hutchison: We have not done a title search on it. I don't know what encumbrances might be against that property.

John Miller: My concern is over semantics: the way I heard it being defined last summer over this summer.

John Miller: (Continued) Last summer I was under the impression that it was going to be used as drainage system or something. It's a natural drainage system now. It happens to flow over naturally onto my property in the winter. It can vary from a couple inches to six inches of water in my backyard. My concern is how will that be addressed? That's my concern. How will that issue be addressed there? And, also, will this be subdivided further? But also going back to the semantics, I don't have a lawyer here -- I just want to make sure that this thing is not going to have five lots or duplexes in the back there. I guess I'm taking a pessimistic approach.

C. Tryon: We understand your concerns. I think I can answer one of your questions. One of the conditions of approval, if the application is approved, is that the CC&R's will prohibit the division of any of the lots.

John Miller: I've heard that but my concern is on the use of words or whatever and how leverage could be used in the favor of the developer for subdividing it in the future. The pattern now is that it's no longer a drainage, it can be used as the developer wants it to be used.

C. Tryon: Regarding that particular question, I think we can answer that the best we can and that is that the piece of property is owned by the applicant. We don't know what, if any, encumbrances are on that piece of property. But I would like to have the applicant respond more fully to your questions.

Mr. Osburn, do you have anything new?

Mr. Osburn: Can the buyer of lot 11 come to the Planning Commission and get a variance to change the things that you people set up? Is that a possibility?

P. Spir: Someone could ask for an amendment to this approval and it could be denied or approved. More than likely it would be denied.

Mr. Osburn: I like the way the program is set up now.

C. Tryon: Any final order or final approval someone can come up down the road and ask for changes. There's nothing we can do about that.

John Miller: But where does the Planning Commission stand if that were to occur.

C. Tryon: I don't know. I think you can safely assume that this Planning Commission would not want to see any new lots. This is a revolving body and circumstances change also. There are no guarantees.

Joe Hart: A quick question of Mr. Miller: Does the drainage run down that 20-foot strip?

John Miller: The 15 x 200-foot strip, yes. It also cuts down in my property about 80-feet down.

Joe Hart: The water basically runs down that strip, though?

John Miller: (Answer inaudible)

C. Tryon: Would the applicant please come forward.

Fred Woods: My name is Fred Woods. I live at 23640 Northeast Holiday in Troutdale, Oregon, and I own the Hillwood Park subdivision.

To answer some of the questions brought up by Mr. Miller and Mr. Osburn, I own tax lot 7200, which is the 15 x 200-foot strip of land reaching from West A Street to the proposed property. It is a separate tax lot. There are no encumbrances on it. The taxes are paid current. I just closed the purchase of that property about two or three months ago. It was originally designed for access or utility easements or storm drainage or whatever. It was left as a separate lot knowing that that would have to be used to develop this piece of property. It makes a very good driveway going back to the property, and as addressed in condition No. 2: that the driveways for the flag lots between 10 and 13 need to be 15-feet wide. We only have 15 feet. It's only wide enough for one lot. It isn't going to get any wider. I don't think Mr. Miller or Mr. Osburn are going to let us have any property to make it wider. And, also, the CC&R restricts the subdivision of that lot. I think the chances of that happening are very, very slim.

We still need the ground for the easements for the storm drainage and utilities to serve these lots rather than run them from all the way back here.

Fred Woods: (Continued) The water that Mr. Miller referred to does run pretty much down that piece of property, but it does swerve onto his property. But the majority of that water, according to what we found, is being funneled down from the runoff underneath the reservoir, down the ditch line and into the ground. It eventually seeps and goes down that drainage. In our storm drainage plan, we plan on refunneling that water and taking it down Caufield. The majority of it will go down Caufield; however, we do understand that there will need to be additional storm drainage on lot number 11 to channel that water.

As far as other questions that you had on width of the road, all the other conditions that we have gone over with staff we are in total agreement with.

Regarding water pressure -- the problems that we have had before, I think there was a lot of confusion and I think we have cleared them up.

That's all I have. Now Mr. Nims would like to speak to you on the water pressure.

Jim Nims: Mr. Nims referred to a colored drawing that he put up on the wall and used to demonstrate the water pressure patterns. He stated that all the houses would be below the 40-pound water pressure area. He stated that they concur with the staff report. (During Mr. Nims presentation he referred heavily to the colored chart on the wall, answering questions referring to water pressure levels and placement of new construction.)

Jim Montgomery: We are satisfied with the conditions and we are satisfied that we can maintain adequate pressures once we've received the report from the engineer and we've made the necessary changes. We are satisfied that this subdivision will be supplied with adequate pressure.

J. Hart: I move that we close the public hearing.

D. Zachman: Second.

C. Tryon: It's been moved and seconded that we close the public hearing. Is there any discussion? All in favor? (aye) Opposed? (No one was opposed.)

The public hearing is closed.

Okay. We have the application before us. We can approve it, deny it, or approve with conditions of some kind.

The first thing I need to find out is if there are any further questions from staff? (No one had any questions.)

I would like to try and get a general consensus of where we are on this issue. Joe Hart, on condition No. 11 I'd like some wording that allows the city engineer a little bit more flexibility. I'd like to have it changed to what was suggested by Mr. Hutchison.

P. Spir: Can I suggest some wording?

J. Hart: Okay.

P. Spir: "In the event that this alternative is unworkable, a waterline from Firwood Court may be required by the city engineer" or words to that affect.

W. Wright: Does that limit the city engineer to a solution to a substandard water pressure problem?

P. Spir: Well, basically, he is the one who is deciding if it is a workable solution that is being proposed along Caufield Street. He is the one that will authorize this alternative route from Firwood Court and require it. We are looking optimistically towards the first part of the condition and if something should come up that makes it impossible to follow Caufield Street then we do have that too.

R. Crawford: Is that the only other alternative?

W. Wright: Yes, that was my thought.

J. Hart: Plus I'm wondering if we need an additional condition that will give some protection to Mr. Miller as far as drainage along that driveway on No. 11. My concern is you come in there and lay crushed rock in there and pave over the top of it that water isn't going to be running down that strip anymore, it's going to be pushed off to either side. Mr. Wood assured that additional drainage would be added to take care of that, but I would like to make sure that it does happen.

C. Tryon: Other than those conditions, you support this application?

J. Hart: Yes.

C. Tryon: D. Zachman?

D. Zachman: (Inaudible)

C. Tryon: Mr. Crawford?

R. Crawford: I feel I'm pretty well satisfied by those conditions. I also feel the same as Joe that we should provide some sort of additional protection for the individuals on either side of that piece of property to protect them from flooding.

P. Spir: Could we go with a condition that would say, storm drainage improvements will be made to mitigate water runoff from lot 11 and lots southeast of that lot. Southeast of lot 11 would include both of those lots and mitigate would mean to make less severe. We can't expect all water runoff to be eliminated, but we will do something to minimize it.

C. Tryon: Mr. Wright?

W. Wright: I'm satisfied.

C. Tryon: I have a housekeeping question. The staff report bills this as a tentative subdivision/PUD amendment, is that infact would this is? Is this a new application?

P. Spir: There was a little discussion as to what point are we looking at a new application or is it an amendment, but we chose in this case to intrepret it as an amendment.

C. Tryon: Should there also be a condition in here to the effect that it replaces or supersedes previous approval and the conditions thereto? Or is that necessary?

P. Spir: Yes, I think that would be a good idea.

C. Tryon: That's all I had. Do I hear a motion?

J. Hart: I would move that the tentative subdivision and PUD amendment plus two variances, files 88.19 and 88.05 be approved with recommendations as suggested by staff with the amendments and conditions that we have discussed on the basis of findings as found in the staff report.

C. Tryon: Is that specific enough for you, Peter?

P. Spir: Yes.

C. Tryon: Do I hear a second?

D. Zachman: Second.

C. Tryon: Is there any discussion? Does everyone understand the motion? All in favor of the motion? (Aye) Opposed? (No one was opposed.)
Motion passes. Application approved.

W. Wright: I move that we adjourn.

D. Zachman: Second.

C. Tryon: Moved and second that the meeting be adjourned. All in favor. (aye) Opposed? (None)

Meeting adjourned.

WEST LINN PLANNING COMMISSION

AUGUST 15, 1988 MEETING

Present were commissioners Joe Hart, Deb Zachman, Michael Riley, Ron Crawford, Walter Wright, and Tim Conser as Chairman; and present from staff were Peter Spir, Deanne Darling, and Jim Montgomery.

MR. CONSER: Call to order the West Linn Planning Commission meeting of August 15 at 7:42. Let's see, we'll go into Item No. 6 immediately. I'd like to open the public hearing on Item 6 which is again the design review, OTAK multi-family subdivision, for the purpose of continuance. Is there a motion?

MR. WRIGHT: I move to continue Item 6 until August 29th at 7:30 at this location.

MR. RILEY: Seconded.

MR. CONSER: It's been moved and seconded. All in favor signify by saying aye.

RESPONSE: Aye.

MR. CONSER: Opposed?

RESPONSE: [none]

MR. CONSER: As I have explained, in order not to make this an absolute disaster, we are going to hold over Item 6 until the 29th of August at 7:30, back in this location. It will be the first agenda item available to us. If you are unable to attend that meeting or not sure whether you will be able, please sign in on the list and list that agenda item so that you get a record of standing. That's very critical, because if you chose to appeal the decision, regardless of what the decision is, you need to have standing. So, I would ask that you do that.

[Several minutes are taken for the public to fill out appropriate forms.]

Ms. Darling, I'm sorry, I need you for a couple of questions, if I could, before we close that particular agenda item. A question was asked: Do the developers have the ability to start any work, clearing, staking, grubbing, or anything on the apartments prior to the approval process?

MS. DARLING: They can survey without any approval. Unless they violate a tree cutting ordinance, they can cut trees; it's their property. If they want to move their dirt around to some reasonable extent, they're free to do that.

Does that cover everything?

MR. SPIR: Pretty much.

MR. CONSER: I guess we kind of lost the OTAK people, also. I was up there yesterday, I haven't seen any work on the survey. What have they done to this point? Obviously, there's a lot of people that have concerns about that. Would you like to explain exactly what they can do, to what extent, and be explicit as possible.

MR. SPIR: For example, they may be able to do some additional surveying. There are some questions about the site analysis that they had conducted and supplied in their application. If they are looking at ways to fill this time, this will provide them with the opportunity to get a better contour map, some more work at the site, identify some trees that will be saved, and that type of thing. So if you're asking what can they do in this meantime that is towards the ends of developing the site, there are some things that it can do. Not too many things -- I'm sure they would rather have had the hearing tonight, certainly.

MR. CONSER: If I understand this correctly, basically what they can do is go out and set survey stakes. If they need to clear brush -- and we're any tree less than six inches and five foot height they can clear and grub that if they so need to do that. Now, obviously, with the amount of trees up there, that would be a fairly extensive activity.

I have no indication they wish to do that, but by extending this an additional two weeks, they may want to do some additional topography studies or ground soil studies, and they do have a right to do that on their own property. In other words, you can go out and dig a hole in your backyard, and we certainly aren't going to control that. But under this particular circumstance, they do have that same particular right.

The thing they don't have a right to do is what has been done previously, and we have passed a tree ordinance since then, and that would be to go in and wholesale grub and clear property to find out exactly what they have -- I mean just literally level it, and we've seen evidence of that. That's no longer permissible under our tree code.

Does that satisfy your concerns?

PUBLIC HEARING ATTENDEE: I think so.

MR. CONSER: Thank you. Now, is there a motion to close the public hearing on Item No. 6.

MS. DARLING: No.

MR. CONSER: It's continued, pardon me. I'll get back on track, if there's a chance.

Again, we ran out of little yellow forms. We have some pink forms -- blank paper is what I believe they are. If you wish to speak on either agenda Items 4 or 5 tonight, and you have not filled out one of these forms, I would appreciate it if you would do it at this time.

PUBLIC HEARING ATTENDEE: Is there going to be a consideration to giving a larger space to the Item No. 6 hearing next time?

MR. CONSER: At this point, that's the only item that's scheduled.

PUBLIC HEARING ATTENDEE: I mean, next time, is there going to be more space for more people being present in the audience?

MR. CONSER: Okay, you're talking about physical space.

MS. DARLING: You may want to hold it at the school if it's going to be large.

MR. CONSER: Just continue it up at the school or go up to the school later?

MS. DARLING: You could check ahead, and we could post the door, maybe put something in the paper, check the city hall.

MR. CONSER: I'm not so sure we couldn't have housed everybody that would've been here had we not had both items on the same night. But in that interest, I'd like to direct staff to make sure that we have another space available. Do you want to just go ahead and hold it up there? Because we told everybody to come back here on the 29th. They're not going to be looking for a change.

MR. WRIGHT: I think we should start here, and if need be, adjourn and go to another location.

MR. CONSER: Would you make sure that we have the auditorium or some facility, possibly at the high school.

MS. DARLING: Sunset Fire Hall?

MR. CONSER: Sunset Fire Hall, that should be adequate. And have it set up so that we have minimum delay if we need to adjourn and go over there.

Thank you. We appreciate your point.

I stated earlier that there will be some confusion in testimony. The normal process that goes on in a public hearing is we open the public hearing, we take the general description by the staff -- an explanation of what it is we're hearing. We have received quite a bit of information. We go through the process of making sure there are no ex parte contacts or conflicts of interest. We get those declared out.

We go through a process of allowing the applicant or the party who is bringing this issue before us to state their case, and they will be allowed 20 minutes to do that. Then we allow those people who are in support of that. We allow people five minutes if they are representing themselves, ten minutes if they are representing a neighborhood association or a group of people of roughly four or more families, or some organization such as a business group or something of that nature. We ask that that be declared, and I see some of that has been done here now.

Then we allow those people who are in opposition, and in this case, they would then be for the MACC Center. Again, we allow those people who are representing large groups up to 20 minutes combined. It's actually ten minutes per person in opposition.

MS. DARLING: I thought it had been five.

MR. CONSER: It's five minutes per person and ten minutes -- but in this case it's a unique situation.

MS. DARLING: You can set any rules you want.

MR. CONSER: Okay.

MS. DARLING: Set them and go by them.

MR. CONSER: We will try to stick to those rules. After that, then the person who has brought this issue before us will have a final rebuttal or the final say. We will then close the public hearing and hopefully make a decision. That's the process we go through. It probably will be slightly modified because of the unique situation tonight. So bear with us. We don't get into these very often, and we'll just do what we can.

Now, with that, I would like to move to Item No. 2 and open a period for any audience comments for future agenda items or anything they wish before the Planning Commission for us to consider. Any future agenda items or comments?

Approval of the June 27th special meeting minutes. I was not in attendance at that time, so I have no comment. Is there a motion to approve or correct the minutes of the June 27th meeting?

MR. RILEY: I'd like to move we approve the minutes of the June 27th special Planning Commission meeting.

MR. HART: Seconded.

MR. CONSER: Seconded. All in favor, signify by saying aye.

RESPONSE: Aye.

MR. CONSER: Opposed?

RESPONSE: [none]

MR. CONSER: It is approved.

Now, Item 4, public hearing. One year's extension of the tentative plan of approval for Suncrest Terrace Subdivision.

I'd like to call to order for public hearing at 7:58 for Item No. 88-16. Do any members of the Planning Commission wish to abstain from this hearings application.

MR. WRIGHT: I wish to abstain. I have a conflict of interest.

MR. CONSER: Okay. Do any members of the Planning Commission wish to declare an additional conflict of interest?

Do any members of the Planning Commission wish to report any significant ex parte contact?

Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter?

Any members of the audience wish to challenge any individual members of the Planning Commission?

Have all commission members viewed the site?

For those who are wishing to testify on this issue, please be aware that if you fail to raise an issue in person or by letter tonight, you will be unable to raise that issue at any subsequent times on appeal.

At this time, would you like to give us a brief overview?

MR. SPIR: Miscellaneous 88-16 is a request by Brian Steensen for a one-year extension of the subdivision tentative plan, Suncrest Subdivision, located at the northeast corner of Rosemont Road and Hidden Springs Road. The parcel is 2.36 acres, and the zoning is R7.5.

In 1987, at the regular meeting of the Planning Commission, the tentative approval for this ten-lot subdivision was granted, and in May of 1988, Mr. Steenson contacted Development Services with a request for a one-year extension.

MR. CONSER: Is the applicant present?

MR. STEENSON: Yes, sir.

MR. CONSER: Please state your name and address and any applicable information you wish.

MR. STEENSON: My name is Brian Steenson. I reside at 595 South Marylhurst Drive, West Linn, Oregon.

I am requesting the one-year extension because I run into some title problems on a strip of land that runs through the center of the subject property, and I do not have those cleared up yet. This was unknown at the time I applied for the subdivision, and hopefully I'll get it resolved in the near future, so I can get begin development.

I do not believe that any of the facts or the law or administrative or legislative matters have changed since the subdivision approval was granted in 1987.

MR. CONSER: Are you aware that Condition No. 3 was not stated in the original application that the Parcel No. 2, or Parcel B, will be an access for public right-of-way off of Suncrest Drive?

MR. STEENSON: I am aware of that, yes.

MR. CONSER: I just wanted to make sure. It was written in on our copies.

MR. STEENSON: That was on the partition lot.

MR. CONSER: Are there any questions of Mr. Steenson at this time?

Thank you, sir.

I have no testimony forms in favor or against. Is there anyone who wishes to speak in favor or against this extension?

Then we won't go into rebuttal.

Staff, any comments other than your staff report?

MR. SPIR: No, that should suffice. There have been really no changes at all.

MR. HART: Mr. Chairman, I move the public hearing be closed.

MR. RILEY: Seconded.

MR. CONSER: It's been moved and seconded that the public hearing be closed. All in favor, signify by saying aye.

RESPONSE: Aye.

MR. CONSER: Opposed?

RESPONSE: [none]

MR. CONSER: At this point, we have the opportunity to grant the extension. We can add conditions if they seem appropriate, or we can deny the extension.

MR. HART: Now, the third condition that you just asked Mr. Steenson about, that has already been approved by prior approval?

MS. DARLING: Uh-huh.

MR. HART: So that isn't something we have to add?

MR. SPIR: Correct.

MR. CONSER: Do you understand what that condition is, all members of the Commission?

MR. RILEY: Was there a formal finding on this, on those conditions? Was there something here about the fire pressure and things like that?

MR. MONTGOMERY: That's a typographical error.

MR. RILEY: But there was a finding that came out afterwards.

MS. DARLING: Finding regarding what?

MR. RILEY: Well, just a corrected staff report.

MS. DARLING: I think there was, if my recollection is right, there was a statement made at the hearing that the work comp shouldn't be there, and so it was scratched off, and that was it.

MR. RILEY: Okay, scratched off.

MR. CONSER: It would be essentially the original of the staff report prior to the public hearing which eliminated that item, the pump item, and added a Condition 3.

MR. RILEY: Usually it's more formal than this.

MR. CONSER: Is there a motion?

MR. RILEY: I move we grant a one-year extension for the Suncrest Subdivision's tentative plan, Miscellaneous 88-16.

MR. CRAWFORD: I'll second that.

MR. CONSER: It's been moved and seconded to grant the extension. Any questions or discussion?

All in favor, signify by saying aye.

RESPONSE: Aye.

MR. CONSER: Opposed?

RESPONSE: [none]

MR. CONSER: Now, the fun part. I would like to take just a brief second to explain to you that this Planning Commission is made up of neighbors with various expertise -- speaking to that, I'd like to see that one of our neighbors comes back if we haven't lost him. Is Walt out there somewhere?

[Mr. Wright returns to council table.]

MR. CONSER: We have different vocational and educational background and experiences. We are an all-volunteer group. We are appointed by the Planning Commission. All of our decisions can be reviewed by the Council, which is your elected body. And then those decisions can be appealed to LUBA, Land Use Board of Appeal. There are varying degrees of experience on this commission and on other commissions, and bear with us. We enjoy the challenge, but we like to keep things orderly and respectful to the best of our ability.

With that, I'd like to open Item No. 5, public hearing, complaint against the MACC day-care center. I have to go through this little ritual. I ought to know it by heart by now, but -- Call to order the public hearing regarding Application 88-17 at 8:07 p.m. Any members of the Planning Commission wish to abstain from hearing this?

MS. ZACHMAN: I wish to.

MR. CONSER: Okay. That's the other part about being neighbors. We kind of get involved sometimes in our own community, which is important.

Now, do any members of the Planning Commission wish to declare a conflict of interest?

I'm not going to declare a conflict of interest, but I would like to state up front that both of my children attended MACC for a period of about four years -- two years for each. I believe from 1981-82 and then '83, '84 and '85. My son attended the MACC Center, so I am familiar with their operation from that extent. So I would at least like to state that.

Do any members of the Planning Commission wish to report any significant ex parte contacts?

MR. HART: Mr. Chairman, since you stated that your children attended MACC in the past, I guess I'll have to state the same. I didn't feel that it would hinder my ability to make a judgment in this matter. So, I didn't think it was important, but I had two children also -- no, just one that I think that attended MACC. It's been a long time ago.

MR. CONSER: On the ex parte contacts, I did receive a letter in the mail from the operators of the MACC requesting of my wife and myself to support their concerns. I did not respond to that letter, and obviously, for that particular reason. I'm sure they had no idea.

MS. RAES: I didn't know you were on the Planning Commission.

MR. CONSER: I'm sure that's the case. I don't feel that either having my children attending there or receiving a letter requesting support on the issue will affect my ability to hear this issue.

Also, one other significant factor, and that is the Planning Commissioner chairman does not get a chance to vote on an issue except when there is a tie, and there is that potential at this point, since

there are an even number of commissioners on my left and right. But at this point, I don't feel that that is a problem, and I'm more than willing to go forth.

So, with that, do any members of the audience wish to challenge the jurisdiction of the Planning Commission itself to hear this issue?

Do any members of the audience wish to challenge any individual members of the Planning Commission?

Understand that a challenge must be made at this point if there is a concern in your mind.

Will all those wishing to testify please be aware that if you fail to raise an issue in person or by letter to tonight, you will be unable to raise that issue in any subsequent period or appeal process.

Staff, how about bringing us up to speed on this?

MR. SPIR: This item, Miscellaneous 88-17, is a complaint filed by Vicky Russell against the Music Arts & Crafts Center, otherwise known as MACC, located at 2300 Century Lane. The zoning in that district is R10.

Going back now to 1979 when MACC applied for the conditional use permit to operate their center on Century Lane, schools of this kind are permitted by conditional use permit. That conditional use permit was approved by the Planning Commission. It was appealed to the City Council, where the earlier decision was upheld.

Findings of facts supporting that decision by City Council are found in your package under Exhibit B, not Exhibit A, as reported in the report. It's those conditions of approval that the complainant alleges have been broken.

In a letter received on June 8, 1988, the following three conditions were identified: Condition No. 1, that no motor vehicular traffic from the subject child-care center shall be allowed west of the center on Century Lane; second condition, that child-care center shall no serve more than 30 preschool children during normal school hours, and not more than 12 school-age children before and after normal school hours; the third item was that the number of staff vehicles on or adjacent to the premises at any one time shall be limited to two vehicles.

These were the three items that the complainant was focusing upon. I will present the additional staff report later.

MR. CONSER: Does the legal staff wish to give us the information? This is rather unique.

MS. DARLING: I think that the staff has done a good job of narrowing the issue, and the issue seems to reflect around your interpretations of the meaning of Condition 2. It appears your options are to interpret that there will be no more than 42 children at any one time, or that there will be no more than 42 students enrolled. Those words have different meaning and need to be clear on what you find Condition 2 to be; that is the purpose of this.

Since there appears to be no request by the MACC Center to expand its enrollment, we don't need to get to that issue that was suggested on the bottom on the staff report. Though it is correct that if they wanted to expand their enrollment past 42, whatever you determine the 42 to be, then they've got to amend the conditional use application and come back at a separate hearing.

So you cannot tonight change conditions. What you're doing is clarifying and interpreting the conditions. If you find that there has been a violation of the conditions, then you can look at the issue of revoking the approval and making them come back and apply again. If you find that there has been a violation and it can be cured by adding conditions, you may do that.

MR. CONSER: Okay, is that clear to the Commission? Any questions of the staff?

With that, in this particular case, I will start with a group -- I'm going to read off the names, if I can. These are the people that wish to speak in support of the complainant, Vicky Russell: James Hart; Vicky Russell, herself; John Shonkwiler; Tom Russell; Kathryn Jernstedt; Mary Kirchem. Then there's a Maxine Olsen. It is undetermined as to whether she is for -- and I realize it's confused.

Do you wish to speak in support of Vicky Russell?

MS. OLSEN: Yes, I do.

MR. CONSER: Is there anybody else who I may have confused whether they were for or against?

MS. VANDERLAAG: I put in a yellow sheet, Dorothy Vanderlaag, but I said Item No. 2.

MR. CONSER: Yeah, I pretty well corrected the 2 to a 5.

MS. DARLING: If there's no noise out in the hall, we're supposed to leave the door open, since it's an open meeting. Thank you.

MR. CONSER: Yes, I show you as Item No. 2. May I assume you are for the MACC Center continuing? You are against it? Okay. This will go back and forth, and just be patient with me, and we'll go forth on it. Okay, I think I have these separate.

Again, the process will be to allow Mrs. Russell to state her situation, her case as it would be, and to have those people who are in support of her position on this issue. Then we will have those people who are against her position on this issue, and then those people who just have concerns or questions.

From that, I would like to call Vicky Russell. Please come up, state your name -- You're not going to tell me you're Vicky?

MR. SHONKWILER: No, I'm not Vicky Russell. My name is John Shonkwiler, and I'm representing Vicky Russell, so I'll first speak for her.

Basically, Vicky Russell lives at 2310 Century Lane, West Linn.

MR. CONSER: Can we have your address also?

MR. SHONKWILER: My address is 5750 Carmen Drive, Lake Oswego, and I'm an attorney.

Now, basically, I will address what I consider the legal issues tonight, and we will have testimony from the Russells and from neighbors relating to factual evidence on what things they have observed and documents that they'll present to you on a factual basis. I'd like to --

MS. DARLING: Mr. Shonkwiler, before you start, I would like to make it clear that if you're speaking on behalf Vicky Russell, you're using part of her twenty minutes.

MR. SHONKWILER: We recognize that.

MS. DARLING: Okay. We didn't want to have a misunderstanding on that.

MR. SHONKWILER: I'd like to preface our remarks first by saying that contrary to some of the letters I've read that were in response to this, we're not trying to run the business into bankruptcy and run it out of existence.

Basically, what we're here for tonight is to seek enforcement of the conditions that were imposed upon the business back -- well, nine years

ago, in 1979. That's essentially what we're after is to bring it back to what it was approved.

Basically, the business is running so well over the years it's almost apparently doubled in size. And if the business needs -- that portion of the business that's grown beyond what was approved -- it needs to be reduced at the site or that portion moved to another location that would be legal for it, then that's fine. But we're talking about this specific site and the conditions that limit its use at that site.

Now, I characterize the issues down to four basic issues. The first one being the question about the number of children allowed, exceeding that number. Basically, the conditional use permit identifies 42, and it breaks it down to two categories: 30 preschool and 12 school age. So, there's first the question of: is that 42 per day or is that 42 at any particular time? And also each of those three categories, have they been exceeded? And there'll be evidence submitted to you that all three categories have been exceeded.

The second issue, I think, and the third and fourth, all basically stem from that first issue. First off is noise. Is there an excess of traffic generated now, today, beyond what was contemplated back in 1979 for that use? And again, you'll have testimony saying that there is. And is that noise -- the traffic is one thing, and there's also the noise of the excessive number of kids that go beyond the condition. All of those relate to the noise issue.

The third issue: traffic itself. The primary one is the condition right in the permit itself identifying that no cars are supposed to go west of the center on Century Lane. And you'll have testimony from the Russells and the neighbors identifying that that has occurred basically on a fairly regular basis. And they will have documents and photographs to show you.

And also there is the question about what was contemplated for the scope of this use, and the face of the permit identifies that it was contemplated that this use wouldn't exceed 40 trips per day as far as vehicle traffic. And there will be testimony to show that that is violated constantly, in fact, substantially.

And then the final item, the fourth item, is staff vehicles. The face of the permit identifies that there is only allowed two staff vehicles at any one time at this site, and there will be testimony showing that that's been violated.

Now, moving onto the issue of the number of children allowed at the site. I would like to start this off by giving you a series of exhibits. I'll go through them one at a time and identify them for you. Those are for your perusal while I'm doing this.

[Exhibits were then distributed to commissioners.]

Now, first off, the staff recommended in its documents for this hearing tonight that you could make the interpretation that the permit allows 42 children at any one time in a day, as opposed to what I'm going to tell you is what is really required by the permit and by state law, is that is 42 children total, maximum, that's it. Not 42 at one hour, 42 at another hour, and a different 42 at another hour, totalling 120 or more during the day. We're talking just 42, and here are the reasons for that.

First off, the conditional use permit, back in August 8th of 1979, identifies in Condition No. 4 -- and if you will pardon me for doing this, I will read that to you. It's on page two of the permit. It says: "Child-care center shall serve no more than 30 preschool children during normal school hours and no more than 12 school-age children before and after normal school hours."

Now, what's important about that is it says "during normal school hours." It doesn't say during any particular hour. It also says "before and after" school. It could have said "before or after" school, but it was intentionally selected to be "before and after." So, that's a total

amount. And we are looking at a total from before school, during school, and after school; and that total is supposed to be 42 students when you total it up. There is nothing in here that would indicate on its face that there was ever any intention that you could have 42 one hour, an entirely different 42 children at a different hour, and by the time you get done with this it would total up to -- what appears to be from the documents -- at least 70 to 80 students up there during the day.

Now, why was that done? I submit to you it was intentionally done for another reason. Condition No. 4, at page 2, as I said, does not mention anywhere in there that "at any time" to limit it -- or I mean, not to limit it -- to allow it to be more open and then allow more than 42 students any day.

To give you a direct contrast to that, Condition No. 5; the City at that time said that for the number of staff vehicles that would be on the premises at any time -- it used that language: "at any time." So it intentionally, in one condition, was allowing a situation where they could come up at any time and look and see if there's more than two vehicles there. And in that condition, it used that phrase: "at any time."

However, in Condition No. 4, when we're talking about the total number of children as 42, it did not use that phrase: "at any time." So they must have intentionally left it for the idea that it is to be a total of 42, a maximum of 42, for the whole day. Now, that's the face of the permit itself.

Now, also, Condition No. 6 needs to be looked at. Condition No. 6, again at page 2, says granting of the subject conditional use permit and the continued operation of the facility, which is what we're at today, are subject to satisfactory compliance with all applicable requirements and conditions of the Children's Services Division of the State of Oregon. It goes on further to say, "and all other applicable local, state, and federal requirements."

Well, why is that significant? Basically, you're saying there that we're going to grant them approval for 42 students and in addition to that, if there's going to be changes later on, or if they get a permit that is the same as that or different from that, then that's the requirements that are going to be imposed, the requirements of the state. You've incorporated them right into the permit.

Now, what does it mean now? What we have is a license, which is the first exhibit I have in the packet. It's the license that the State of Oregon gave MACC Center. As you can see, it's dated November 30, 1979. This exhibit's the little certificate here.

MR. CONSER: If you'll wait a moment, I'm going to call out an exhibit number for each of these so that we can make sure when they're referencing --

MR. WRIGHT: Do each of us get a copy?

MR. CONSER: I guess the option there is to pass it around.

MR. WRIGHT: I don't think it should be allowed.

MR. CONSER: Okay. Do you have additional copies?

MR. SHONKWILER: We have some additional copies. She's going to be providing exhibits after, and we will have additional copies of this for everyone.

MR. CONSER: Is there a chance we could get those exhibits so that we can pass them back and forth?

MR. SHONKWILER: Yeah, I'll keep talking while she's collecting those for you.

Basically, on the face of this exhibit, it shows, up in this upper right-hand corner, that the maximum number is 42 --

MR. CONSER: Just a half a second. I've got an exhibit here of some 56 pages, and if they have enough examples, we have an opportunity to either accept this -- we have a choice of whether to accept it, obviously. But we could follow along.

MS. DARLING: It would be Exhibit E.

MR. CONSER: Exhibit E, the entire 56 pages.

MS. DARLING: We need one for the official record.

MR. CONSER: If I could have a copy, and you might want to give your gentleman here a copy so that he can specifically state what page he's dealing with.

I believe you were discussing page five.

MR. SHONKWILER: Okay, in the middle of that page, you'll see the certificate from the State of Oregon, and in the upper left-hand corner, it identifies that the maximum number of children allowed in this day-care center is 42. And it also gives what the number of that 42 is covering, and it's between the hours daily of 7:00 a.m. and 6:00 p.m.

So the State of Oregon has identified that the total number of children that's allowed by state law to participate in the day-care center is 42. Also that mirrors the application that MACC Center made for approval, of which they identify that they are only making application for 42 children: 30 from the ages of 2½ to 5, plus 12 before- and after-schoolers. So there is no request for any more children than that.

MR. WRIGHT: Excuse me, where is that application you're referring to?

MR. SHONKWILER: I think it's in here somewhere. Anyway, let me go on for a moment.

MS. DARLING: Page 2.

MR. HART: Page 5.

MR. CONSER: Page 5 is the application.

MS. DARLING: Page 2 of the application.

MR. SHONKWILER: Now, I would submit to you that the State of Oregon in carrying out its certificate requirements of Oregon Administrative Rules. Oregon Administrative Rule 412.10.015, subsection 6(a) sets the application in fee requirements for certification in the State of Oregon, and it states that the total "number of children for whom the facility is requesting to be certified."

So, again, we're talking about a maximum for the whole day. Oregon Administrative Rule 412.10.010, subsection 16, then defines the group size for each day-care center that's covered for certification, and it says: "The group size means the total number of children participating in the same activity and assigned to a principally responsible care-giver."

So, again, everything under state law couches the certificate in terms of the total number of different children that will be enrolled in the day-care center itself. That's 42 in this case.

Now, why is that significant here? I mean maybe it's just an arbitrary figure that she got certification for. Well, it is significant, and it was significant to the City nine years ago. What we're talking about is providing a business, in essence a kind of commercial enterprise, in the middle of a residential neighborhood.

Now, it is recognized that day-care centers are kind of a unique business, and some of them should be allowed in residential neighborhoods. But, by their very nature, it is still intended to have them

within the context of the neighborhood, the same area, and minimize the impacts. And part of the way of doing that is by going through conditional use approval.

Now, in this case, the permit itself on the first page identifies -- in about the middle section here, it's under item 2, or paragraph 2 in the first page -- says "contemplated that the use of the site as a child-care center will involve approximately 40 additional vehicles per day."

Now, that's important for two aspects. One is that --

MR. CONSER: Excuse me for just a second. I'm having difficulty staying up with what you're referencing.

MR. SHONKWILER: I'm referring to the permit itself.

MS. DARLING: It would be Exhibit B.

MR. CONSER: Is this Exhibit E?

MS. DARLING: Exhibit B to the staff report.

MR. CONSER: Okay, Exhibit B, page 2, the conditions.

MR. SHONKWILER: All right, on page 1 of that, it identifies paragraph 2, and at the tail end of that paragraph is the portion I quoted to you. And what's important about that is that was the basis it was contemplating what the impacts on this use would be in the neighborhood. And it was contemplated that the impacts would not be more than 40 trips per day. It's also significant in the sense of how much impact that's going to generate. If it's going to be more than 40 trips per day, it's going to have an adverse impact on noise and the number of children in the area.

Now, also, you'll see on paragraph 4 of that same page, the permit also talks about the hours and curriculum schedule of the center: "will be such so as to prevent any significant adverse impacts to surrounding properties from noise generated from the site." It also goes on to state, if I can paraphrase this: surrounding properties shall not be subject to detriment from significantly increased vehicle traffic or the over 40 trips per day that I mentioned up above.

Now, what this does is it puts the burden on the center to keep its impacts down. Basically, if it's going to exceed 42 students per day, and if it's going to exceed more than 40 trips per day, it should come back to the City for an amendment to its permit. Well, it never did that. The burden was on it to do so. It has failed to do so. Today we now have violations, and you'll hear further testimony on the facts of the violations.

I would point out -- sorry I don't have an exhibit number for this, but it was page 20 of the documents sent out to everyone by the staff. At the top of it, it identifies MACC students 1987 to 1988. It was part of the response from the center to the request for documents that the City made of them. And as a summary of the -- Tuesdays for 1987 and 1988 -- number of students they had. And it lists up at the top here "before school," and it says 12 students. And down at the bottom, it says "after-schoolers," and it says 9 students. As the permit states, it's 12 students before and after, and when you total those two together, you come up with 21 students. So, they're well over and above the minimum that the permit says right on its face.

The three categories in the middle it identifies: a.m. preschool, 25 students; a.m. and p.m. preschool, 17 students; kindergartners, 10 students. The total of those is 52 students, and the limit is 30 for students during that period of time. The total of those altogether comes to 73 students, which is what the staff pointed out in its report; that is, the limit is 42. What has happened with this day-care center is it has grown from 42 now up to at least 73; or in other words, 31 more than it was approved for. Thirty-one more than the state certificate allows.

There is also another item to which I draw your attention. This again was the response made by the MACC Center itself, It's Exhibit E, page 1. And in it gives -- it's the summary of the traffic study, is the one I'm looking at. It says "traffic" at the top and then down below it lists students, November, February and June; that's the particular one I'm looking at.

Now, what's important about this is the traffic study done by MACC itself. And you have to evaluate how you want to treat that as reliable or not. I just that point out because of the summaries that it's made on here. As lawyers say, they're admissions. It states that for November of 1987 that they had 57 students. That's 15 more than they're allowed. In February of 1988, they had 60 students; and that's 18 more than they're allowed to have. And for traffic considerations, as the face of the permit states, we're talking about an assumption of 40 trips per day. On this document that I was just talking about, this Exhibit E, page 1, they identify that in November of 1987, they had 75 trips per day. That's 35 more than should be. And in February of 1988, they admitted that they had 83 trips per day. That's 43 more than they were allowed.

MR. WRIGHT: I's having a devil of a time following. What page is that, and where can it be found?

MR. SHONKWILER: Exhibit E, page 1.

MR. WRIGHT: Is this your Exhibit E?

MR. SHONKWILER: It may be one that the MACC Center submitted, and this was stamped by the staff.

MS. DARLING: Exhibit D to the staff report, and page 2 of that exhibit.

MR. SHONKWILER: This is the document provided us by the staff.

MR. CONSER: That's ten minutes?

MR. SPIR: No, it's twenty minutes.

MR. SHONKWILER: I'll conclude my remarks by stating that we are requesting the remedy that the number of students be returned back to what they were approved for: 42. Basically, this business has grown from zero up to 42, as what the City contemplated, and has now grown beyond that by the number of trips and by the number of students they admit themselves. They've almost doubled the size. And it's that doubling in size that needs to be taken away -- somewhere or another, put to another center, open up a branch or something, I don't know. But it seems what the City contemplated and approved back in 1979.

The other three categories, I think, can be broken down to some practical remedies. As to noise, I suggest that you require as a condition that a decibel test be taken now at the site and on adjacent properties to the site. It would serve two purposes: one, if the noise is excessive right now, we'll have a reading of that, and you can make an adjustment; and, two, if the noise level seems reasonable to you, you will now have basis for future evaluation. That's part of the problem we're facing tonight. If a decibel test had been taken back in 1979, you would have a better evaluation on this issue. And there's no time like starting right now. Start fixing it so that maybe we won't have this problem in the future.

As for traffic, I view that as an inherent City enforcement problem with traffic. How do you cite people that go up past the center on Century Lane? There's no posting, there's no nothing. There's nothing really for a policeman to give a ticket for. You can cite the MACC Center, but that isn't going to catch the violators. And the truth of the matter is what needs to be done is that needs to be posted. Then, if it happens on a repeated basis, a policeman can be up there in somebody's driveway, catch the guy, give him a ticket, and the story will go through that school really fast, and all the parents, that if it costs them money to go up past the school, then they'll stop doing it. That's going to be

the only reasonable remedy for that, and I think that should be a condition: that the street ought to be posted.

And, finally, we have made a request for a series of documents to be presented to you. Most, in a way, were not allowed or were not made by the City by voluntary request. I would point out that part of the reason for those is that we wanted the verification on the school's records of how many students they had. We feel that this is the prime issue here. They can come in and type up a summary. How do we know how accurate that is if you don't have something to compare that with?

That's why we were asking for the accounts receivable. We could compare the number of parents that are paying for the number of students and compare that to their summaries to see if that's actually the same number. Now, I'm not requesting that those documents be spread to the community at large, you know, hang their laundry out in front of the world. It can be a private viewing by the City staff to determine if they actually have more than 42 students; and if they do, they can report that number of how many beyond 42 they have. I still feel this is a minimum requirement, because basically what we have here tonight is to rely upon the responses of MACC.

Now, it is true that they have made the responses that I have pointed out to you, where they are in fact exceeding 42. But, again, it may be a hundred for all we know. There's no way of telling that, unless you have some kind of document that you know is a verification of the numbers. And I reaffirm our request for a list of documents to be submitted to the City for that purpose. Again, they can be in a closed review by the City, and the rest of the world doesn't have to know about it. All we really need to know is from an independent source how many students they really have. Again, I say we resubmit that request.

Now, the rest of the people will speak, I guess, in their five-minute categories. Is there any questions?

MR. CONSER: Are there any questions at this time?

MR. HART: The one document that refers to traffic counts, I still don't find it.

MR. CONSER: You still don't find it in there?

MR. HART: I find Exhibit D. Okay, so it's in his exhibit, it's not in the staff report.

MR. CONSER: It's under Exhibit E then.

MS. DARLING: Is that the large one with the cover letter? That's going to be marked as Exhibit F.

MR. CONSER: I never received that.

MS. DARLING: The note isn't intended to be a part of the exhibit. That's a note to me. So you probably should take it off and destroy it. It's not part of the exhibit.

MR. CONSER: Vicky Russell. Now, she was represented by this gentleman.

MS. DARLING: It's up to you whether or not you want to grant an additional five minutes.

MR. CONSER: Okay, he took twenty minutes, so we have an option of granting her five minutes, or assuming --

MR. SHONKWILER: If I may, I would like to request that she be allowed five minutes to talk about those documents that we submitted. Part of the confusion is that some of the documents that we got from the City had different exhibit numbers on them that I was referring to, and that's different from the exhibit listing we have now, and running back and forth, we lost a lot of time. I just request that she be allowed five minutes to respond.

MR. CONSER: Thank you. We'll grant her five minutes.

Vicky Russell.

MRS. RUSSELL: My name is Vicky Russell, and I live at 2310 Century Lane. The packet that I have given you folks tonight, which you all have front of you --

MR. CONSER: The 56 items?

MRS. RUSSELL: Yes. The first page is a statement of intent that originally Janet Raes was going around the neighborhood, and she was asking for the facility to serve up to 30 preschool and 12 school age before and after. Page 2 is a newspaper saying basically the same thing. Mr. Shonkwiler showed you or told you that the application or the day-care indicates it's 30 children, plus 12 before- and after-schoolers.

The next page is called input forms from CSD. Its license states 42 from the hours of 7:00 to 6:00. The next one is the state certificate of approval for 42 maximum number from 7:00 a.m. to 6:00 p.m. The next couple pages are letters that came about from the previous Planning Commission, the City Council meeting, that would be page 6 and 7. Page 8 and 9 are basically findings, or the decision was made to grant the permit. The condition stating that they will serve no more than 30 preschool and no more than 12 school age before and after.

I have a list of complaints from 1979 to 1988 that I have listed out by year. It's not that these all of a sudden took place in February of 1988. Page 13 is a letter I wrote to Mike Butts in 1985. There's police reports. For the noise, I've got -- I need to point out in these meetings with Sergeant Gale [phonetic], he asked her how long the kids were outside, and she told him from 9:30 to 1:30, from 2:30 to 5:00, and sometimes a little longer in the summer. He then asked her the question: How many children are out in the backyard at any one time? She said 20, that it used to be 20, but that she had cut it back to 15.

I have letters signed from neighbors stating that the noise had been extremely loud, offensive to their home. I have letters stating that -- on page 28, 29, and 30 -- I took before-school count and after-school count and kindergarten count -- and I'd like you folks to take notice that before-schoolers, it says 17.

MR. WRIGHT: Which page are you on?

MR. CONSER: Which page are you on?

MRS. RUSSELL: Twenty-eight. Page 28, before-schoolers, it says on the permit 12. She's got 17 on the 9th. She's got 13 on the 18th. She's got 13 -- well, if you'll through these figures -- I feel that these can be verified with the slips that the teachers carry out to the buses, and they check the kids' names off when they get off the bus. I should say for kindergarten and 2:40. I'm not sure if they do that for the 3:35 bus. It states -- I have a newspaper article on page 31 that says that she's licensed for 42 children, and 20 are school age. I thought it was 12, not 20.

I've got examples of staff vehicle offenses as far as more than two, on page 32 and 33. The rest is just basic evidence. I have letters from neighbors. I have pictures of cars going up the cul-de-sac and turning in my driveway. Basically, that's it. It's just that I haven't made these situations up. I didn't just start complaining in February of 1988.

MR. CONSER: Okay, any questions of Mrs. Russell?

MR. WRIGHT: Now, Mrs. Russell, if you could describe the three largest nuisance items that emanate from the day-care center. Could you briefly give me the three greatest problems?

MRS. RUSSELL: The three greatest problems? The traffic, in my driveway.

MR. WRIGHT: Would you rate that "one"?

MRS. RUSSELL: I think the noise I would rate number one. I would rate traffic number two. I think those are the two main ones. But the three conditions that have been broken in the permit, the amount of employee vehicles allowed, along with how many people that come to pick their kids up at 1:00. It's a far cry from what you folks saw on the 22nd of June. Between 1:09 and 1:16 p.m., there were 17 vehicles that came. That was May 23rd, and we had a traffic tie-up. I guess the number three problem is probably congestion.

MR. CONSER: Thank you. Any additional questions?

MR. CRAWFORD: Mrs. Russell, the student counts that are on page 28 how did you arrive at those numbers?

MRS. RUSSELL: I stood in my window and watched the kids walk down and back. And when the kids got off the bus, I watched them get off the bus. And the reason I suspected that there were more, and the reason this was taken, is because of the amount of traffic that increasingly got worse. And that's what prompted me to do that.

MR. CRAWFORD: And then likewise the pictures taken that you have here?

MRS. RUSSELL: Exactly, yes. Because throughout the years, as I showed you, I have had no success rate.

MR. CRAWFORD: I don't have anything else.

MR. CONSER: Any questions?

MR. RILEY: I have a question just on the definition of before-schoolers and after-schoolers. At least the way I interpret this is you have school-aged kids before school, and they would leave and go to school and come back after school. But if there were two kids in the same family, one school age and one not, one just leaves the school and comes back. Did you make any attempt to differentiate there? When you say before-schoolers, does that account for more than 12, or some indeterminate number?

MRS. RUSSELL: Before-schoolers to me are anybody that walks down to the bus stop and stands in line to get on the bus, really, that are escorted from the day-care center down to the bus stop.

MR. RILEY: Okay, so it's from the day-care center to the bus stop? The before-schoolers. That's all the questions I have.

MR. CONSER: Joe, you have anything?

MR. HART: No.

MR. CONSER: Thank you.

MRS. RUSSELL: Thank you.

MR. CONSER: James Hart.

MR. HART: I'm James Hart, and I live at 2320 Century Lane, just west of the Russells. I'd like to mention more about the traffic situation. It's not that I have run into anyone or any such thing. There is definitely a traffic problem. We have had a lot of things said. There's also been something else come in that you will eventually find out before this meeting's over.

There are many times when I leave in the morning to take my wife to work -- I normally leave, generally anywhere between 25 till and 10 till 9:00 to get her to work in Portland. Many times going down the hill, I've had to stop because someone backing out of the day-care center doesn't even bother to look and see where they're going. They just get in the car and bloop, they're out into the street. I've had to stop to

keep from being run into. This has happened several times both in the morning and in the afternoon when I go to pick up my wife.

Also, at the foot of the hill, where the school bus normally comes in, although the street isn't wide enough; they all know that. The school bus has to stop in the street, there's nothing we can do about that. However, many times the school bus will pull up and stop right in the intersection; not at the corner of the block or along side, but right in the middle of the intersection to let the children off. Traffic has to stop. They have their red lights flashing, whatever. I don't want to run into any little kids. But there is a traffic problem.

This commission could, I'm quite certain, make a recommendation to the school or the transportation department about where they should park the buses and where they shouldn't and how they should operate them. One of these days, with all of this traffic, someone is going to be hurt. No one wants that to happen. I certainly don't.

Many times I've been -- I am retired. I don't work. I'm at home all day, every day now. Many times I have stood in my driveway with my garage door open, and I have had cars from the day-care center come up, turn into my driveway, back out, go down, and park in front of the day-care center. Strictly against conditions set forth by the Commission. Now, I don't see where the Commission can argue that. It's plain in black and white.

Also, on this copy here from the West Linn Planning Commission, which we all have a copy of here, I believe. On page 2, down at the bottom, it says: this is a complaint alleging violations of the terms of the conditional use permit. The Planning Commission may determine that the terms have been violated, in which case, the permit ~~would~~ ^{shall} be revoked. It doesn't say may be, will be, or can be. It says ~~would~~ ^{shall} be revoked. Now, that's plain and simple language. You don't have to have lawyers to figure that one out either. Plain language.

B, the terms have not been violated, in which case, the permit would not be revoked. I believe that we have served ample proof that there are traffic questions, traffic problems, without questions. If you view all the documents that have been submitted, including the photographs, I don't think there will be any problem with the commission making the correct determination.

There is noise. I have a large garden up behind my home. While I'm up there working up in my garden with my rototiller, I can hear a lot of noise from the day-care center. Almost, well in between 200 and 300 feet away. They tell me -- or I should say that I've been led to believe -- that there's hardly any noise coming from the day-care center. If you can hear a bunch of kids 200 feet away or 250 feet away, I would determine that to be noise. My time is up.

MR. CONSER: Any questions for Mr. Hart?

MR. CRAWFORD: I have a question for Mr. Hart. How many times a day would cars turn around in your driveway?

MR. HART: It varied from day to day, from week to week.

MR. CRAWFORD: Could you give me kind of an idea.

MR. HART: I would say probably not more than once or twice a week. But that is while I'm there. I'm not there all the time.

MR. CRAWFORD: Okay, that's all I have.

MR. HART: That's just the times, the few times that I've done that. There's been many others come up and make a complete turn in the cul-de-sac, which is another violation.

MR. WRIGHT: Mr. Hart, the noise that the children make that you detect, possibly even above the sound of a rototiller, would that be children outside the building only?

MR. HART: Yes.

MR. WRIGHT: The noise level in the winter is considerably less than in the summer, probably; right?

MR. HART: Well, I'm not in the garden too much in the winter. But you do hear noise from time to time.

MR. CONSER: Any additional questions?

MR. RILEY: What would you say the peak traffic times are, and the times of year and the times of the day?

MR. HART: Well, in the mornings, sometimes early in the mornings when apparently a lot of people are bringing their children in so that they can deposit them there before going on to work. I assume most of them have to be there by 8:00 or 9:00. In the early afternoon, I should say between 12:00 and 2:00, there's a lot of traffic. Apparently, a lot of people work half shifts and come pick their children up. And in the evening, of course, there are others.

MR. RILEY: But there is a significant amount of traffic during the middle of the day, too? There are three different surges during the day?

MR. HART: I've never tried to count the traffic. I wouldn't even want to. That's been pretty well covered. I would really hate to say how many cars.

MR. RILEY: At this point, I just want to get a feel for it.

MR. HART: Anywhere from 10 to 50, pick a number.

MR. CONSER: Joe, any questions?

Thank you, sir.

Tom Russell.

MR. RUSSELL: My name is Tom Russell. I live at 2310 Century Lane. I would like to start out by reconfirming that this is to determine if there's a violation -- not whether we need the day-care or not, but whether there's been a violation. I work all three different shifts: days, swing and graveyard. Mostly swing shift and day shift and a little graveyard. But I cover all three shifts.

Due to the fact that it is an R10 zone, single-family dwelling units only, that's why most of us reside there. There are a fair amount of us that are shift workers, and I believe we have the same rights as anybody else to our peace and quiet and enjoyment of our home, and the right to get our sleep, rest, and everything that everybody else feels that they deserve.

In past years, there's been a drastic increase in traffic, and everything has made it so that apparently, as the count's been from the staff, I think it was 73. I'm sure there's probably more; some days less. But, if you have that many children, and you have a large quantity of them outside, they make a large amount of noise. Now, how are we supposed to get our required rest? You give up. You don't sleep. My bedroom's at the opposite end of the property from the day-care center, and they're in my bedroom. I have storm windows and everything that do help soundproof. It's kind of sad in that respect.

I believe that the conditions that have been set forth on this originally as a maximum of 42 in any one day. Before- and after-school children numbering 12 was set by the council to ensure that the residents did not suffer totally uncontrolled situations which we have been experiencing, and that's why those numbers were set on the original conditions. They have been consistently breaking those conditions in the respect of numbers, which creates the extreme traffic.

The traffic issue probably is very predominant -- because the different shifts I've worked on -- it's very predominant in the middle of

the day. There has been quite a number of times between 12:00 and 1:30 that the street has been totally blocked by cars backed up clear into the main flow of traffic on the access road because there's not enough room.

Now, how are our fire, police, ambulance -- how are they supposed to access that? It may be a slim chance that it would occur at that time. But what happens if somebody needed the assistance at that time? A home burns in how many minutes? What's the value of a life? That is a cul-de-sac. There's only one lane in and one lane out.

Then our children -- if we have that much traffic because of the number, the people that have children that live in the blocks right there surrounding that, how safe can that be for our children to be subjected to the excess traffic? It should be dealt with. The definition has been brought up amongst a lot of the residents about school-age children. In the City of West Linn, a kindergarten child is a school student, because kindergarten is part of our school system.

Let me make a brief summary. I believe that possibly traffic posted signs stating they may not go up the cul-de-sac so that the police can act upon that on necessity. And maybe a decibel meter reading for a five-day period to establish any noise or not. But we do need some assistance from this council. There is a definite outstanding problem.

MR. CONSER: Any questions for Mr. Russell?

MR. CRAWFORD: I have one question for Mr. Russell. How many years or how long have you been working the swing shift or the multi-shifts?

MR. RUSSELL: I'm a manufacturing plant electrician. I do maintenance work and since before I ever moved into that place, which was prior to MACC day-care center ever occurring, I have all my life, since the military, worked shift work.

MR. CRAWFORD: Okay, thank you.

MR. CONSER: Any other questions?

Thank you, Mr. Russell.

MR. RUSSELL: Thank you.

MR. RILEY: I want to ask just one question of Deanne. It's a couple of times been stated about posting that you can't go up the cul-de-sac and turn around. I just kind of have a gut feel that it's probably a public street, and you can't post that.

MS. DARLING: Correct.

MR. CONSER: Kathryn Jernstedt.

MS. JERNSTEDT: My name is Kathryn Jernstedt. I live at 654 Lowry Drive, which is the property across Century from the MACC day-care center.

With all due respect to those who are concerned about the larger social issue of day-care in society, and West Linn in particular, I'm here about the intensely personal issue of being able to sleep in the privacy of my own home. I do shift work, as well. I took a night off from work in 1979, as I am doing again tonight, because I'm concerned about those of us that work off shift and getting short shrift in this deal. I moved from an apartment in Portland to a house backed up on a cul-de-sac in a residential community in 1978 because I had started work in a swing shift environment. It seemed like a prudent move at the time. At the time of the initial hearings in '79, the City dealt with this and several other neighborhood concerns by finding conditions and giving certain assurances to the neighbors to protect us from the problems we were fearful of. Since that time, there's been an erosion of compliance from what was originally an anticipated noise, is now a major disruption to the neighbors.

In the first years of operation, the main problems consisted of drivers who honked to announce their arrivals and departures, and one lady who used to turn her dog loose in our yard to do his business while she went in to pick up her child. I was very glad when that child outgrew day care. In terms of the honking, I discussed it with Mrs. Raes and the drivers, and I believe we made some progress on the problem.

In 1985, I had a job that required that I report to work at 11:00 a.m. This is when I really first became cognizant of the increase in the noise. I couldn't have overslept if I'd wanted to because the children were quite faithful in providing a wake-up between 9:30 and 10:00. Since October of '87, I returned to the swing shift hours. It is not the least bit handy to be awakened at 9:30 in the morning when you were still on the job at 1:00 in the morning, much less 4:00 or 6:00, which is not unheard of in my line of work. It's a common misconception that swing-shifters drive directly home and fall directly into bed. We don't do that any more than people who work standard shift. And when you're at work at 4:00, even if that's what you did, you're not ready to be awakened at 10:00. It just doesn't work that way.

Over the course of time, I have personally observed, first hand, the traffic tie-ups at the midday shift change. To anticipate a question, this is the only one I really observe frequently. I have observed violations of the prohibition on going up the cul-de-sac. I have observed the sheer numbers of children arriving and departing on the school buses. As a matter of fact, one of our chronic honkers is the school bus that goes up, turns around in the cul-de-sac, and comes back down. I have observed as many as ten children playing in the front yard of the facility.

Since mid-June of this year, the center's operation has undergone another significant change. It happened within a week of the letter which precipitated this meeting here. It's very regrettable that this happened this way. Various neighbors have had mixed results in attempting to deal with both the City people that we thought would have a role in addressing our problems, as well as dealing directly with the day-care center staff.

What we're asking for here is compliance with the initial conditions that we were told would be in place to protect us. For various reasons they have changed, and the erosion was gradual with the growth of the business. This didn't all happen one day that we rose up and rebelled. It's been a growing frustration, and we've been very disappointed in the response that we've gotten from those we've dealt with in the City.

There's a reference to a request I made for a variance for a fence closer to the property line. I thought my request was infinitely reasonable. I'm asking for a variance to respond to a variance. I was turned down, and that's the way it goes. Perhaps the best solution is to fix the problem that I wanted the variance to protect myself from to begin with.

I've been told that the noises I'm hearing are happy, playful noises, normal for that number of children. I don't know that I can necessarily dispute that, but I can point out that they are not acceptable in a residential environment. I would ask for your careful consideration of the documentation that's presented to you and the concerns of the near neighbors to the establishment.

MR. CONSER: Any questions for Ms. Jernstedt?

MR. HART: I have a question. One of the conditions that apparently is open to interpretation is Condition No. 4, which sets the enrollment level at 42 students. What was your interpretation of the original?

MS. JERNSTEDT: I thought it would be a total of 42. I was puzzled by how they were going to get 42 children to and from the facility with just 40 car trips, but they told us they could do it. But I thought it was 42 overall, and I was present at the hearings.

MR. RILEY: I have one question. Does the regular school bus go down the cul-de-sac and turn around and come back?

MS. JERNSTEDT: It's a full size school bus. I believe it's the kindergarten drop-off that does it. It goes all the way up the cul-de-sac, turns around in the cul-de-sac, and stops in front of the school.

MR. CONSER: Any other questions?

Thank you, very much.

Mary Kirchem.

MS. KIRCHEM: My name is Mary Kirchem. I live at 20110 White Cloud Circle. Tonight, I'm just here to verify some of the things they have talked about. I am an acquaintance of the Russells. I have been acquainted with them for about 5½ years.

I have seen first hand the traffic problems that they're talking about. I have sat in their living room, and I have seen on one certain occasion, three people, one right after the other, turn around in their driveway. I was quite shocked. I've seen them drive up the street, come back down.

The noise problem is probably something that I'm more familiar with than the traffic because of the fact that Mrs. Russell and I have talked on the phone, and there has been one instance where we had to hang up, and she had to call me back when the children went inside, they were so noisy. I have heard them myself, sitting in their home. I've heard them, again, over the phone.

Something that hasn't been brought up tonight is the paperwork that you have about the fence that I have been told is on the Russell property. I have sat outside in the backyard of the Russell residence and seen the children bang on the fence, the old and the new fence. I have also witnessed the children throwing debris over the top of the fence.

That's about all I have to say, other than I have seen it. They're not making it up. It is going on.

MR. CONSER: Any questions of Ms. Kirchem?

Thank you.

Maxine Olsen.

MS. OLSEN: My name is Maxine Olsen. I live at 6545 NE Lowry Drive, which is directly across the street from Ms. Jernstedt, on Lowry and northeast of the day-care center about 75 to 100 feet, I would say.

I am one of the lucky ones that works days. Previously to going to work, I can attest that there is kind of a midday rush, around 12:30 traffic is very heavy. Some days I vary my time for leaving to work. If I leave to get there at 8:00, I usually can get up onto Lowry out of my driveway. If I go to work and get to work quarter to 9:00, then I'm blocked, which is putting me leaving at about a quarter after 8:00. Especially during the school year, I have a really hard time getting out, even out of my driveway onto Lowry. Sometimes we're backed up trying to get up on on Highway 43. So there is definitely a lot of traffic.

As far as the noise goes, I'm not trying to sleep, but if I have been home once in a while, I've been on vacation, hanging wash on the front porch, which I like to do, and you can definitely hear the kids. It's a very, very high loudness. The decibels must be quite a lot, because it's the shrillness I think which would really get you. I'm glad that I'm not sleeping.

As far as people parking on Ms. Jernstedt's lawn, I came home one day, and it was around 2:00 in an afternoon I happened to be off. There must have been something going on at the day-care center. Mrs. Jernstedt has a very sacred part of her front lawn which comes down right along the highway, and no one, I mean no one, parks on Mrs. Jernstedt's lawn. And

I came out, and there were three cars on there, and I thought, I'm glad she's not home, was my first thought. So, they do park on her lawn.

Then they also park on the right-hand side of Century to go across the street to the day care, and then they get out and walk right up onto the lawn, and this is why she wanted the fence, trying to protect her grass, because they do get up on her lawn.

I'm not there much because I do work days, but I have to go along with them, definitely; both in the amount of traffic and the noise and the congestion. And sometimes people even shoot the stop sign which comes up on the end of Century into Lowry. And people are in a hurry in the morning, quite often shoot by out of the stop sign.

Also, there are large groups of kids that do get on the bus. I have not counted, but I can hear them in my kitchen with the window closed. They're fairly close to me, 'cause I'm right on that street. But there is a large group of them in the morning. And that's all I have to say.

MR. CONSER: Any questions for Ms. Olsen?

Dorothy Vanderlaag.

MS. VANDERLAAG: My name is Dorothy Vanderlaag. I live at 2305 Century Lane. I'm across the street and one house north of the MACC day-care center -- one house west of the MACC day-care center. I'm one of the signors of the letter of complaint and can verify from personal knowledge as well as observation that all statements therein are correct.

While sitting in my living room or working in the yard, the volume of noise from MACC day-care center has been very great. Many times I have been a witness, and one of the parties involved, in a traffic tie-up between the intersection at Lowry and Century Lane and the MACC Center. As Mr. Hart told you, when more than one client car is attempting to back out of the MACC Center and one or more are waiting to pull into the MACC Center driveway -- and I have seen one or two others waiting at the corner of Century and Lowry, waiting to enter Century Lane, and possibly children.

I have to be very careful when I go out. I work part time, and anywhere from one to three days a week, and my hours vary. If this should occur about 8:15 a.m., or whenever the school children arrive at MACC, the congestion is worsened by the school bus.

I support the City's original stipulation in their conditional use permit that MACC may have no more than 42 children. And if it is unclear to the owners of the school, it should be redefined. This means a total of 42 children per day, and not 42 morning and 42 afternoon. That kind of erroneous reasoning would double the amount of traffic.

Also, I would like to state the noise and the traffic congestion went unchecked until the June 8 letter of complaint to the City of West Linn. And since that time, the noise and traffic have greatly abated. If such a reduction in noise and traffic can be accomplished by filing a complaint, it must then be possible to do so permanently, all through the year.

I sincerely hope this is a harbinger of a more harmonious and tranquil atmosphere on Century Lane.

MR. CONSER: Any questions?

Thank you, very much.

That concludes what I have as a list of those people in support of the Russell complaint. There will be a final rebuttal available. Let's take a five minute break and be back here at 9:30.

[Five minute break was taken.]

MR. CONSER: I'd like to reconvene the Planning Commission meeting. I'd like to take just a moment to make a statement. There are apparently

some people who came back at 9:00 on the apartment issue. The apartment issue, due to the potential late hour of testimony in what's going on this evening, has been rescheduled for the 29th, here, at this point, at 7:30. It may, due to the sheer numbers of people coming to that meeting, have to be rescheduled later or to another site. So specifically, we're going to be here the 29th of August. If we can accommodate everybody in this facility, we certainly will. So if you'll return for that meeting. I'm awfully sorry we have to set it off to a later date. Thanks.

I would like to continue testimony. I would like to stipulate at this point, Janet Raes also has some counsel representing MACC, and I would like to allow -- since she's obviously representing the original application -- I would like to allow her ten minutes. If she doesn't take the ten minutes, that's fine; and then the additional ten minutes to her attorney. If there's something equitable within that 20-minute range, it would be fine. If it's all right with you, I'm going to have him follow Ms. Raes, rather than following a series of other people, so we can kind of keep that area compacted.

MR. HEDGES: It seems to me it would be equitable for she and I to have as much time as Mrs. Russell and her counsel, which I think exceeded 20 minutes by a considerable amount, if I'm not totally mistaken.

MR. CONSER: The intent was to make it 20 minutes, I agree. What we're trying to do is get pertinent information, not just belabor the information and just continue to reiterate on items. Now, what I would like to do, I'll allow you 25 minutes, because we obviously flexed shoulders. The reason we flexed shoulders is because in the middle we stopped and got some things organized, which was the fault of the Commission. So, at this point, what I'd like to do is I want to give you equal consideration, but within reason if possible.

MS. RAES: I'm Janet Raes, and I live at 5629 Cascade in West Linn, and I am the director of West Linn Music, Arts & Crafts Center Child Care, which is more simply known as MACC. MACC has been located at 2300 Century Lane for the last nine years. We are a non-profit preschool and child-care program. During that time, MACC was originally certified by the State of Oregon for 42 children. As it was explained to me in our first year of having MACC at that location by our Children's Services certifier, Joe Mansky [phonetic], that means 42 children at any time during the day. It does not mean just the 42 children, simply.

At that time, we were also certified for children ages 2½ through 12. During our first year, we anticipated having 30 preschoolers and 12 after-schoolers. That was how we thought we would divide up our 42 children. As it came about, since Children Services told us that we could indeed replace children during the day, we went ahead with the idea of 42 children all day. For the last seven years, we have had, during our school year program, 42 children throughout the day.

I think that one possible area of misinterpretation, with the children getting on and off the bus, is that at the time of our original conditional use hearing, kindergartners weren't considered preschoolers in West Linn, because we did not have any public kindergartens at that time. As far as our own records are concerned, the kindergartners have also been an ambiguous group. They've been their own group, the kindergartners. We have a group of preschoolers and a group of after-schoolers, and they've just been caught in the middle because they don't fit into one of those groups.

Our school year program for the last seven years has been full. We have a waiting list. Usually that would double our enrollment every year in September. During the summertime, we usually run at from one-half to three-quarters full. Ninety percent of our children who come to MACC every day live within two miles of MACC.

There have been some changes over the last nine years. Last year we eliminated all our third and fourth graders who did not have younger siblings at MACC, because we needed to have more space for our little ones. For this coming school year, we have eliminated all third and fourth graders so that our oldest children are now second graders. Our

youngest children are three by September first of the year that they start, rather than 2½.

When we made each of those changes at MACC, when we eliminated third and fourth graders who did not have siblings at MACC, and then when we eliminated third and fourth graders with siblings at MACC, in each case we gave the parents a nine-month notification. We told them in January that we were going to change things in September.

There has been some question about staff and staff parking. Our regular teaching staff numbers eight. Of those eight people, six of them have been with us for five years or more, and of those, three have been with us since the year that we started. Our staff basically does not park at MACC. I think if you look at Exhibit B, we made a list of staff parking and where they park. We have some parents who send children to MACC who live in the neighborhood who graciously allow us to park there so that our staff do not even come onto Century Lane.

As far as complaints, going back over the last nine years, in general, every year we have gotten one or two complaints in September from Vicky Russell about the staff -- about a car going up the street and then coming to MACC. In any of these cases, we have made a concerted effort to find and figure out if it was a MACC car. If it was, who it belonged to, and then told our parents. And then, if it was one of our parents, then they immediately did not go back up the street again. We have very cooperative and responsible parents.

As far as our own reaction to the conditional use about traffic going west, when MACC opened, we adopted a booklet that we sent to parents, and that includes that restriction about traffic. We ask parents who bring their children to MACC to sign that restriction notice so that we know that they have read it. We have been handing out, typically, that same booklet for the last nine years. That's also in Exhibit B.

Another part of Exhibit B is our fall letter which we hand out, and which we basically have handed out the same type of letter for the last five years. That, again, reiterates that, so our new parents will be sure to know that our traffic should not go west of MACC. Our parents are very cooperative and responsible citizens, and they usually cooperate without any problem. I think that you will note there are many letters from our parents which also verify this and how we handle that condition of use.

Vicky Russell and I met at the police department on February 11th. She talked about cars going up the street. At that time, with Sergeant Gable [phonetic], we discussed the fact that if she had a specific car turning around in her driveway, if she saw a car turning around and going up the street, to call me immediately, let me know what color the car was, and what it looked like, so I could track it down. During the next three weeks when she called me every day about the noise, she never called me about any cars that were turning around in her driveway or going up the street.

As far as the noise question to be considered, our backyard by space could hold 50 children; our backyard by practice holds ten. When Vicky made her calls for the three-week period in February, of the 15 calls she made, 14 were made when there five to ten children outside. The other one was made when there was a transition going on from one group to another, so there were two groups out at that same time.

Every time Vicky called, I did go out, and I did talk to the teacher outside. I talked to the children to make sure that there was no unreasonable noises going on outside. Basically, since we hadn't had too many complaints about noise, we let the children play outside. When we started having complaints from Vicky in February, we then put more of a limit on the overall noise level outside. I asked all the teachers to go along with my tolerance for noise, rather than their individual tolerances for noise, which may differ. Occasionally, we will have a screeching noise or a yelling or something like that, but that's usually a momentary thing.

Since Vicky stopped calling on March 2nd, we have had two calls about noise from Kathryn Jernstedt, one on May 12 and one on June 30th. In each case, by the time I answered the phone and went outside, the noise was over. The teacher who was outside had handled the situation.

We have had no complaints of any kind from the neighbors who live in back of us or the neighbors who live on the other side of us. Our main concern is to continue to provide the kind of child care that we have provided in West Linn for the last nine years. As a part of the children's agenda in Oregon at the moment, we are being asked to assess the needs of Oregon's children. I think that MACC ably helps with two of these needs. One is to provide a nurturing, stimulating environment; and two, to allow children to act as children act. I think MACC meets these needs for the children of West Linn. I'd be happy to answer any questions.

MR. CONSER: Okay. Joe?

MR. HART: You started out by describing change in your enrollment. Can you repeat that again? You started out with so many, and the state said you could have --

MS. RAES: What basically happens in child care -- and I wish Bernice Rickerman [phonetic] were here, because she's our certifier, and she could verify this. We were originally told by our original certifier, who was Joe Mansky [phonetic], and who was our state certifier for seven years, that according to the State of Oregon, when you are certified for 42 children, that means at any time during the day. It doesn't mean that you can only have 42 individual children. I believe that Bernice clarified that for the Russells when they visited.

MR. HART: You said that that changed. You originally set up your schedule for 42, you got this new information, and you --

MS. RAES: Right, during our first year, right.

MR. HART: Oh, it was during the first year?

MS. RAES: Right.

MR. HART: At the time you opened, West Linn did not have kindergartens? They were considered preschool?

MS. RAES: Right.

MR. HART: At the time you opened, how many staff members were there?

MS. RAES: I really have to think back. Probably six, maybe four.

MR. HART: You have eight now?

MS. RAES: No, that's just permanent staff. It varies. In the morning, we have five regular teachers, plus myself, plus a person who does the cooking.

MR. HART: When you first opened, did you require the extra parking at the other locations, or could you get by with two on the premises?

MS. RAES: Well, it depended on who was walking and who wasn't. No, we did not have extra parking. That's been for about the last four or five years.

MR. HART: No more questions.

MR. CONSER: Okay, if you can explain to me just briefly: when you first started this process, you were looking at 42 children that you made application for?

MS. RAES: Right.

MR. CONSER: You then, a year into your process, were informed that you could have 42 at any one time, and that's when you then changed the curriculum from full-day services to optional two half-day programs?

MS. RAES: Basically, no. It just depended on how the children fell, I mean honestly. So that some years we have more preschoolers who stay all day, and some years we don't have as many that stay all day. What we basically do by federal requirement is have to take children as they come, so we are not discriminating against any kind of children. So we do it in that way, first come first serve.

MR. CONSER: I don't want to put words in your mouth. Would it have been your assumption that, in your first year of operation, 42 was the maximum that you would have enrolled in the program?

MS. RAES: When we began, yes.

MR. CONSER: Questions, Mike?

MR. RILEY: How many do you have enrolled now, say at a peak period during the school year?

MS. RAES: For a total number of children, probably 60.

MR. RILEY: I'm trying to find the exhibit where it indicated there was 72.

MS. RAES: That's sort of a misconception, because a lot of the before-schoolers are the same kids that come after school, so it's the same kids.

MR. RILEY: But you have a total enrollment of 50, 42 of which are on premises as a maximum?

MS. RAES: Forty-two at a time.

MR. RILEY: You do have the parents sign a certificate that they read the traffic -- have you ever had to take any draconian measures to enforce that?

MS. RAES: Never. No, we haven't eliminated anybody from the center because of that, because as soon as anybody goes up the street, and we find out about it, we tell them, and they don't do it again. I think in that package, too, there's also a survey that my son took this summer for five days of our traffic, and during that five days -- I just wanted to see how much went up the street -- there was one lady who was a grandmother who had never been to MACC before who went up the street.

MR. RILEY: How about the testimony of the school bus that goes up the street?

MS. RAES: We have no control over that school bus. That is a kindergarten bus. What we told the kindergarten bus driver was that we would be happy to meet the children out on the corner and not have her go up the street. She said that by her regulations with the kindergarten children, they had to drop them by wherever they were going, and so that's why she was doing that. She also was honking her horn to tell us that the children were there. We asked her not to, and she said her supervisor told her she had to honk the horn. Later on we asked her again not to, and then I guess she got permission not to honk her horn. We always had somebody there to meet the children, and so she didn't need to honk the horn to get our attention, because we were ready for them to come.

MR. CONSER: Did you approach the supervisor on the regulation that she had to go up the cul-de-sac?

MS. RAES: No. She said it was simply for children's safety in letting them off.

MR. CONSER: I was just curious, did you follow through and inform the supervisor that you had stipulations that limited --

MS. RAES: No, because I didn't think that we were in control of the school buses.

MR. CONSER: Any other questions?

MR. CRAWFORD: I have a couple questions. I want to go back to your certification. Your certification says you're certified for 42 children. The Planning Commission gave you guidelines as 42 at any one time, and the certificate says between 6:00 a.m. and 7:00 p.m.. Have you been re-certified?

MS. RAES: We're re-certified every year.

MR. CRAWFORD: Okay, and then does that change your certification numbers?

MS. RAES: No. No, certification is based on square footage, and that's why we can have the 42 at any time, because your square footage stays the same.

MR. CRAWFORD: Okay. That's what I wanted to clear up. You made the statement about an agreement with Mrs. Russell that if anybody turned around in her driveway and drove up the street, that she was to call you and give you the identification of the cars. and for three weeks she didn't call you. Did she call you beyond the three weeks with that information?

MS. RAES: I haven't heard from her. No, not at all.

MR. CONSER: When we start asking questions, as far as I'm concerned, we're asking the questions, and we're not taking away from their time. For your information, in case that beep goes off.

MR. CRAWFORD: I just have one more question. Regarding the number of children that you let outside, you said at one time that it was 20, I believe, and then you reduced that number; but I don't know what you reduced it to. You said you limited it and reduced that number, but there wasn't a number given.

MS. RAES: No, we basically haven't reduced that number. We basically have ten children outside at a time. The only time that it's been basically --

MR. CRAWFORD: Your statement was that you had 20 --

MS. RAES: No, Vicky said that, and I did not tell her that at that meeting. Vicky Russell said that. I didn't. We have ten children outside at a time, except when we're making a transition inside, and there might be two groups at once for a short period of time.

MR. CRAWFORD: But there's no more than ten children outside at one time?

MS. RAES: We try and limit it to ten.

MR. WRIGHT: You mentioned, I believe, you have a staff of five. Five teachers?

MS. RAES: In the morning, right. And then plus myself. I'm number six, and then there's the cook.

MR. WRIGHT: And then a different number in the afternoon?

MS. RAES: Right. We have four in the afternoon.

MR. WRIGHT: Are the children sort of dispersed among those teachers by age?

MS. RAES: Well, in the afternoon, it's both. In the morning, we are by separate classes. So each four-year old teacher has ten, each three-year old teacher has six children. In the afternoon, the children

are more mixed in going to different areas where we have four staff and 40 children.

MR. WRIGHT: It's unlikely that you've had ten children of the same age outdoors at any one time?

MS. RAES: No. In the morning, they would be the same age.

MR. WRIGHT: Mornings.

MS. RAES: In the afternoon, you might get an after-school group that's the same age that would be outside at one time. But after that, they'd be mixed in ages between three and probably eight now, because we're limiting them to second graders.

MR. CRAWFORD: I have one more question. The photographs that you provided showing the staff cars -- there's three photographs here. Are these taken at different times?

MS. RAES: They are taken throughout the morning.

MR. CRAWFORD: Okay, it looks to me from the shadows, etcetera, from the position of the cars, they were all taken the same day and same time.

MS. RAES: They were. They were just showing the outside, they weren't showing staff cars.

MR. CRAWFORD: Okay. I misunderstood your notes that were referring to staff cars.

MS. RAES: No. There was --

MR. CRAWFORD: There's only cars in here.

MS. RAES: No, there's a list that shows where the people park. For example, I walk. I don't park a car.

MR. CRAWFORD: Part of the complaint is more than two staff cars are parked out in front, and this shows only two staff cars being parked out front, but they're all taken about the same time.

MS. RAES: I wasn't trying to indicate staff cars. That wasn't the purpose.

MR. CRAWFORD: I don't have anything further.

MR. CONSER: This may be an unfair question, but the issues that keep popping up in previous testimony are, of course, noise and traffic congestion. The number of students is something obviously we're going to have to deal with. The traffic thing, as far as the coming and going, have you thought of any ways you might be able to minimize that?

MS. RAES: Yes, as far as preschoolers are concerned. One, you can see in our fall letter what we do at the beginning of preschool is to have them come alphabetically during different half hours, and then go home during different half hours in an alphabetical way. We do that at the beginning of the school year, because parents tend to stay longer at the beginning of the school year. So we wouldn't want cars parked there so much on top of each other. Usually after that we let them come and go as they need to. But we could regulate that either in an alphabetical way or in the sign-up kind of way where if someone wants to come during this half hour, then let parents come. But I think we could effectively lengthen that time when there seems to be more congestion both in the morning and in the afternoon.

As far as the kids that come early in the morning and the kids that are picked up late in the afternoon, that's just by when the parents are working. So I don't think there's as much congestion early in the morning and late in the afternoon. It's probably the preschool time that's more congested, because our whole child-care program is based on a preschool situation.

MR. CONSER: Some of the other things that we often require noise reducing in development are such things as vegetation that have a tendency to dampen the sound. Is there any vegetation in the backyard?

MS. RAES: Yes. There are trees alongside where the apartment building is. There are very tall hedges.

MR. CONSER: Hedges like?

MS. RAES: Yup.

MR. CONSER: How about on the other side?

MS. RAES: On the Russell side, there aren't any.

MR. CONSER: Just fence?

MS. RAES: Just fence.

MR. CONSER: Any other questions?

MR. RILEY: I have a question for Deanne. Is there any firm answer on the maximum number, like a maximum occupancy of a room, or is it an enrollment?

MS. DARLING: You mean is there an answer from the City's point of view or the State's point of view?

MR. RILEY: Is there a legal definition or interpretation of what that number is on that certificate?

MS. DARLING: No. My understanding of the regulations, from my involvement other than the City, is that she's correct that the number she's authorized to have is based on the square footage of the facility available.

MR. RILEY: Is that at any given time?

MS. DARLING: I don't think that the State has gone so far as to interpret what that means in black and white. She states that they've told her that that means at any one time. They have a regulation that says for any kid in here you got to have "X" number of square feet. She has "X" number of square feet, so she can put that many kids in the space. So, it would be logical to conclude that she can't have any more than 42 at any one time 'cause you don't have enough structure to house them.

The question for you is: Are you bound by that?

MR. CONSER: Don't you always like the way she answers those? Okay, any other questions?

MR. WRIGHT: I just have one more, please. How frequently are you visited by the state recertification individual?

MS. RAES: Once a year.

MR. WRIGHT: Nothing interim?

MS. RAES: Only if there's a complaint to them. So, since our first year, we've only been visited once a year.

MR. CONSER: Thank you.

Mr. Hedges?

MR. HEDGES: I think I'm going to speak last. I'm the attorney, and there's four others, so I'll speak last if I may.

MR. CONSER: Angela Hammond.

MR. WRIGHT: Mr. Chairman, is he going to be representing the other three?

MR. CONSER: Is he going to be representing the other people? No, effectively, I timed that at 9 minutes and 25 seconds that you have for her -- that Ms. Raes spoke, which leaves him the balance of the 20 minutes, essentially now.

MR. WRIGHT: No, I'm asking if he is representing the other people that will speak before him?

MR. CONSER: Okay. Good point.

Are you essentially representing the other parties, or are they representing themselves?

MR. HEDGES: They're representing themselves. They're just witnesses.

MR. CONSER: Angela Hammond, please.

Just in the interest of all the parties here, we're very respectful at this point of the parties who wish to reiterate what's been said before. We have been taking notes, in case you haven't noticed. If you have some new information, that is really some of the key stuff that we're looking for, new information. Something that will support what's going on here or oppose it. It's your five minutes, but whatever you could do to help that, we'd really appreciate it.

MRS. HAMMOND: My name is Angela Hammond, and I live at 2711 Rainier Place, which is probably about a half a mile from the MACC school.

I guess I'd like to state first, you know, I keep hearing everybody saying that cars have been going down Century Lane. I have a four year old there, and I have never, ever seen anybody go down Century Lane, turn around in anybody's driveway in all the time that we've been picking him up and taking him there. I don't live on the street like these other people do, but I can say that, picking him up and taking him all the time, I would have to see one of these cars that the people claim that they keep seeing.

We moved to West Linn a year ago, my husband and I, and we started our family, and we have two boys now, a one year old and our four year old. I work in Beaverton, and I heard about MACC school from my cohorts that I work with at a computer software shop. MACC school is reknown for the quality day care that they give, and I've waited on their waiting list for 11 months to send my boy there. Meanwhile, I had to bus him to Beaverton to a Beaverton Christian preschool for that waiting time, while we had to wait for MACC school.

I can't emphasize enough how much they mean to us, especially with a new family starting out in West Linn. That was one of the reasons that we moved to West Linn, because of the quality schools here; but we also needed quality day care before they could go to kindergarten.

That's about all I can state is, again, I've never seen anybody go down the street. And I'm sure I must have -- I would have to see one of them go, with as many cars as they claim is doing that.

MR. CONSER: Okay, any questions of Mrs. Hammond?

MR. CRAWFORD: I have one question of Mrs. Hammond. You say you've lived in West Linn for a year, and you and your husband were on a waiting list to get your children into MACC. Were you bringing your children from somewhere else to MACC before you moved in, or have you only been dropping your children off there for one month?

MRS. HAMMOND: Since June first, we've been going there.

MR. RILEY: I have one question. What times of the day are you there dropping off and picking up?

MRS. HAMMOND: We take Matt at ten to 9:00, and we pick him up at quarter after 4:00.

MR. CONSER: Any further questions?

Brad Gillespie.

MR. GILLESPIE: My name is Brad Gillespie. I live at 5455 Summit, which is probably about three minutes from the school. We have two boys. The oldest has been going to MACC now for about 3½ years, and the youngest about a year and a half now. I got to emphasize that even if we didn't have children enrolled in MACC, I'd be sitting here right now. I think that much of Janet. She's a dedicated, organized individual, as is her entire staff. They're incredible people.

The learning skills that our kids picked up down there, the education, everything about it; my wife and I are totally impressed, as I'm sure other parents are. Everything is enhanced at MACC. My oldest boy's in kindergarten, and the education, the preschooling he has received at MACC just did nothing but help at kindergarten this past year. We're very impressed with the learning skills, and being able to interact with the other children, that they're picking up down at MACC; it's incredible.

It really angers me that right now society is screaming for good child care, that there's people who are trying to restrict the operation of a facility such as MACC. It thinks it's one of the finest child-care centers you could find anywhere. When my oldest boy first got to the age to enter preschool, we looked around extensively, and went to MACC, talked to Janet and the staff, saw what she had there, and that was the end of the search. Again, I can't say enough about the facility. It's, as far as I'm concerned, the top of the line.

On the cars and traffic, they kind of made out like we're demolition drivers. In some instances I think we are probably better drivers, as parents of small children. I think we are, probably as a group, more aware of things around us, of children. So we're not a reckless group of drivers by any stretch of the imagination.

And the noise factor, God, I don't live in a vacuum. I think if we opened these windows right here, we could hear noise on the street, for crying out loud. You're going hear noise wherever you are, any kind of noise, whether it be children or traffic or wind going trees. There's going to be noise. Nobody, as far as I know, lives in a vacuum.

I think to restrict MACC's operation in any way would be incredibly irresponsible. I think it would just be a total disservice to the community as a whole; a discredit to the community, I think I can press it that far. It's a very needed service, and I think as it is, it should be supported fully with no changes.

MR. CONSER: Are there any questions of Mr. Gillespie?

MR. GILLESPIE: One more point here: the fence that was brought up earlier, as far as throwing objects over the fence. That fence has got to be probably a six-foot-tall fence, on top of at least a three-foot retaining wall. So, it's got to be nine feet. My little two boys, they don't quite have the arms of Nolan Ryan yet, but they got healthy arms; they'd be hard pressed to chuck a piece of paper or a piece of bark dust over the height of that fence. I don't see this continually throwing debris over the fence as something that's going to happen.

MR. CONSER: Any additional questions?

Thank you, sir.

D.C. Laurence.

MR. LAURENCE: My name is Chuck Laurence. I live at 2933 Hunter Way. We've been attending MACC for about 2½ years, and we were on about a year waiting list. For two years I commuted with my daughters out by Glendoveer Golf Course till we could get them into MACC.

The thing that bothers me about this is three weeks before the start of school -- my children would be primarily affected, being first graders -- to try and locate another day-care facility in the area that has the quality care that would be accessible to the school bus route, would probably constitute either my wife or I having to take a considerable amount of time off work and not to mention the hardship on the children. It just seemed the timing is just a little disadvantageous, if that's word. Like Brad said, MACC is the highest quality place that we've been able to find. We checked out the other ones in the area, and they are either full or don't quite live up to what we would expect of a day-care center we would like to send our kids to.

MR. CONSER: Any questions for Mr. Laurence.

I might address that just briefly. Anytime an application comes before the City regardless of when or what, it's got to be fitted into the agenda. As you well know, West Linn's growing very rapidly. The staff usually gets about a month to mull it over and accept it and about a month to put the paperwork together.

We do have a requirement to make a ruling on any application that comes before us within a period of time. But we come up against these document situations. It is very frustrating, but basically, it means that you got to get these things going earlier. So we, as a functional city, are partly at fault for that. I apologize for that, but nothing happens overnight.

Any other questions?

Pat Cole.

MS. COLE: My name is Pat Cole. I live at 29750 SW Courtside Drive in Wilsonville. Though I am a resident of Wilsonville, I work in West Linn, and for the past nine years, I've taught English at the high school.

My daughter has gone to MACC for over a year now. I rapidly found out when I became, five years ago, a working mother that the situation that can give you the greatest stress is just what is going on with your child during the day while you work. I did my homework. I talked to at least four other teaching families that I knew who had children at MACC. People who deeply cared about their children and without any hesitation, they recommended MACC over any other situation I could find. And I have not been disappointed.

Even though during the summer I have extended time off, my daughter has gone to MACC part time at my request, also her request. In fact, I get chastised when I come too early to pick her up because she wants to stay. My daughter's going to begin kindergarten this year, and I recently, this spring, made a request for a change in attendance area. She would normally be attending West Linn Grade School. I wanted her to attend Cedar Oak Grade School, not because there's anything wrong with Wilsonville, but because I wanted her to stay at MACC. It has been a very frustrating summer waiting weeks for the school district to make a decision, and I was finally approved for that just a couple weeks ago.

Besides the excellent child care -- as was said, Janet is a very well-organized person. The very first thing I remember learning, besides how much it costs, was that you're not going to drive up that cul-de-sac, and you're not going to turn around in anybody's driveway. Of all the times I've been there, I personally have never witnessed anyone that I know of going up that street.

Now, as a teacher for 15 years, even though I have had high school students, I know that children are not quiet, no matter what age they are, and they're not always convenient. But they are our most precious population. I feel that they are not just the responsibility of their parents, they are the responsibility of the entire community. And how that community treats that precious population makes a very interesting statement about it. We need excellent child care. We are fortunate to have an excellent child care. It is too bad that only a few of us can

make use of that excellent child care. To limit the number even further I think would be a great tragedy.

And so what I think we need from you city officials, and what we need from the neighborhood, what we need from all of the community, is support and the kind of child care our children deserve.

MR. CONSER: Any questions of Ms. Cole?

MR. CRAWFORD: I have a question for Ms. Cole. Have you ever heard any undue noise while you were at MACC?

MS. COLE: No.

MR. CRAWFORD: You said you come in at different times during the summer, and I was wondering if you have had been witness to this?

MS. COLE: And I have also been outside quite a bit to come and get my daughter. I often seem to arrive during the outside play time. I don't consider the noise excessive.

MR. CRAWFORD: You consider it normal child noise.

MS. COLE: Very normal.

MR. CRAWFORD: Very normal, very, very.

MS. COLE: Which does not necessarily mean very noisy.

MR. CONSER: Have you experienced any congestion problems coming to pick up in the number of cars already there trying to pick up?

MS. COLE: I can think of maybe three times when I have not been able to park in the driveway, when there have been more cars, and that driveway holds up to about three cars. I have had to park on the opposite side. I have had no problems. I drop off my daughter close to 7:00 a.m. and pick her up usually sometime between 3:30 and 5:00.

MR. CONSER: Any questions?

Gordon Johnson.

MR. JOHNSON: My name is Gordon Johnson, and I represent Leone, my wife, and Jeannine, my daughter. We live together at 2315 Century Lane. I'm not here tonight to criticize or complain against MACC.

MR. CONSER: That would put you across the street?

MR. JOHNSON: Across the street and two houses down.

We are not here to complain about MACC. We have an appreciation for what they are doing. Our complaint is the danger zone, 'cause that's what we call it. I walk my granddaughter to the bus every morning. She's nine years old, and I will not let her walk by herself. Now, that's a fact. If I cannot walk, my daughter walks, if she's not going to school herself. That girl does not walk down the hill alone afternoon or morning, and that's all I wish to say.

It's not a MACC problem. I believe it's a police problem. You put a cop there for 15 minutes in the morning, it would be a positive influence. We pled for that. We have called up the police department and asked them just to put a cop there for just a little while in the morning, just once a day, 8:00. I think we'd have a solution to our problem as far as traffic is concerned. And then slip in, occasionally, without announcement -- just to sit there not to do anything else. Thank you.

MR. CONSER: Would you define what you call the danger area?

MR. JOHNSON: Cars backing up, cars coming in. A child is not safe there. I'm a resident.

MR. CONSER: All right. You're defining that area as a danger zone. The area of MACC down to the corner?

MR. JOHNSON: That's right. Just to the corner. And again, I'm not criticizing MACC. They're in the business of taking care of children. The police are in the business of supervising traffic.

MR. CONSER: Any questions of Mr. Johnson.

MR. CRAWFORD: Mr. Johnson, I would like to ask you about noise. Do you --

MR. JOHNSON: I have no criticism of the noise.

MR. CRAWFORD: Traffic is your main concern?

MR. JOHNSON: Traffic is -- I have nightmares.

MR. CRAWFORD: Thank you.

MR. JOHNSON: It's not the amount of traffic.

MR. CRAWFORD: I do have one more question. How far away? You're across the street, two houses up in the neighborhood. What would that be like, a hundred feet?

MR. JOHNSON: Oh, I've never really stepped it off.

MR. WRIGHT: How many houses is it?

MR. CONSER: You're across from Mr. Hart.

MR. JOHNSON: Yes, I'm across from Mr. Hart. Right.

MR. CONSER: Roughly two hundred.

Any other questions?

Deb Zachman.

MS. ZACHMAN: I'm Deb Zachman. I live at 2904 Carriage Way in West Linn. My son, Nicholas, has attended MACC since September of last year. He attended from September to June, and goes three mornings a week. Now, as far as I have seen, MACC has upheld its conditional use permit. I have never seen traffic go up the street and turn around in the cul-de-sac or in anybody's driveway.

As far as the 42 children, I think that's been fairly well explained, that her permit does permit her to have 42 children on site at any time. The number of staff vehicles -- I mostly see the staff walk. I have noticed that usually when I get there at between 8:30 or 8:45 in the morning or between 1:00 and 1:15 in the afternoon, that I still have room to park in the driveway. The driveway holds maybe three cars at a time.

Now, if you'll notice in your packet of information under Exhibit B, and that's the basic packet of information from staff, it says under No. 2, it is contemplated that the usage of the site as a child-care center will involve approximately 40 additional vehicular trips per day in the area, which will not adversely detriment the area because of the existing moderate vehicular level. Now, it must be noted that this was a finding of fact that supported the granting of the condition use. It is contemplated, it was not stated as absolute; and it was approximately 40, which can vary.

And just as one last point, MACC is a very good day care. It was recommended to me by the principal of Cedar Oak School when I moved into the area. Under No. 1, under the same Exhibit B, it states there is a definite public need for child-care facilities within the City of West Linn, and that is true. I had an opportunity to go back to work full time in March, and I had to deny that opportunity basically because I could not find infant child care in this area. I would have had to

transport my child either to Portland or back to Gresham. So there is a great need, a public need, a city-wide need in West Linn for good child care.

MR. CONSER: Any questions of Ms. Zachman?

MR. CRAWFORD: I do have a question. When you drop your children off there -- children or child?

MS. ZACHMAN: Just one.

MR. CRAWFORD: One child. How long are you there? How long does it take you to drive up and drop your child off and leave?

MS. ZACHMAN: I would say maybe at the most, three to five minutes. Because I take him in, and I sign him in, and then there's the kisses goodbye, and the hanging up the coat, and the whole bit, and then you leave. But maybe three to five minutes. And I would say the maximum time that it's busy, that I have seen, 'cause I have come anywhere from 1:00 to 1:15, is it will be busy like from like 10 to 15 minutes with traffic.

MR. CRAWFORD: So it would be the same routine in the afternoon?

MS. ZACHMAN: Yeah, pretty much.

MR. CRAWFORD: That's all.

MR. CONSER: Any other questions?

Susan Fulton.

MS. FULTON: I'm Sue Fulton. I live at 21950 Shannon Lane, and I've had a son that went to MACC for 2½ years. I'm going again with my daughter, just the summertime. I was informed of all the rules again, signed the same form. And I have to say I never, in the 2½ years with my son, witnessed anyone go up the road. As of the first three months, I have not witnessed it again.

As far as the noise decibel, I'd hate for some of these people to live close to me or my backyard, with the neighbor kids, and whatever. And with all the construction going on, these people wouldn't be able to sleep. My son wakes up at 6:30 every morning on weekends, 'cause there's usually construction going on, which we never thought we would have to live next to, but because of all of the developing that's going on, we have 39 homes that will be going in the next three or four years. So I have no control, you just learn to live with it. They're lucky that they have a controlled situation, that hopefully we can all work with. They don't have it in the evening, they don't have it on weekends. But I understand they do have some problems, I'm sure.

Janet runs a real tight ship. I tried to work around some of the rules, and never seemed to get anywhere. I substitute taught for a year. I would get calls in the morning, and I'll call Janet and see if I could get my son to stay after school, and many times she'd turn me down because she's full capacity, so I would have to turn down the teaching job. So I couldn't get around that. She sticks to the rules. So when she says there's 42 there, I would definitely believe there's 42 there.

The problems of buses and traffic, every neighborhood has their own problems, and I just hope we can just work with the existing problems. Thank you.

MR. CONSER: Any questions of Ms. Fulton?

Holly Kimbrel.

MS. KIMBREL: I'm Holly Kimbrel, and I live at 3176 Oak Street Court, and that's real close to the school. I think that one thing you may look at in your decision is you may drive down there and see that it's not only Century Lane that's a cul-de-sac, but the street, Lowry, that leads into it dead-ends, too. So you have no choice but to have the

beehive right in the "danger zone." It's a difficult situation that we all try to work around getting there, but it's not an easy traffic problem. My suggestion is that you may just go and look at it and see what the parents deal with in trying to get in there. It's a tight squeeze.

On the noise level, if she has 60 enrolled and 42 at one time, I don't think limiting her to 42 during the day total is going to reduce the noise level. Ten kids are going make the noise of ten kids no matter what happens. So those are just two things I was thinking about as I was listening. I'm a parent.

MR. CONSER: Do you have children in the facility?

MS. KIMBREL: I have one son there, and I have my care provider drop them off for preschool. I am changing day care to a different care provider that will take him there in the morning for preschool. He will stay at MACC, but he's going to a different before-school and after-school provider. She lives on Lowry, two houses from Century, and I mentioned this to her about this meeting this afternoon, and she said, "I never noticed a traffic problem."

MR. CONSER: Any questions of Ms. Kimbrel?

Bill Hedges.

MR. HEDGES: I'm the attorney for MACC, and my partner, Chuck Mitchell -- we're a two-person firm -- and his son, five year old, goes to MACC. So we are representing MACC for more than the just usual mercenary reasons that attorneys represent people. But the fact is that I've got strict orders in this particular case not to show myself around if we don't prevail.

Since he's wild about the this day-care place, that's all I can say. I'm not going to say much, because I don't have any direct evidence, and I don't think there are any additions to the law or anything to argue. I just want to say this: is that we're talking about a situation that's been in effect for nine years. And remember, in nine years there are a lot of people who come and go on streets and drive up and down. I believe one of the witnesses said there's been one tie-up that she noticed in the nine-year period. That's a pretty novel statement in and of itself right there. I think that really minimizes any traffic jams that the complainants here are trying to display, or paint a picture of, I should say.

I think another thing that I would point out in the seven-page exhibit letter is that Mrs. Russell does not make a single reference to her shift-working husband's inability to sleep all these nine years. And to me that particular lack is very conspicuous, and you would think that that would be the number one main concern of somebody living next to a noisy environment, would be the wage-earner's inability to go to sleep. But that is left out, as far as I can tell, from the seven-page document. I'm not sure if there's any other reference to it at all.

Also conspicuous in its absence is anybody who's ever had an accident at all in these nine years as far as coming and going. One thing I did do, I called up a rental shop today, and I said that there's allegations of too much noise and what would it cost to purchase a decibel meter at Radio Shack. They said \$29.95. I would point out that Mrs. Russell does have an attorney, he spoke of decibels, everybody spoke of decibels. I think it's conspicuous also in its absence the fact that nobody's gone out and actually spent \$29.95 to purchase a decibel meter and come in and tell us how really noisy the place is.

Mr. Johnson, who was not solicited by our side to come and speak, spoke of the danger zone, says there's no problem with the noise whatsoever. Also a few other items, that debris over the fence that's ten feet high. That seems improbable. From my mind as an attorney, when you look for proof of things, you look for kind of concrete proof, and we would think that there would be license plates. From the DMV anybody can get the name of the owner of a car by sending in two bucks to the Division and saying you have a license plate, and who is this car

registered to. And if these people are going to sit there all day, like they claim to be, watching these cars while they are going slowly up this cul-de-sac, you would think that all this information would be readily available and come with documentary proof that license so-and-so and such-and-such registered to these day-care people were in fact making turns up there. I haven't seen anything of that fashion.

As far as the 42 is concerned, I think I will refer to Ms. Darling's legal interpretation of that rule. It just makes sense that the amount of kids in the day-care center be based upon square footage. In my mind, the amount of staff available to take care of the kids at one particular time. So I say the only interpretation that makes sense under the circumstances would be that the 42 is the proper number of children at any one particular time. At any rate, I think that that's the only interpretation of that that makes any sense to me.

My view of the situation is that I think that the council has the alternative to make the choice at this point as to what kind of treatment it does want to apply to these children who need day care in this day and age with two-income families. You got your choice between Kindercare and Montessori, which appear to me to be kind of large corporate, institutional-type structures with huge settings, great sizes located in shopping malls or something like this. Or do you want the neighbor program with all the people who live within walking distance, and most of the beneficiaries of the day care also live within walking distance, and have the kids grow up and create more of a neighborhood feeling in the day care? I think the answer to that is pretty self-explanatory.

Except for Mr. Johnson, I don't think there was any intention by Mrs. Russell or her witnesses that the cul-de-sac was an unsafe place for the children to play or hang out or whatever. There's no indication of accidents or close calls between young kids and people in the day care. I think I would agree that probably the safest drivers in existence are parents that are transporting young children around to and from day care. I think that may be a safer place to be.

Lastly, I like to say that there is really no indication that the noise level would change with any other sort of reading of this 42 requirement, in that there are only ten kids outside at one time. I don't think there was intention that the noise level, whatever you think of that, came from within the house. It only had to do with kids who were outside and, I assume, in the backyard. I think there are pictures of a rather large fence there between the Russells and the MACC, and I suppose there is some room for foliage there, some sort of view hedge or something else that might provide some more sound absorption under the circumstances. That's all I have to offer.

MR. CONSER: Any questions for Mr. Hedges?

MR. CRAWFORD: I only have one question for Mr. Hedges, and I have one correction. First off, the correction. We're the Planning Commission for the City of West Linn, not the City Council, and you referred to us as councilors, and I want the record to be corrected.

MR. CONSER: Yeah, we don't want that job.

MR. HEDGES: Is that in the one that was sent out?

MR. CRAWFORD: No, in your testimony you referred to us as councilors.

MR. HEDGES: Not the first mistake I've made.

MR. CRAWFORD: Did you say how long your child has been going to MACC?

MR. HEDGES: No, that's not my child. It's my partner, Chuck Mitchell's child. Chuck is up in Alaska, supposedly canoeing across some bay. That's why I was delegated this. I have a child, a three year old that goes to day care. And I tell you, the day care that we goto, and I like it a lot, doesn't compare at all with MACC when we visited it just a couple weeks ago. This place is head and shoulders above the one I send

my children to. I live in Portland, over in the Eastmoreland area. Even in an area supposedly as nice as Eastmoreland, sometimes it's very difficult to find really good day care.

MR. CRAWFORD: Do you have any day-care centers in Eastmoreland?

MR. HEDGES: No, not at all. Not a day-care center in Eastmoreland, no. There's a grade school in Eastmoreland that has preschool and after-school care, but my son's not old enough to take part in their program.

MR. CRAWFORD: That's all the questions I have.

MR. CONSER: Any more questions? Mike? Joe?

I have no more requests for testimony at this time. Therefore, we normally go in and have a staff report. I think we can wrap that up. At this point, we would ask for a staff report, and then the applicant has the final say, if they would like to have the final say. In this case, that would be Mrs. Russell.

Let me ask a point here. There's a lot of questions that have been brought up here. I might as well say what I'm thinking. I think the thing is that we're in the middle of a neighborhood squabble a little bit, and those are always difficult. We have the ability to make decisions on black and white; this is the way the Code speaks, no problem. Those are fairly easy to deal with. Do we have any latitude to allow these parties to try to work something out that seems more reasonable? There seems to be things like traffic flow, like timing, like scheduling, like buffering, like foliage, issues that we haven't even touched on, that we normally deal with.

MS. DARLING: You don't have any authority to order them to go out and work them out. I suppose the fact that if this goes on, if it is in fact merely a neighborhood squabble as you characterize it -- and it's been going on for nine years, I suppose that speaks loudly that it cannot be resolved in the neighborhood, and that's why we're here. You can't order them to do that. You can postpone making a decision in hopes they get together and work it out. I think there's evidence here that there have been attempts from both sides to do just that, and it has not worked out.

What the Code says you can do is that you may, if after hearing you find that there is a failure to comply with conditions or a failure to use the premises in accordance with the approval, you may either revoke the approval, or you may not. You must find that the complainant has convinced you that there has in fact been a failure to comply with the conditions. To find that there's been a failure to comply with the conditions, you've got to find that the person holding the approval and the day-care provider knew what the conditions were.

If we have to sit here and have you define what the condition meant, I think that you're hard pressed to find that they violated the condition. It's clear that at least the condition regarding the number of students that were allowed is subject to interpretation, and we just spent three hours finding that out. Nobody quite knows what it means, and we're asking you to tell us, so that when we walk out of here tonight, nobody need wonder again what that condition means.

I think you can easily find that the other conditions are quite clear, and your job on those two at least is to find out whether or not you are convinced that they have been so violated that you should take the approval away, or you can modify the conditions some way to either prevent the failure or remedy it if possible.

The one thing that I don't find to be a standard worthy of any of the testimony, or your concern, is noise. You don't see a condition anywhere that says that child cannot create noise. We do not have a noise ordinance in this city. There were no noise standards imposed on this approval. So I believe that is something you can choose to ignore completely. The noise is the result of too many children on the site, not the fact that there is merely noise there.

If you find that this condition says you can have 42 children per day, and they have 43, is there more noise than there would have been with 42? And has that been proved that there is a purpose for the 42-student limit? I don't think it matters whether or not the decibel levels would be exceeded. There's state standards that DEQ chooses not to enforce, which we talked about in a recent meeting, and we've not adopted them.

The other issues then get down to whether or not they got the proper number of cars for the staff on the site and whether or not -- the use of Century to the west. The comment was made that there should be signs up saying "no parking," "no traveling." Unfortunately, you cannot, at this point, regulate a public street for private use. It is to the user of the day care to ensure that those cars don't go beyond, not the for the City to put signs up and have a police officer issue tickets. There would be absolutely no motor vehicle provision that driving on the west side of Century would violate. We would have to adopt a law that prohibited driving on the west side of Century in this neighborhood before you could issue a citation. So while that might solve the problem in the view of the neighbors, we cannot do that.

I think that the two things that you want to be careful of in your decision is not whether or not this is a good day-care center or provides good care; that's not the issue. If this day-care center was not providing good care and was not a good day-care center, it wouldn't have a certificate, and we wouldn't be here at all. If the certificate was taken away, the conditions that were put on this approval say you may take away the approval, and that's what that sixth condition is for.

So, while I'm sure it's a nice place and the kids are real happy, that's not the issue before you. The issue is: are you convinced that the complainant has sustained their burden that the conditions of the approval have been violated to the extent that they now need to be changed or revoked?

Then the other issue being that you've got to interpret what the student-per-day thing is. It can be mean a couple of things. It can mean 42 at any one time, a total of 42 students, 42 in any one day. It could also mean that there are to be 30 preschool students there during school hours and an additional 12, totaling 42 before and after school. You're free to pick what that means, and once you interpret it, then that would solve the enrollment problems.

MR. CONSER: I asked for some staff input, didn't I? I liked it.

MS. DARLING: I believe I've covered all the issues that I think were critical. Well, I guess the other one you've got to interpret is: are the kindergartners preschool or after school? I guess that needs to be interpreted. I don't know how critical it is. If you find that you can have 30 kids during school hours and 12 additional ones on either end, then it doesn't matter what kind of kids they are. If you find that it's 42 kids at any given time, I don't think it matters whether they're preschool or kindergartners. If you find some definition in between, then you've got to figure out whether kindergartners are before or after school, or they're preschool.

Now that that's clear.

MR. CONSER: Peter, would you like to review your staff report?

MR. SPIR: Really, Deanne said just what I was going to say.

The staff found that the conditions related to traffic -- that there were points made on both sides. There was no definitive answer. We ended up falling on the side of MACC in that they're in substantial compliance with the traffic conditions, and that it is simply a matter of interpretation as to whether or not -- how you want to interpret the 42-student rule. We recommended that you interpret that as being 42 students at any one time. That was essentially our position.

MR. CONSER: You've answered the test thing, which is certainly a question of requesting posting. What do you post? I mean no parking

would be one thing, but we can't hardly post anything else. I don't recall, and I'm sure I could look at a dozen pictures -- Where does the curbing stop on those? The north side of Century? I know there's a curb on the south side.

MR. SPIR: I'm not familiar with the curbing situation out there.

MS. DARLING: That would be a question to ask complainant on rebuttal or the day-care person.

MR. CONSER: I was going to ask you how you interpreted the student population based on the request for accounts of how many students are actually there.

MR. SPIR: Certainly, the total for a day exceeded 42, if we wanted to interpret the condition of approval as saying no more than 42 students in any day, then they wouldn't be in compliance with the condition of approval. But if we wanted to interpret the condition of approval to say no more than 42 students at any one time, then they would be in compliance with the condition of approval. So there's that vague, grey area. Again, a matter of interpretation. The staff preferred to interpret that in favor of MACC. But we think that it's important to set a ceiling on the number of students, so that they can have 42 students at 8:00, another 42 at noon, another 42 at 3:00 -- that there should be something like a maximum of 75 students total in the day. Something of that nature.

MR. CONSER: This school bus issue of driving up the cul-de-sac; that's a tough one. I'm not familiar with how school bus systems are run.

MR. WRIGHT: That's sort of like the 800-pound gorilla. He goes where he wants to.

MR. RILEY: I would think there's probably a couple of things the City could do as far as the school bus thing.

MR. CONSER: Okay, any other staff input at this time?

MR. MONTGOMERY: Well, I would just mention that the traffic generated at the site would be based on enrollment, rather than how many students are there at one time.

MR. CONSER: Okay. Seventy-five students total, you've got 75 vehicles.

MR. MONTGOMERY: Well, you have so many vehicle trips. You have two brothers and sisters coming together, you have car pools, you have buses. But it's very difficult to come up with any kind of significant -- 120-students equals so many vehicle trips. But if your enrollment goes up, then your vehicle trips are going to go up.

MR. CONSER: What's the potential of that intersection? Do you have any information on that?

MR. MONTGOMERY: Well, Lowry, to the best of my knowledge is a through street. I've done some traffic counts out there on another issue, when we blocked off another little road out there, and there was significant traffic in the morning and the afternoon. I wasn't there to note the day. But there's virtually no traffic the rest of the time. And so, significant traffic on one street doesn't necessarily mean significant traffic on another. But, they're both residential streets; that's the classification.

MR. CONSER: What level of blockage was --

MR. MONTGOMERY: I didn't note any blockage. It's been several years ago since I did that. It was an unrelated count, so it's not relevant.

MR. CONSER: Do you have any other questions of staff or any other information from the staff at this time?

MR. RILEY: I have a question. Was there any review of the minutes of the meeting in terms of if there was discussions of what this 42 meant. I can't believe this is a coincidence that 42 happens to be the number that fit into the square footage of the building, so it must have been --

MR. SPIR: I think it was tossed out as 42 trips would be generated, and for many people that's interpreted as a total of 42 vehicles arriving at the site.

MR. RILEY: Well, no, I can see the vehicle thing, and that was just a wild stand on how many kids and how many cars.

MR. SPIR: But it was the coming and going --

MR. RILEY: Yeah, but 42 people in Condition 4, or 42 kids in Condition 4, are the same 42 that are on the certificate, so it wasn't just a coincidence. It's just kind of which came first -- maybe it was 42 kids and how many vehicles trips that generates.

MR. CONSER: Maybe I can answer that. Basically, the state authority determines the capacity of a facility, and that's when they came to the City for an application to operate a facility that would handle 42 children. So that's where the number came from.

MR. RILEY: But, it seems like there's been a disconnect between those two numbers. The number that says 42 in the conditions and then there's the number on the permit. I just got a sense during the testimony that those were two unrelated numbers, but they are very tightly-linked-together numbers.

MR. CONSER: Any other questions of staff at this time?

Normally we would now allow the applicant a rebuttal, which may generate some more questions; so why don't we do that.

Would Mrs. Russell or your representative -- I assume your representative will come up.

MS. DARLING: Is that the five-minute rebuttal or the ten minute rebuttal?

MR. CONSER: I think it's ten minutes -- normal rebuttal.

MR. SHONKWILER: I'm John Shonkwiler, speaking for Mrs. Russell on rebuttal.

First, I'd point out I think the first subject to deal with here, and principal subject, is the 42-children limitation. I would point out that the testimony's quite clear that even the MACC Center operative that she understood when she made her application to the City that what she was getting approval for was a total of 42 students for the whole day, and that she later changed her mind when -- probably when she approached 42 and thought that she could take on more, and she discussed it with the State. And she says the State told her that she could have more than 42, which is 42 at one time.

What's important about that is a couple things. One is that she did not come back to the City and say: Can I have a clarification of that because I'd like to bring in more students; a lot more than what I originally had planned for and originally thought. She never did that.

Also you have a declaration that the State told her that she could do this. But she has not submitted any letter from the State. She could have requested that. There's no testimony from the staff that they independently checked with the State on this. All of that could be available here.

I think that, frankly, the information that we have submitted and as to the clear reading of the face of the permit which talks about not in terms of at any one time, but strictly in terms of during school hours, before school hours, and after school hours, in the sense of the total.

There is nothing in there to indicate that you can make the interpretation that the staff is telling you. On the face of the permit itself, it is clear that it is not for interpretation. It is a total of 42. And that matches exactly with what the permit says from the State -- the certificate from the State: it says a maximum of 42. There's nothing in the record at all that would allow you to make that interpretation that the staff has indicated to you. That's on the face of the thing.

I think that it goes to another question here. What was the City thinking about nine years ago when it set 42? Or how was the 42 arrived at as being acceptable? Whoever said it, the City found it to be acceptable. The point is, and I think the staff has pointed that out, as well as we have, during the testimony: what is enough here? I mean, you can have 42 at 7:00 in the morning, and 42 at night, a different 42 at 9:00, a different 42 at 1:00, a different 42 after 3:00; and now you're totalling up to 200 or more students --

[inaudible by noise from audience.]

MR. CONSER: Please, be respectful.

MR. SHONKWILER: They can laugh. If you make the interpretations that the staff has suggested to you, and that MACC has suggested to you, you are putting an unlimited scale on this thing. And the whole point, contrary to the City staff's position that there's nothing about noise in there, on page 1 of the permit itself, in paragraph 4, it says: the hours of operation and curriculum schedule of the center will be such so as to prevent any significant adverse impact to the surrounding property from, what? Noise. Noise generated from the site.

MR. WRIGHT: Would you reference where you're reading from.

MR. SHONKWILER: That's on page 1 of the permit itself, the conditional use permit that was granted by the City back in 1979; page 1, paragraph 4. I'm not sure which exhibit that is with the City.

MS. DARLING: I think it's Exhibit B to the staff report.

MR. SHONKWILER: It is also Exhibit E, page 8 of our Exhibit E.

So clearly noise is a subject for you, and clearly noise is a concern, and clearly also noise is what they had in mind when they were talking about 40 -- conceiving that this use was going to generate 40 additional vehicle trips -- not per hour, not at one time, but per day. Now, we're talking about eliminating adverse impacts that can be addressed by the conditions. So, I take great exception to the staff's position on that. I would also point out --

MS. DARLING: Mr. Shonkwiler, on that issue, don't you think that the No. 4 which you're referring to is a finding of fact and not a condition, and that it's saying that because there are certain hours and because there are certain curriculum, therefore the noise will be minimal, therefore we can approve it?

MR. SHONKWILER: I would say that the interpretation is that the conditions are meant to alleviate the findings of fact. If you reinterpret the conditions like you're suggesting, then you are contravening the findings of fact, because the conditions are directly linked to the findings of fact.

MS. DARLING: Do you believe that No. 4 on page 1 is a condition of approval?

MR. SHONKWILER: Well, no. I didn't say that. I said that No. 4 is a basis for interpreting the conditions on page 2. If you change, as you are suggesting, your interpretation of the conditions on page 2, then you are contravening the facts that those conditions -- mainly paragraph 4 that I was talking about -- you're contravening that fact that was the whole basis for these conditions.

MS. DARLING: Which conditions specifically --

MR. SHONKWILER: Which means it's relevant to talk about noise in relationship to those conditions.

MS. DARLING: Which conditions specifically address noise?

MR. SHONKWILER: Number one would be 4.

MS. DARLING: The child-care center --

MR. HART: Mr. Chairman, rather than having the City attorney cross-examine the witness, can we wait until he's done and then have this?

MS. DARLING: You're correct.

MR. CONSER: Thank you.

MR. SHONKWILER: Now, I think that the real problem is that we're not -- and I addressed that originally -- we're not talking about shutting the place down. Everybody finds day care a viable concern. I would even agree with several of the parties making testimony on behalf of MACC about some of the aspects.

One of them, I would point out, that Holly Kimbrel talked about, that it's a difficult situation as far as traffic out there. And that has to do with there's two cul-de-sacs that you're dealing with, and it's a tight squeeze. I think that there's a reality here that you have to deal with. You have a use that fits at a certain scale in the neighborhood, and has now grown beyond that scale, and it's now causing problems in the neighborhood, and it's spread over a period of time.

That is the problem with things like this, whether it's day care or any other kind of use. When it gradually grows, at what point is it so obvious to everyone that it's a problem? It's easy to say that you haven't had 200 complaints about this thing consistently over nine years. The point is that everyone reaches the realization that it's gone too far at some point. Just like you're struggling with it tonight. How far is too much? If we come back two years from now and there are 200 students, and the traffic is that snarled, will that finally be enough?

I submit to you that tonight you have a chance to really address this thing. It's not a question of closing the place down. It's a question of placing proper conditions on this thing that you can enforce in the future.

Now, I would again disagree with the staff about the question about the roadway that can be posted. Under ORS, there is provisions that allow cities specifically to post street signs limiting a variety of things. You can exclude trucks, you can limit a street to strictly residential traffic -- which is clearly what you could do here -- and clearly you can post it for parking.

In fact, my office had a case regarding Milwaukie about that very question, about posting a street in Milwaukie. The city council did refuse to do it, and the citizens went out and did it by referendum, and it's now law in Milwaukie. So it can be done. There's no question, and I disagree with the staff on that. I think that's a reasonable solution. How much pain is it to the City to go through the process of posting that street? And what that would accomplish then is the violators can be directly addressed, not indirectly addressed.

Another solution that I think has to be addressed here is the noise question. I think that it is clear from the testimony that there is substantial noise. I think it's also clear from the testimony that she has regularly been allowing ten children out in the backyard. That amount of children creates, apparently, too much noise.

So maybe the answer is to limit the number of children down to some other figure, like five or seven, for periods of time that you can spread that out throughout the day. So they're out there for a half an hour, five out for half an hour, and then another five out for a half an hour. That's seems, again, to me to be an easy and reasonable solution to make

a condition saying that she can only have a smaller number of children outside at one time. As to her choosing which five and what periods of time, that's up to her. But the point we're talking about is the noise generation outside.

I agree with some of the questions that you have made regarding -- isn't there some other things that could be done here, like buffering? I fully agree with that. Maybe a planting of full height laurel hedge or something that would help to obscure the noise would be a great help, and that's not that expensive to go through that process.

I don't mean to criticize. I thought it was slightly a snide remark about the decibel meter. It would do no good for me to go out and buy a decibel meter, come in and say the decibels exceed a certain level. For you to accept that the test was a proper test, and for it to be effective for you to impose down through the future with confidence, you're going to have to do that test yourself. The City personnel will have to do the test. Anybody else would cause debate of the results of the test anyway.

So, I still think the decibel test is a proper solution that you ought to address today. It doesn't cost that much. You can run the test, and you will know from now on what standard you're talking about. I fully agree with their attorney: facts are a hard thing to come up with in a situation like this. Until someone takes steps to help produce those facts, you're always going to be struggling with them.

As to the employee parking, I'll raise another question here.

MR. CONSER: Are you wrapping up?

MR. SHONKWILER: Yeah, I'm wrapping up. I'm working down to the fourth issue. The employee parking. I think that maybe we ought to consider what's going on there. Apparently, you have overloads at particular times of the day. Maybe if you eliminated the employee parking on the site and said that the employees could park down the street somewhere and walk half a block or a block to their employment, that would free up that area for more people to pull in and pull out. Maybe that would help eliminate some of the stacking that apparently goes on at crucial times. That's a possible thing, and I think you ought to consider that.

As to the final point that: gee, there's no violations -- I've watched, and every time I've gone there I've never seen any cars go up the street. I would suggest that you refer to our Exhibit E and look at pages 53 through 56 where there's photographs of cars going up and down. The questions about how to prove that, there's the photographs of the cars turning around in the cul-de-sac.

There's also photographs of more than two employee cars also in that same exhibit at the end, and it's marked as employee parking. More than two employee cars parking in there at one time at that site. So, ongoing problems exist. The Exhibit E really shows all those things. It's a matter of reviewing it and saying, all right, so it appears to be a problem here. What kind of solutions can we come up with to address that?

I would point out, and I will not tell you that the parties can all reach an agreement if you gave us some time to do it. I would hope that we could. I agree with the City staff that this has been going on for a long time, and maybe there isn't better than a 50/50 chance.

I think what the City was saying to everyone that there's a certain number of people that can be allowed in this use. And as to the impacts from that, we've got to come up with some new conditions to address those impacts. Very clearly it's gotten some sort adverse impact over the nine year period. I think that would help the parties get closer together. If they think that it's not going to make any difference one way or another from the point of the City, then probably we never reach a solution or settlement. I would leave that option open, that maybe you could continue to discuss it if it was directed towards the idea of coming up with some solutions and abating the problems. Any questions?

MR. CONSER: Any questions at this time?

Thank you, sir.

MS. DARLING: Mr. Chairman, would it be proper for me to make some comments with respect to that at this time?

I agree with the gentleman that it is proper for you to post no parking signs. What I don't think you can do is post a sign that says you cannot drive west of Century if you're a person bringing a child to the child-care center. That's the law that I said we could not impose. But if you want to impose no parking, you're certainly free to do that.

I believe the Code says that you cannot now add new conditions; but if you find in violation, you may modify the existing conditions. If you feel that certain steps need to be taken to bring about the existing conditions within what they are, you can do that. Such as, if you find that the way to prohibit the driving on the west side of Century is to prohibit parking in the area, or that would solve the problem with respect to the staff parking, you can do that. But to say that there is now noise, so we have to add buffering; I think you've got trouble doing that. If there was a noise problem at this facility, it had to be addressed at the time the conditional use was granted, and the buffering and all that had to be addressed then. If the City just did a bad job and didn't get it done, there's no way to now go back and require that without the day-care center's consent, even if you find a violation. You can't require new conditions.

Mr. Shonkwiler and I will continue to disagree regarding what No. 4 on page 1 means. I believe the proper interpretation of that is that it was a finding by the Planning Commission at that time, because there was going to be hours of operation, which no evidence has said is being violated, and because there was going to be certain proposed curriculum schedules, which nobody says is being violated -- those two things, the hours and the schedules -- would serve to keep the noise down.

Nowhere in the conditions of approval is there a limit regarding noise or any standards regarding noise. I think it is a finding on page 4 and not a requirement. However, we can do as he suggests and find that page 1 is a condition of approval and find that you have some control over noise. But you would so need to interpret.

MR. CONSER: All right. Is there additional information needed at this time from the Commission?

MR. RILEY: I'd like just one question. At the very last page of the exhibit, there's a list of license plates. Was there any attempt to make or correlate those with DMV? The license plates were --

MS. DARLING: Which exhibit are you referring to?

MR. RILEY: Page 56 of Exhibit E.

MR. SHONKWILER: If I may ask a question. As you can see from the photographs, none of the license plates show up, and it's typical through there. I had made a request of my client for that, and because of the photographs and the sequence of the traffic going up the street, dropping off right after her complaint, we were unable to do that. But we did get some DMV plates that we requested, and basically they were showing the number of employee cars parked at one time. They did show that more than two was there at the site, which was also in the exhibit.

MR. CONSER: Walt, any additional information?

MR. WRIGHT: Motion for closing and order.

MR. CONSER: Closing the public hearing?

Motion to close the public hearing.

MR. HART: Seconded.

MR. CONSER: Motion seconded. Any discussion or questions?

All in favor, signify by saying aye.

RESPONSE: [Aye]

MR. CONSER: Opposed?

RESPONSE: [None]

MR. CONSER: At this point, the staff has somewhat directed us, given us information, input, whatever. We got three items that are alleged conditions that have been violated. At this hour, does the commission want to look over this information, reconvene at a later time for the decision process, or do you want to go through and attempt a consensus and try to come up with a motion?

MR. HART: I'm in favor of acting on the matter.

MR. RILEY: Yeah.

MR. CONSER: Okay. At that point, the options available are to find that there has been a violation and modify -- well, we've been through it.

Anybody that has any questions as to what we're looking at?

If not, Joe, would you like to give us a summary? Give us some direction.

MR. HART: I feel that the main thing that I'd like to do tonight is interpret the question of the 42 student limit. I feel real strong about reinforcing the original expectations of the neighbors and the day care center -- reinforcing their original expectations of what was meant by the conditions. I feel that those original expectations are the same for the day care center and the neighbors.

The day care center originally started out with a plan to service 42 students per day. The enrollment plan changed when she found out she could have as many as 42 students at any one time, according to the state. I think the 42 student limit per day is also borne out in the facts that refer to approximately 40 trips per day.

I would like to commend Janet Raes for the information that she submitted. I found that to be very helpful. I'd also like to commend her for the attempts that she's made in attempting to control the traffic. I think it's worked very well. I think there's always going to be certain percentage of drivers that aren't going to conform to instructions.

You can post a police officer -- you'd almost have to post a police officer out there for 24 hours a day in order to catch everybody. Otherwise, there always have to be some violators of the condition not to drive past the center. But I feel that a good effort can be made on the part of the center to control traffic.

There's obviously quite a lot of recognition for the quality of the program, and I think that popularity has caused the program to outgrow the original conditions.

The two spaces originally planned for staff parking, that now doesn't -- is another indication of that. So, I'd like to define what the 42 student limit means and address that condition only. Maybe define the kindergartners and the preschoolers, would be the other issue I would address.

But defining the limit of 42 students and with the continued attempts of Janet Raes to control the traffic and possibly with the definition of that limit, maybe there would be some changes in the noise, or maybe some changes in attitudes amongst the neighbors and possibly a new spirit of cooperation. If everybody's expectations about what the

conditions meant were the same, then I think it would be more help to solve some of the problems.

MR. CONSER: Mike?

MR. RILEY: Two points. I would go along with a kind of modified interpretation of what the 42 means. I think it's probably reasonable to expect that it's not the same 42. But it's not 42 different ones every hour in there. It was a total enrollment of 50 of which 42 were MACC and then 12 before and after. So I should say we should put some enrollment limit.

As to clarifying Condition 4, 50 or 60, I think the estimate of 40 vehicle trips as asking about any time or minute, that seems to me to be quite arbitrary. I think 84, 88 or something -- but absolutely worst case, one kid per car coming back with the preschoolers or 30 preschoolers and 12 each for the other two. This is an arbitrary decision of having two kids per car.

As a clarification, I might add just a couple of other points -- is to perhaps ask the school to encourage more car pooling. Try to reinforce staggering the hours to not bunch up or if you see a lot of cars in the road, kind of wait back until it clears out. Try to control areas like that.

The other one of the noise issue, I think that we've addressed it in the past. There really isn't a noise standard. We've tested construction and construction limits. There can be construction 7:00 a.m. to 6:00 p.m., and that's kind of implied noise traffic abatement. There certainly can't possibly be the the noise decibel of five Caterpillar graders moving a couple of cubic miles of dirt around making a lot of noise while they're trying to work. The idea is there's going to be a lot of noise during that period, but you want to control the time and amount of noise. So, I guess I'd say the noise issue is not to be considered.

We should put an extra condition about total enrollment -- or clarification of the condition of total enrollment. Perhaps this commission can recommend some ways of controlling the traffic that should be approached.

MR. CONSER: Ron?

MR. CRAWFORD: I feel pretty much the traffic problem is something that is going to be ongoing. You can put up signs and do whatever you want to. That's why they have police officers, to issue citations when people ignore signs. I don't think that would accomplish anything. I think Janet Raes has done, as near as I can tell, a pretty good job with policing the traffic.

The photographs that I have looked through here, I can't really distinguish whether this is all at one time or whatever it is. Just with reading the forms that she puts out for each new parent to read and sign tells me that she's making a concerted effort to control the traffic on that street.

Issue Number 5 I believe can be solved relatively easy -- just simply by moving all of the vehicles over to the neighbor's yard and having them take care of that. I think that would clean up a little bit of the problem.

So, as far as the bus going up the street and turning around, I know that that can be rectified through the bus people. Many years ago, I drove school bus, and one of the requirements was that we could back them up. So, it's very possible for a bus driver to back up the street far enough to unload the kids so that you don't have to go up the street.

Issue Number 4, I don't believe we can address noise issues in this hearing because it's not a part of what's laid out before us by the previous planning commission or by city council, and it's not part of the complaint as the conditions that were set down.

The fourth issue is the one that is -- I agree with my cohorts up here that that's the real problem: determining what enrollment should be or what is interpreted as enrollment.

I haven't come up with any solution to that or any even firm idea on what I think it should be. Kind of swayed back and forth here with the interpretation. I think I will hold back with statements on that right now.

MR. CONSER: Walt?

MR. WRIGHT: My one primary concern is Condition No. 4. I think that is the only one that we can come to a sure fire recommendation on, other than chiding all those involved in the situation to make the best of what has been going on for nine years. I'd like to find that the maximum number of children be 42 at any given time, and I'd like to also find that there should be a maximum number per day and not differentiate between what ages -- not preschoolers or that sort of thing. That's my sole concern.

MR. CONSER: All right. There seems to be a consensus. So that would indicate it's my time to make comments. Is there a motion or would someone like to try to formulate a motion as far as it appears that item one, the traffic -- as far as Condition No. 1 -- vehicles up Century Drive is being -- attempting to be controlled within the best ability.

Item 3, number of staff vehicles, appears to be limited for the most part per the conditions. So, your finding is that has been violated? So the definition of Condition 2 is the key issue, and is there any recommendation or a motion?

MR. HART: I just want again to argue my point that the original expectations of the condition were that it be 42 students per day, on the part of the neighbors, on the part of Mrs. Raes. I think that's also made evident from this figure of approximately 40 vehicular trips per day. I think that all points to a limit of 42 students per day.

MR. WRIGHT: I don't disagree with that. I just think we should amend the conditions to make it 42 students at one time.

MR. HART: You're saying 42 students at any time?

MR. WRIGHT: At any time.

MR. HART: That's what they're doing now. Forty-two students per day is different from 42 students at any time.

MR. RILEY: My understanding is they're running a morning preschool and a mid-afternoon preschool, and that combination, including the students that are before school and after school, gives them a total number of 60.

MR. WRIGHT: Sixty-three, I think.

MR. RILEY: Sixty-some students, 73 as defined by staff and some of those before and afters come before, and come back after.

MR. WRIGHT: I understand that.

MR. RILEY: So there would be at least sixty. It seems to me Joe's recommendation that 42 is the original concept of the applicant, and the only change is they were able to break it into two sessions at a later date. So, the original application was for 42, and her interpretation originally was 42.

MR. WRIGHT: Then that's what it should remain, right? That's what you're saying?

MR. RILEY: Yeah.

MR. WRIGHT: That's what you're advancing: it should remain 42 all day?

MR. HART: Forty-two per day.

MR. CONSER: Not more than 42 at any one time and not more than 42 in a given day.

MR. HART: Any change like that should require a change in conditions.

MR. WRIGHT: I see.

MR. HART: Which they have that option.

MR. RILEY: I still disagree that that condition is that clear. Forty-two in the original designation says that's how many kids fit in that number of square feet, and that was set -- at least it appears that that was set and put in here as 42, and by some magical formula came up with 40 car trips. It's not exactly clear that they meant 42 individuals enrolled in the school, and this was it because that would say you got some in the morning -- maybe might only have 25 kids in the morning and would never get to the whole 42. I just don't think it's all that clear.

MR. HART: Well, I think from the testimony that it is.

MR. CONSER: And that's the point. Is there someone willing to make a motion?

MR. HART: I'd like to make a motion. I move that the MACC preschool is found to be in violation of Condition Number 4 due to interpretation of what 42 students -- the 42 student limit is, and that by my motion it would be defined as 42 students per day. And that is the only thing I would change.

MS. DARLING: No part of your motion recommending any action with respect to the finding in violation?

MR. HART: Pardon?

MS. DARLING: Taking no action on the violation?

MR. CONSER: I think what he was more or less doing was defining what 42 meant as opposed to finding a violation.

MR. HART: Well, let's --

MR. WRIGHT: You could continue your motion.

MS. DARLING: You don't have to do anything. I'm just making sure that it's your intent to find an interpretation, a violation, and nothing more -- to clarify it, and move on.

MR. HART: Yeah. Because I'm not so certain how intentional the violation is. It seems to be more a matter of interpretation than a matter of intentionally violating the conditions. But in order to -- I just thought it made it simpler to find the violation. But we don't have to do that?

MS. DARLING: You don't have to. You can. You need to make a finding on the three violations.

MR. HART: Okay.

MS. DARLING: Yes or no.

MR. HART: Okay. So we can find that there was no violation and just simply define what the enrollment limit is? Okay.

I'm going to change my motion that there has not been a violation of any conditions, but there needs to be an interpretation of the enrollment limit, which shall be set at 42 students per day.

MR. CONSER: Is there a second to the motion?

The motion dies for lack of second.

MR. HART: Well, I tried.

MR. RILEY: How about if I try one.

I move that we not find any specific violation of the conditions; however, that Condition 4 be interpreted to be a maximum number of students present at any given time and that an enrollment limit -- a total enrollment limit be set at -- What was that? -- 55 total students.

MR. WRIGHT: I second.

MR. CONSER: Okay, there's a motion. Are there any questions? Any discussion?

MR. CRAWFORD: I would be inclined to support the motion if it were changed to 50 rather than 55 students in a given day.

MR. WRIGHT: How did your logic run with 50?

MR. CRAWFORD: It's kind of a compromise. Sixty is unacceptable now according to testimony that we've heard tonight. That's what we've had, that 42 is not acceptable to Mrs. Raes because of her efforts to improve. I think a compromise of this to be 50 because 50's a round number. It makes sense to me.

MR. WRIGHT: Would you amend the motion?

MR. CONSER: Okay, now, there's a motion on the floor. Do you wish to amend your motion?

MR. RILEY: I'm trying to think if I can put some science into this, but I'm not real clear on it.

MR. CONSER: Again, the point to keep in mind is that you're limiting the maximum. You're establishing 42. Now, we're down to the point where is 55 too much or is 50.

CRAWFORD: Boy, I'm glad he can't vote.

MR. CONSER: I can sometimes; remember?

MR. CRAWFORD: You can coach, too.

MR. CONSER: There's a motion on the floor. It's been seconded. All those in favor signify by saying aye.

RESPONSE: [Aye]

MR. CONSER: Opposed?

RESPONSE: [No]

MS. DARLING: Mr. Hart?

MR. HART: No.

MS. DARLING: Mr. Riley?

MR. RILEY: Aye.

MS. DARLING: Mr. Crawford?

MR. CRAWFORD: No.

MS. DARLING: Mr. Wright?

MR. WRIGHT: Aye.

MS. DARLING: Mr. Conser?

MR. CONSER: Aye. I approve, 55.

Okay, now comes the fun part. Unfortunately -- or fortunately, pardon me -- there is an appeal process. The appeal process must be filed within 14 days of the findings -- final findings, which I assume will be issued in the next couple of days. That appeal process goes with a \$150 fee, unless you can either encourage two or more of the council to take up this issue on their own recognizance; or, if you get a neighborhood association to support this particular issue, then that \$150 fee would be waived. That appeal then would be brought before the council.

Is that clear? Are there any questions? Thank you for your patience. I wish you the best of luck.

[Staff business was then discussed.]

[The August 15, 1988, West Linn Planning Commission meeting was adjourned at 11:45 p.m.]

WEST LINN PLANNING COMMISSION
AUGUST 22, 1988 SPECIAL MEETING

Present were Commissioners Joe Hart, Debbie Zachman, Michael Riley, Ron Crawford, Walter Wright, and Charles Tryon as Chairman; also present from staff were Jack Hammond and Michael Butts.

MR. TRYON: Call to order the special meeting of the West Linn Planning Commission on August 22, 1988, at 7:30 p.m.

First item on the agenda is open period for any audience comments or questions about items that are not on the agenda tonight. Nothing from the audience?

Before we get to the public hearing, what I'd like to do is have Mike Butts bring us up to date on where we are in terms of our timetable for Periodic Review and what the schedule is for accomplishing the things we have to accomplish by the date we have to accomplish them.

MR. BUTTS: Had to undergo a number of studies and amendments to the Comp Plan and the Community Development Code and bringing it into compliance. Basically what you asked me to do is take a look at your codes that were adopted in '83 -- four factors you have to look at and see whether or not during those four years whether it is now out of compliance with the statewide planning goals.

A number of changes have been made to the goals and Administrative Rules; the Legislature has created some new requirements. All those are capsulated into a set of requirements called Periodic Review. These are the last hearings for Periodic Review before the Planning Commission. Tonight we will be looking at primarily the economic development and the Wetland Protection Ordinance. There's a couple of outstanding issues left. The mobile homes we're looking at. A couple issues will be the analysis of the cumulative effect of past amendments.

We've been making a number of amendments to the Planning Code since '83, and we need to take a look at those in total, whether the effect of the cumulation of those, rather than individually, what's the response. Taking those as a whole is another direction. Something that you've created, we'll look at it in total so we can make an analysis of that. Particularly with respect to vacant buildable lands. West Linn is required to zone all its vacant buildable land, its land that is not extreme by slopes or wetlands for eight units per net acre, and the City was to then go over a series of zone changes which now we can no longer meet our eight units per net acre. Under this Periodic Review process, we assume that we can make some zone changes to again meet that eight units per net acre.

So those are a few of the ones that the Planning Commission will be looking at tonight. This whole package includes the following: economic development, which we'll look at tonight; historic landmarks; wetlands; a few transportation plans; Parks and Recreation Master Plan; Solar Access Ordinance; provisions for mobile home parks; and a number of other miscellaneous provisions. Those will be going to City Council on September 14th for the final public hearings.

I suspect that we will not finish that evening, but will again have another one on the 28th of September. We'd adopt those packages and then we come back the first of October and develop a final set of findings: what's called the finding final order. They would adopt that. That together with these as exhibits would be submitted to the State Land Conservation Development Commission, and they would in turn base their review on whether or not our amendments in fact bring us up to speed in terms of the changes since 1983. And if it is, I guess they would at least acknowledge for the amendment that we are, not at this point in time, in compliance with the State land use planning rules.

MR. TRYON: Could you talk a little bit about what we've been talking about tonight and whether we'll have a meeting next week?

MR. BUTTS: Tonight is your final meeting. You will not have anything on the 12th or a work session. We have collapsed all the proposals relative to economic development tonight. It was not really known, as mentioned in the memorandum, how many issues were going to be raised or how difficult it was going to be. We anticipated a need to hold at least one or two work sessions and probably hold a public hearing in addition.

As it stands, however, there's only one minor recommended change in terms of our existing zoning, and that has to do with 10th Street interchange. We're proposing that tonight as part of a package. A consultant will be here at 8:30 to answer any questions you have regarding that. So tonight is the final hearing on that development and the proposed zone changes. From here it will go to City Council on the 14th.

MR. TRYON: Is tonight scheduled for our final review of all the items on the Period Review?

MR. BUTTS: I'm assuming that everything that has been passed today will go forward to the City Council. The only thing you have to review is what's before you today, and also just a couple outstanding issues like the mobile homes. Although we have passed the Mobile Home Ordinance, there's a couple issues we want to address again. Those you have before you tonight.

MR. TRYON: All the changes you're talking about tonight will be the recommendations we make to City Council?

MR. BUTTS: That's correct. They're legislative changes. I might also note that although we're not required by legislative requirements to notify any of the property owners -- the City really is only required to post it in newspaper -- we have notified all persons who own property which abut wetlands, except for those areas along the river, nearly the entire length. Most of those folks are familiar with the requirements due to the Willamette River Greenway. Also all the proposed zone change properties have been notified by mail of the proposed change and have been notified about tonight's hearing and also the September 14th hearing before the City Council.

MR. TRYON: Thanks. We are about to enter the public hearing. As part of the public hearing, of course, we invite public comment. I ask that if you'd like to testify in any of the issues on the agenda tonight, that you fill out the pink forms tonight, testimony forms. Fill one of them out with your name and address, and then we'll call you up to speak at the appropriate time.

I'm not sure, being a legislative change, that they have to be a party to this proceeding in order to testify before City Council.

MR. BUTTS: No, they don't.

MR. TRYON: Okay. We'll go right into the public hearing. I'm going to open the public hearing on the Period Review of our Comprehensive Plan and Community Development Code regarding wetland protection standards, market analysis for economic development and zone changes on the 10th Street and I-205 area, mobile home need analysis and lot coverage findings, analysis of cumulative effect of past Planning Code amendments, and then miscellaneous amendments required to complete the Periodic Review. There are copies of the staff report and all these items on the back table.

First, I'll ask if any member of the Planning Commission wishes to abstain or if anyone wishes to challenge any Planning Commission members?

I'll ask anyone in the audience if anyone in the audience challenges the jurisdiction of the Planning Commission to hear this matter or any individual member of the Planning Commission?

Could we have a staff report on the wetland protection standard?

MR. BUTTS: I'll outline briefly what the package includes. We contracted with Lynn Sharp and Lovernna Wilson, consultants who have great expertise in this field. Basically, we're looking towards a consultant with some expertise to identify exactly where the wetlands boundaries are. We had a cursory review of those boundaries back in '83 by a gentleman from the Audubon Society, Mike Houck, who walked the entire City of West Linn. We generally knew where those wetlands are. We didn't know specifically where those are.

If there are any developments within wetlands, there are state permits that are required for that to take place. The City is usually the first stop for anybody wanting any development. So it's important for us to know where those wetlands are and to tell those people in advance that they're going to have to go through some City requirements. Also the City has an interest in protecting those as well.

There was an inventory done, and the inventory document was available from Development Services, which basically talks about the significance and needs for protecting, and has an inventory of the entire City. Each of the respective wetland areas has been numbered, and the characteristics of those specific wetlands has been identified, those kind of areas which need to be protected. Those wetlands have also been identified on our zoning maps.

So if somebody comes in for development, there's an overlay which shows the wetland area, which will alert us to the fact that there's a wetland area. The aerial that you see on there, that covers -- the arrow -- one inch equal a hundred -- which are arrows that delineate the boundaries along our Willamette and Tualatin rivers. So it's pretty specific. That's the first part of the inventory.

The second part is to take a look at our Comprehensive Plan. There's a number of plan policy amendments that we had to change to recognize this study and the needs for protection of wetlands. Then we have developed a Wetland and Riparian Area Ordinance, which again takes a look at the values that are in the wetland and the needs to protect those values. Various development can take place so long as the values are protected. We talked about submittal requirements. We talked about buffer areas and setback areas from the wetlands. Lynn Sharp is here tonight, and she's glad to answer any questions that you or anybody may have. She's the expert in this.

Are there any other comments that you'd like to make?

MS. SHARP: No.

MR. TRYON: I think I'll take public testimony now, then we'll open it up to questions of staff and Ms. Sharp.

J.P. Cox, did you wish to testify in this?

MR. PYNN: Mr. Chairman, can we take a look at the maps?

[A break was then taken for audience to view maps.]

MR. TRYON: I'm going to ask you to summarize some of the questions and answers.

MR. COX: I'm Jonathan Cox. I live at 3990 Sussex, West Linn. I'm here to ask a question, address the Planning Commission, and Mr. Butts, and to make a statement.

My property is designated within the boundaries of this riparian wetland, which is something that's rather new. My property is divided almost in half by Tanner Creek and two ponds that were on this property prior to my purchase some 15 years ago. They run and cut the property almost in half.

My first question is that I understand that there's a sewer stub right at the edge of my property and the Imperial Oaks Development Company, and that sewer stub is there in preparation for further development and in the expansion of West Linn west, up in the Parker Road

area. Somebody, whether it be the City or developer, would probably we required to put in a sewer through Tanner Creek, through my ponds, west. And I guess the first question is that's pretty much what it is: the development is going to go west?

MR. BUTTS: That's right. It will go all the way up the hill, basically.

MR. COX: My question would be: How would these be effective on the wetlands? It wouldn't stifle any attempt to put a sewer through there; would it?

MR. BUTTS: No. Basically, what this looks at is developments that are going to be proposed for an area that is identified for wetland, and you want to protect, to the state you can, the harm and the values of that wetland. It does not prohibit development. It simply sets out a plan that says if development is going to take place, there will probably be some revegetation planned, and there are some very specific lists of the kind of species of plant you go through and kind of mitigate the activities during construction and after. So it's not necessarily a prohibitor to development or the extension of the sewer line at all. But it is something that you would go through with the sewer line. You would have to go back in and revegetate those areas, again with indigenous kinds of species.

MR. COX: So it would have to be put back pretty much the way it was?

MR. BUTTS: Yes. In any development that would go through under our ordinance, it basically says that before you leave things we want a plan that shows how you're going to restore the area after you've gone through it.

MR. COX: My statement then is: I purchased this property in 1974 and raised a family there. At that time it was a little farm, almost 7 acres, 6.15 acres. Now, it's not so much as a farm as a piece of property with Barrington Heights and Imperial Oaks pretty much surrounding. Much of the trees that weren't on my property were cut down. It's not really conducive to a farm anymore. You know, the dogs have killed the sheep. We have people coming through there. It's not the type of place that you could probably classify as a farm.

I have concerns that myself as a small landowner who, having real estate being my principal investment in my life, is going to be jeopardized by the wetlands. Because if this swath that is proposed to be riparian wetlands goes through the whole of my property, the entire length of my property is declared wetlands, and then an additional two or three hundred feet on each side of the ponds, that's a rather large swath right through the middle. And that means that unless I were to sell my parcel of land as a farm in total, I'm probably not going to find a buyer. Because being cut in half like that, no developer would even want to take on a project that would keep them from developing the very heart of that property.

And while I respect the wetlands, and I respect the thought behind it, it seems to -- at least to my way of thinking -- seems to inhibit the smaller person. Perhaps it would be more geared towards the developer, and I'm wondering if there could be exceptions for the small homeowner, small land tract owner, that has lands in that wetlands area. Because if this is going to keep me from selling my property, that's a substantial amount of money that I'm going to lose over 15 years of having this. I don't know what I'm going to do.

So I wanted to ask that one question about sewer and to make that statement and hope that you will consider that before you pass judgment on whether this goes into effect.

MR. TRYON: Mr. Cox, did you find out on the map where your property is?

MR. COX: It's right here [indicating].

MR. BUTTS: No, to the right about one foot.

MR. COX: My piece of property is right here, this U-5 [indicating], and the ponds and the creek go right through the middle of my piece right here. The sewer stops right at the edge of my property line.

MR. TRYON: Any questions for Mr. Cox?

MR. RILEY: I have one question. What is the current zoning on your property?

MR. COX: I'm not sure what it is right now with the Oaks just opening up there. It has changed, I believe.

MR. TRYON: Do you know what the zone is, Mike?

MR. BUTTS: You're in the County?

MR. COX: No, I'm in the City.

MR. BUTTS: It's R-10.

MR. TRYON: Thank you.

Does anyone else wish to testify on this issue?

Okay. I'm going to ask Ms. Sharp to come up then and answer questions. Would you give your name and address, please.

MS. SHARP: Yes. My name is Lynn Sharp. I live at 10906 SE 54th Place in Milwaukie.

MR. TRYON: Would you just summarize for us the questions you were asked and what the answers were, for the record.

MS. SHARP: The first question I was asked was in relation to the the Willamette River shoreline north of Mary S. Young State Park. The map as it's shown now indicates that there are no wetlands along a segment of that shoreline, and that was an omission on our part. There is a thin, variable-in-width strip of wetlands along the entire shoreline of both the Willamette and Tualatin rivers within the City. We need to correct that.

The second question was in reference to Mr. Cox, I believe, who wanted to know where his property was. I think that led up to his testimony. If I may -- I don't know the procedural difficulties here. I was out of the room for much of your testimony. Could you sort of summarize what your comments were? Did you have any questions or anything that I could answer?

MR. COX: My concern was this wetland is dividing my property in half, as far as what I can do with it. I've been told that that has to be left alone, that swath through my property.

MS. SHARP: Well, that's not exactly true. With or without the dedication of wetlands and adoption of the ordinance, there are statutory state and federal systems already. I have been for years, under Section 404B of the Clean Water Act, dealing with development of wetlands. Wetlands can be developed. It's a matter of demonstrating a public need. You have to go through a permit process with either the Division of State Lands and/or the Corps of Engineers.

MR. COX: But that's considerably more expensive than in areas that aren't wetlands, to develop them; is that correct? I mean, it would almost preclude a developer from taking on a project like that.

MS. SHARP: I worked on a lot of projects that involved doing something to wetlands: filling them, building dams and creating lakes, and some of them are quite small. A lot of times, it's typically a fill through a segment of a stream to permit a road to cross property. In my experience, at least, they are certainly, to some extent, developable.

It depends on a lot of situations. But the kind of permit application that the State requires is not that elaborate for a small-scale project.

MR. COX: My concern really isn't the actual wetland, but my concern is the amount of property designated on each side of that wetland. I was told that it has to be left alone up to 100 or 200 feet on each side, which could be a 300 or 400 foot river.

MR. TRYON: Maybe we should ask Ms. Sharp to summarize what the proposed ordinance will do, what the changes to the Development Code would actually accomplish, what the requirements would be, what properties are affected, what the setback is.

MS. SHARP: The ordinance -- correct me if I'm wrong. You've seen it more recently than I have -- basically designates two different overlay zones: one is a wetland and dryland concern zone, which represents a certain level of property, and then the other is wetland environmental protection, which represents a higher level of protection. The higher level of protection covers only existing public park lands, such as Mary S. Young State Park, and it essentially says 25 feet on either side of the stream, the vegetation should be left as it is. Then there was an environmental concern zone. We had established, again, a buffer zone 25 feet wide on either side of the stream.

Then, in addition to that, if something like that was necessary, the ordinance would permit removal of up to 30 percent of the existing shrub and ground cover that was already there. That removal would have to be in proportion to the existing distribution and species composition and size of the vegetation that's there. Trees are already protected pretty much by the Tree Cutting Ordinance, so there didn't seem a need to do that. But a lot of the functional attributes of wetlands, such as filtering out pollution and sediment from stream areas are accomplished by the vegetation that's there. The existing 404B guidelines do not provide protection for that vegetation which performs that very essential function.

So that is essentially it. It would be 25 feet on either side. Does that answer your questions?

MR. TRYON: Could you talk a little bit about what the definition of a "transition area" is and how large that is?

MS. SHARP: Well, transition areas occur along streams and rivers. They are not legally wetlands. They exist between the wetland boundary itself and what you would call upland vegetation. In western Oregon, it's so wet, they are pretty difficult to identify along rivers. They typically have a lot more things like alder and vine maple in them. They are essentially just a transition zone between a very wet environment and a dryer, better drained area.

MR. TRYON: Is there a mitigation plan required for development in the transition area?

MS. SHARP: I'm not sure. Mike, what --

MR. BUTTS: If there's going to be development or any kind of removal, they are will be required to have a mitigation plan for that area. A lot of times, what you'll see in these subdivisions is that a lot of these areas in the stream corridor are just nothing but blackberries, and they really are not developed to the extent you want to in terms of the values. So developers don't really desire to clear out these blackberries and present a plan which shows some of the species that align themselves with that particular wetland and go ahead and plan for those. That is probably is very logical or repeating thing that you'll see, is that developers want to revegetate those wetlands.

MS. SHARP: In fact, that vegetation removal thing has some notable exceptions in it, and we specifically stated that blackberries is one of them.

MR. TRYON: I guess I'm still confused as to exactly what a transition area is.

MR. BUTTS: Yes, it's strictly in that 25 foot area -- it's called the transition area.

MR. TRYON: It's a 25-foot setback from the zone?

MS. SHARP: In some areas there will be a lot of transition zone, and other areas, that will end up straight up in the upland. It just depends on the topography of the site itself. It's very site specific.

MR. TRYON: Who determines this? I think I heard two answers as far as the 25-foot setback which is site specific.

MS. SHARP: No, a transition zone can be any width. It's dependent on the natural features of the site. I think your question was: Is a mitigation plan needed for a transition zone? Mike's answer was: Yes, if that transition zone exists within that 25-foot buffer zone. Does that help you?

MR. TRYON: And so the determination of what the transition area is, next to any zone, is going to be made by the City?

MR. BUTTS: The City of the consultant that may be hired by the developer to present evidence to us of what the transition area is.

MR. PYNN: On the same subject, did I get it right that there's a no-build line 25 feet on each side of the identified wetland area? Is that accurate? Is that 25-foot transition or buffer zone -- I guess you call it a buffer zone and it may be a transition zone -- is that no-build? Can nothing go on in that area regarding construction or improvements?

MS. SHARP: I don't think so, though removal of vegetation would be constraining. There would be certain things like that, that if you wanted to take out, that would be fine. We have provided a list to Mike of species that would be suitable use in revegetating areas. But, I don't know about building setbacks.

That's the other thing that we tried to put in the ordinance some flexibility and that there would be an opportunity to apply for a variance to these things and that we would take a site-specific look at it. It's been my experience that in a situation where there could be a problem, a lot of times we can just go out and get the people involved, and you can come up with a compromise solution that makes everybody happy. Mike and I talked about it and we tried to build enough flexibility in this so this wasn't a hard and fast sort of thing. It's simply a guideline.

MR. PYNN: Does that mean it's kind of a case-by-case situation on the wetlands?

MR. BUTTS: I think it will have to be. We basically will be looking at 25 feet at a minimum, but it can vary in and out, depending on the real nature of what's out there. It's pretty hard to legislate a setback and then go out in the field, and it's going to vary from one end to the other. There's some trade-offs and things that also --

MR. PYNN: Can it get larger than 25 feet?

MR. BUTTS: Sure, and it can get smaller. That's kind of a ballpark -- what we're going to go for. Again, there's some exchanges of things that can take place. The way it's set up, it's stating the values of that wetland, and you want to protect those. You can propose with your development with some trade-offs as far as the values that are protected in some fashion. You got a lot of design possibilities.

MR. PYNN: Is it 25 feet on a horizontal plane?

MR. BUTTS: Horizontal plane, I guess.

MR. PYNN: Thank you.

MR. TRYON: Let me see if I can summarize. The areas shaded in blue on the map -- and by the way those lines represent the actual zones, they don't represent boundaries.

MR. BUTTS: That's correct.

MR. TRYON: Those are the zoned areas. Those zone areas that are zone EC, which is environmental concerns, limits the removal of shrubs and ground cover to 30 percent. And EP, which is environmental protection, there should be no removal of shrubs or ground cover. But there are exceptions; those exceptions being blackberries, poison oak, etc. Is it safe to say that you can't remove any shrubs if you are not going to be able to develop the property?

MR. HAMMOND: On the next page, in the mitigation plan, I think that's sort of a take off from the Clean Water Act where you can reestablish, but you can't develop the site without developing within that protected area. But you could develop and substitute at another site to take care of it with a little bit of equal amenities. That gets rather complex. This whole field is pretty complex.

I've been involved over the years both representing people to estopping development using Clean Water Act, railroads and developers, in wetland areas. The whole thing is pretty tough. Most of the time when I've been involved in it, in the situation where the wetlands really weren't delineated and you had a kind of a proposal that was submitted and in process, and then usually a complaint was made to the State or the Corps of Engineers, and they came back and determined whether there was a wetland or not. Once you get in that kind of situation, it's awful tough to deal with. These are tough requirements, there's not questions about that. But, boy, once you get immersed in the quagmire with the Corps of Engineers, I would just think, from a development standpoint, that that could be real tough, very frustrating, and very extensive. At least here you got it out front as far as the boundaries and requirements.

They're tough, but the genesis for all this is the Clean Water Act, and they are real tough requirements. The United States Supreme Court a couple years ago came out with what I consider sort of a goofy case, but it says that there was a subdivision in New Jersey that developed subdivisions where they determined that there were wetlands that were developments on platted lots. So that's sort of how the Supreme Court looks at this stuff.

So it's sort of a backhanded way maybe of if you have some local control, we're closer to the issues. From a development standpoint, it might well be better. I think where there is this kind of local control, as long as we don't abuse what we do, I think the State and the Corps of Engineers would probably defer to what we do. It's a real, real tough area.

MR. TRYON: I'm just trying to make sure everyone understands exactly what is affected if this gets adopted; what the impact on land and development will be. I've kind of monopolized the discuss for a while. Anyone else have any questions of Ms. Sharp?

MR. HART: Can you identify any EP areas that are outside of parks?

MS. SHARP: No we sort of designed it so that it would be strictly parks and public land areas to make it more reasonable.

MR. HART: In this draft of the ordinance, you say that there is provision for planning for variances?

MR. BUTTS: Mitigation plan.

MR. HART: There is a mitigation plan to do that?

MR. BUTTS: I don't know if variance is quite the correct term. In here it basically says that if you're going to develop in the transition area, there's methodology to go about looking at it in terms of values, and impacts to those values, and how you compensate those through development.

MR. TRYON: Are there any other questions from the Planning Commission?

MR. RILEY: Using Mr. Cox's property as an example, what would he have to do differently as far as permits, agencies that he'd have to deal with just for development outside of any wetlands area? What additional steps is he facing?

MR. BUTTS: The only thing in terms of locally would be that we would now -- Right now we'd have a set of standards and a methodology by which to evaluate those wetlands that he has in the area. If we didn't know they were wetlands, we might call the Division of State Lands or the Corps of Engineers, and try to coordinate that with them in terms of what their requirements would be, and try to get those up front.

Another option that would probably be more typical, is that we did know they were designated wetlands, we just went ahead and approved it for subdivision, and probably get tangled up in some of the things that Jack was talking about. But the next step is also the Corps of Engineers. So it would be basically to use probably a subdivision proposal. It's just another set of criteria that we have to address and approve the subdivision.

MR. RILEY: Does the City have the final say if this ordinance is adopted?

MR. BUTTS: We also have to get State plans as well. Normally, each agency waits for the other, and they always wait for the City to do the hard work first. They wait for our progress to begin, to finish, and then they go on to the next step.

MR. RILEY: These are already designated wetlands. There's nothing really we can do with that.

MR. HAMMOND: I think that there is some large degree of deference probably by the State and the federal agencies to what we do. But if you look at their definition of what a wetland is, it's pretty pervasive, and it's quite broad. It's been interpreted to be even broader, and it probably is.

MR. TRYON: Now, the State requires us to have an inventory, but does necessarily require us to have an ordinance?

MR. HAMMOND: We don't have to have an ordinance. We can just defer to the Division of State Lands and the Corps of Engineers if we wanted to. That's what we've done up to now.

MR. TRYON: Can you give us some examples of developments recently where this has been an issue?

MR. HAMMOND: You mean in West Linn?

MR. TRYON: Yes.

MR. BUTTS: The only issues we've run across are basically along the Willamette River and the Willamette Greenway provisions by and large protect that transition area anyway. We just recently amended our Greenway Ordinance to protect that area. So that's really the only one I can recall where we've run into that, and that greenway covered it.

MR. TRYON: Any other questions from the Planning Commission?

MR. HART: I have a question. Back to the example of Mr. Cox's situation: Would there be an additional fee?

MR. BUTTS: At this point, we haven't established a fee. I'm not sure -- there would be some fee, but I'm sure it would be minimal. What we normally do when we have more than one review process, we will class them in the same hearing and usually we divide and cut the fee in half because there's some initial costs for staff and notice and that kind of thing. So we just class that into subdivision process, or whatever else there is. At this point there's no fee as part of this proposal. That's

something we'll take up later. We'll probably do that after we see how long it takes. It's really based on staff hours.

MR. HART: Can you use the same site plan or would there be an additional site plan for the mitigation plan?

MR. BUTTS: More than likely, you'd want a little different scale site plan or subdivision plan. This wouldn't be large enough to show enough detail on plant species and that kind of thing. It would be somewhat like what you see for landscape plans.

MR. HART: Okay. The next section refers to a construction and management plan. Would those also be additional things we'd have to do?

MR. BUTTS: Yes, but that doesn't necessarily have to be done prior to the approval permit. It's more likely the construction plans for subdivisions -- or before you begin construction, we're going to approve your set of plans: what you're going to do, how you're going to go about it, mitigation that has to be placed during construction.

MR. WRIGHT: I have a question. Can I take it that this is the first identification of an inventory of wetland designated areas for West Linn? Is there an interface between what we're showing as our inventory and something that might be conceived by the Corps of Engineers as something else, and maybe the State having identified another area -- you see my point? Are we apt to conflict?

MS. SHARP: No you're not.

MR. WRIGHT: In what is and what is not a wetland area?

MS. SHARP: No. In our delineation, we used the same definition that the Corps and the Division of State Lands used to identify what is and what is not wetlands.

MR. WRIGHT: Can we anticipate that this inventory will become the authority on wetlands in West Linn?

MS. SHARP: Yeah.

MR. WRIGHT: The State will go along with this and the Corps of Engineers?

MS. SHARP: I believe they will.

MR. BUTTS: The way the the process normally works, again, we had a cursory view and a sketched-in map like that, and development was to take place there. The way the process works today is that, okay, development is going to take place; we think there's a wetland. Then the Division of State Land comes out and does an inventory and tells you where the boundary is. They don't have boundaries in advance. They only come out where there's a development proposed. So what this basically does say is that we know there's a wetland. We think this is the boundary, and that alerts us to tell them that a wetland is going to be developed or there's a development in the area. So in the old process, they don't have a map. It's just kind of on response.

MR. WRIGHT: So this, in essence, will provide authority?

MR. BUTTS: That's correct. And I'm sure they will use that. This basically is to flag that there's a wetland in the area. Specifically, the boundaries of that will have to take place during the process. The Division of State Lands being, are called in to help identify what the boundary is during that process.

MR. TRYON: The overall purpose of this then is to tackle and resolve this issue up front, on a local level, rather than to hash it out with the State or the Corps of Engineers somewhere down the line in the development process?

MR. BUTTS: I believe that's the thrust of that. I think we also have the responsibility to carry out the state and federal rules here

locally. We really should have knowledge of where all wetlands are, because we are the primary protectors of that, not the Division of State Lands, unless there is some response to them.

MR. HAMMOND: Just from experience in dealing with the Corps, if you're representing a developer, these kinds of deals can drag on for two to three years. I've had one case that went on about four years, and that's not being too terribly responsive. The Division of State Lands is much better, but in dealing with the Corps of Engineers, that's different.

MR. TRYON: I know there's some people in the audience that have a few things to say. What I'd like to do is get all the questions from the Commission out and answered, and then if there are any remaining questions, we'll bend the rules a little bit.

MR. WRIGHT: I have one more question. I'd like to address this to Mike. If and when we elect this to become an ordinance, how will it impact applications submitted now for development in those specific areas that may be involved in the inventory?

MR. BUTTS: Most of the areas are already protected through Willamette River Greenway. So most of the lands along the Willamette and the rivers are protected. There's only one other development, which is Barrington Heights, which we -- through that process, before any knowledge of this -- we had those lands dedicated to the City of West Linn with a 15 foot of either side of that stream corridor. So we have a 13-foot corridor that is dedicated to the City to protect that.

What we're using now is if the developer wants to go in and revegetate that, take out some of the blackberries, we're in fact using the species list and the characteristic definition of that wetland area to help identify vegetation and go back and redo that area. So those are the only examples I can come up with that help us at this point.

MR. WRIGHT: So that's the only development under way.

MR. BUTTS: That correct. A lot of the wetlands that you'll see on there, a lot of them that are going through Hidden Springs Ranch development, those are in fact dedicated open spaces to preserve the natural grangeways, and a lot of those are already in public ownership. Most of the area to the north is by and large developed. This also gives more protection for those if anybody wants to now develop in the transition areas; as an example, this would apply. Also about a year ago, we adopted a storm drain, natural drainageway protection ordinance which also helped protect it before this came about as well. So we've got three or four different ordinances that can overlap and help protect it depending on the different purposes of each one of those ordinances.

MR. TRYON: Any more questions?

MR. RILEY: One more question. A number of areas here where it does show protected zones right through platted lots. What effect does that have on any particular case in going back and showing the change after the fact. If it's just a vacant lot, whether it's a builder or a single homeowner, would they have to come back through the hearing process?

MR. HAMMOND: Yeah. Just because it's platted, it doesn't mean it's protected.

MS. SHARP: I'd like to point out that whether or not this is developed, they would still have to deal with the State and the federal.

MR. TRYON: Any other questions?

MR. RILEY: How would they know this was -- I mean, if somebody came in with a building permit, is it flagged now that these lots are specifically in those zones?

MR. BUTTS: "They" meaning the State?

MR. RILEY: No. Say that somebody wants to build on a single lot, a builder has a building permit on a particular lot -- Is it already flagged that this lot is in the protected zone?

MR. BUTTS: Once you adopt this, it would be flagged, yes.

MR. HAMMOND: But that's not the case now.

MR. BUTTS: Any building permit that comes through the City of West Linn is reviewed for planning for these kinds of things, engineering, utilities, and then goes on to building examination.

MR. HAMMOND: My experience with the State and feds, again, is that they mostly deal with these on a complaint basis. Once a complaint is made, my experience is that it goes to somebody whose sole job in life is wetlands, and they seem to find it.

MR. TRYON: Any other questions? Any other comments?

MS. SHARP: I have a couple comments. This may seem a little restrictive. There's a good reason for that. I think that it's going to save us money and problems in the long run. At least that's my philosophy about it. By maintaining a buffer of good vegetation along these streams, which in their natural environment, of course, are well vegetated and well shaded, you're really doing a lot to not only protect water quality, but the valuable shade that keeps stream temperatures cool that allow fish and other things that live in streams to survive. The vegetation itself will take up nutrients and pollutants and fertilizer and herbicides that wash out of people's yards and protect water quality that way.

The other thing about it is that a lot of these canyons that are still left, and one of the smaller drainage ways, that even in some areas now are cleared, if we can get something going that will revegetate themselves naturally, these are just great areas for kids to play in. You know, I'm sure everybody here had a special place out in the woods or in a field or a place like that when they were growing up. And I think it's important for that reason, as well as these other good land management reasons, that you need to think about protecting those areas. Thank you. It was a lot of fun doing the study.

MR. TRYON: Thank you.

Okay, I'm going to open it up very briefly again for the audience and ask that you confine your comments or questions to areas that are unresolved or haven't been addressed already. Anyone?

MR. PYNN: I'm Allen Pynn, and I live at 18654 Willamette Drive, West Linn. I have done a little developing in communities that have had or been in transition of getting a development ordinance. It really is a good idea, in my opinion, for the wetland situation. You have to face it at some level. If the City ignored it and just gave you a permit irrespective of what the situation was, the permit has no ability to stop you from having to test the improvements out when either the State Land Board or the Corps gets involved. So the mere fact that the City doesn't act on it, doesn't mean that you don't have to obey it. It's a federal law.

So, you're going to have to comply with it, and there's been instances where the Audubon Society has complained. They've gone back to old topographic maps and said there's a channel here, and the developers had to tear the improvements out and restore it to the original condition, even though they had a local building permit. So I don't think a lot of that's gone on, but it's potentially an ugly problem that the City should make some effort to assist and prevent happening.

I would like to get one matter on the record. I'm generally in support of the whole thing, but I have a piece of property between Fairview and Walling on Willamette Drive and Robin Creek on the Willamette River side of the road, which is kind of the easterly, Mt. Hood side. I just would like to get on the record that the map, the master map, does not show it being in any form a wetland. It's about 300

feet deep back from the road, about 500 feet in width. If that's an error, I'd like to know it now. That's my point.

MR. TRYON: Is the map correct in that respect?

MS. SHARP: You want to show me on the map?

MR. PYNN: Sure.

MS. SHARP: Am I liable for anything?

[A few moments are spent reviewing the map.]

MR. TRYON: What did we determine?

MR. BUTTS: We may have left one out. We'll have to take another look.

MR. TRYON: Okay. That, I guess, brings up a question: If there's an inconsistency between the definition in the Code and the map, how would that be resolved?

MR. HAMMOND: The map would probably be the control.

MR. TRYON: So, we do not have a correct map in front of us now; is that correct?

MR. BUTTS: That's right.

MR. TRYON: We've already talked about one error, the one that we need to check on.

MR. BUTTS: Again, there's a couple of ways we can deal with it. We can call the Division of State Lands and have them come out and identify more specifically when that site comes in, what the boundaries are. And we can also request the applicant to help identify what those boundaries are in some kind of report as part of their application. So there's a number of ways. These are just basically preliminary documents in the wetland areas. The next step in that is to do a specific site visit and identify exactly where that wetland is at.

MR. TRYON: Do you have any questions?

MR. PYNN: The map at this time does not show wetland on that property. I just want to verify that so it can't inadvertently happen at some time in the future without another hearing or public opportunity to examine it.

MR. TRYON: Okay, that's why I'm asking the question. If the map is adopted, have we defined all the areas in West Linn?

MR. BUTTS: I would think so, in terms of what the City has identify in inventory, yes. That does not leave them out of the requirements.

MS. SHARP: I would point out that it doesn't resolve you having to meet DSL and Corps requirements that you were --

MR. PYNN: I'm just asking what the map shows at this time.

MS. SHARP: Well, it's obvious we're going to have to amend the map.

MR. PYNN: I could ask the same question on another hundred properties.

MR. TRYON: Let's not do that now.

MR. PYNN: Is that the position, that it will be amended on all those properties if I bring it up?

MR. TRYON: I don't know.

MR. PYNN: There's 50 streams in West Linn of larger consequence than this stream.

MR. TRYON: I think you raised a good point of the accuracy of the map.

MR. PYNN: The map is the law, is my understanding, or will be at such time --

MR. TRYON: This map, like any map, zone map, can be amended.

MR. HAMMOND: But amended through a public hearing process.

MR. PYNN: I would like to have the opportunity to include those other properties if change is contemplated on mine.

MR. TRYON: Okay. I suggest you contact staff.

MR. PYNN: Thank you.

MR. TRYON: Okay. Does anyone have any more questions?

MR. RILEY: You know, all of a sudden I'm a little hazy as to just what this map says.

MR. HAMMOND: My recommendation would be that the map really be the controlling guide. You take your best shot at delineating the wetland areas. Put it on a map so everybody knows. If later on, you want to reevaluate it, okay, that's fine. But then you're going to have to go through the whole public hearing process again to change the zone. I'd sort of hate to have a map delineating areas and then say that's not really points -- we also have a standard, and without going through and revising your plan, you're really not too much better off than where you are now.

I think that the important thing is that it's a guide to staff, it's a guide to property owners in the City, it's our best determination as to where the wetlands are. That doesn't necessarily bind the State or the federal government. They can make their own determinations independent of whatever we do. But I think as long as what we're doing is reasonable, my guess is that they would defer to what we do.

MR. TRYON: Is there someone else in the audience that wants to testify?

MR. RESARE: My name is Robert Resare, and I live at 19117 Old River Drive, West Linn. To piggyback on Mr. Pynn's concern for the area just west of Old River Drive -- this proposed drainageway or wetland is probably less than three feet wide, and at the current time, the water in the ditch is not more than about three inches deep. However, it does get up to three or four feet deep and perhaps floods to eight feet across in the wintertime for a period of three or four days, depending on heavy rains. I would ask the Commission to give some consideration to perhaps not establishing that very small drainage area down there as a wetland area.

Secondly, I have some concern about recently we had a furor in this City over the fact that property owners -- people purchased property, built homes, and then found out that they were saddled with a water tower in their backyard. I'm concerned in the future about the possibility of future purchases of lands in West Linn and how they will be informed that indeed the wetlands proposal, if indeed adopted, will be publicized to those people so they will be informed ahead of time before they purchase the property.

MR. TRYON: Thank you. Anyone else? Last call.

Assuming there's no other questions from the Commission, I believe the options before us now are to -- I think there are four things -- on Table 1 is adopting the inventory, adopting the Plan amendments, adopting the Code amendments, and adopting the map. Correct me if I'm wrong.

MR. BUTTS: That's correct.

MR. TRYON: It would seem that we could adopt or continue on any one, any combination, or all of these. Is there any discussion or someone care to venture a --

MS. ZACHMAN: Could I ask one clarification?

MR. TRYON: Sure.

MS. ZACHMAN: Now, Mike, if I understand what you're saying is this is the City's inventory. This is our best estimate of what we've got for wetlands. The State or the Corps of Engineers could come back and say you missed this spot, you missed that spot. Is that what you're saying? They could come back and say this should also have been designated in the inventory?

MR. BUTTS: But those on those maps are the only ones that we will process through our ordinance. If they find additional wetlands that are not on there, we can consider amending our map at sometime in the future, through legislative requirements as we are doing now; but they would also then apply their rules to that land, although we wouldn't, because it's not on our map. So if there's some piece of wetland that we have not identified, our ordinance would not apply. It does not however exclude State Division of Lands if they determine it is a wetland. Those rules would apply.

MS. ZACHMAN: Thank you.

MR. TRYON: What we're actually doing is recommending for approval by the City Council the adoption of these documents.

MR. HART: The final report, the ordinance and the map? Those three?

MR. TRYON: The inventory, the Comprehensive Plan amendments, the Development Code amendments, and the map. We may recommend approval, recommend denial, or we have the option of continuing and asking for more information and more public input.

MR. RILEY: We'll just consider closing the public hearing on this portion?

MR. TRYON: I guess we could do that. Okay, I'll entertain a motion to close the public hearing with respect to the wetlands issue.

MR. RILEY: I move that we close the public hearing with respect to the wetland protection standards issue.

MR. HART: Second.

MR. TRYON: Motion is seconded. Is there any discussion?

All in favor?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: The public hearing is closed.

We still have the same options.

MR. RILEY: I move that we recommend approval to the City Council of the following items: Number one, the wetland inventory of the City West Linn, the study by Sharp & Wilson; item number two, Comprehensive Plan amendments; item number three, Wetland Area Ordinance as indicated on attached Exhibit C; item number four, Exhibit D, the zoning map update establishing wetlands.

MR. TRYON: We have motion to recommend approval and adoption of all the items for City Council.

Is there any discussion? No discussion.

All in favor of the motion?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: Motion passes.

The next item is the economic development Periodic Review. This includes a recommended zone change from OBC to general commercial and the 10th Street/I-205 area. I think I'll ask for a brief staff report, and then we'll have public testimony.

MR. BUTTS: We have with us tonight a gentleman from ECO Northwest, who we contracted with to develop the waterfront market analysis, which looked at the market for economic development for the waterfront area, which is this area around City Hall and also then to the interchange area. In conjunction with that, the State requires us to conduct a market analysis based on regional and local trends, state trends, etcetera. That is a part of this Periodic Review, and that's a piece of what you're looking at tonight.

The Planning Commission will have an ample opportunity to get more involved in the waterfront as we proceed. But if there are any questions tonight regarding the waterfront study, in addition to the issues tonight regarding the Periodic Review, I'd suggest you go ahead and raise those now, since the consultant is with us tonight.

One of the recommendations that came out of the study was the suggested zone changes. When we undertook the study, we realized that some of the zoning at the 10th Street interchange was probably questionable. A whole area out there was zoned office-business center. That was back in '83. Since then, the market has been extremely weak for corporate headquarters. We really can't compete very well. We have steep land. We can't compete with Kruse Way, Beaverton, and some of the others. So it really wasn't appropriate 100 percent.

We have notified all property owners that are affected by the proposed zone change. This proposed and existing gives you an idea of what's changed. Basically, it's suggested that we zone all the flatlands along 10th Street interchange to general commercial. It's presently zoned office-business center. That's all that this does. There is a shift below the Willamette Estates. The owners of that property want to extend Hall Street into another cul-de-sac, and that's why we've extended the R-10 zone to that area; go ahead and extend it up the office-business center so that it reaches both sides of Carmen Drive]. That is the zone change that is in conjunction with the market study tonight.

I would like to introduce Terry Moore, of ECO Northwest, who can probably give just a brief overview.

MR. MOORE: Good evening. I'll start by trying to summarize the study in one page, and I'll try to limit my comments to that as well.

MR. TRYON: Are these zoning maps you just gave us? Are these different from the ones in the staff report?

MR. BUTTS: Yeah, those are labeled Exhibit C and D.

MR. TRYON: Let's call them new existing and they'll now be Exhibit

--

MR. BUTTS: It would be G. Existing zoning is Exhibit C. Proposed zoning is Exhibit B. There are two other exhibits that are part of the

package that going to West Linn City Council that you may or may not have.

MR. TRYON: Okay, we don't have that.

MR. BUTTS: Exhibit D is simply the study. Exhibit F is a recommendation from the waterfront development advisory group, with which Walter probably is familiar. Basically, they have reviewed the proposal, and they are very pleased with the study and are recommending that we go ahead and accept it and adopt it as part of our Periodic Review process.

MR. TRYON: We're going to call the new existing zone map -- that's going to be G?

MR. BUTTS: Existing zoning is Exhibit C. Proposed zoning, or the new one, will be Exhibit D.

MR. TRYON: Mr. Moore's summary of findings then will be Exhibit G.

MR. MOORE: My name is Terry Moore. I'm at ECO Northwest, 99 West 10th, Eugene, Oregon.

I'll start with the purpose and methods we used in the study. We had a couple purposes in doing this study. Mike's already covered those. I'll describe them briefly. First was to produce a general market analysis that had some applicability to potential waterfront development here in this area [indicating] along the waterfront between the mill and the I-205 bridge. The second was to look at what might be potential development in the 10th Street area. The third was to take care of the requirements that West Linn has for LCDC periodic review, general market analysis.

So what we were trying to do was look at the demand for various types of development. More specifically, we concentrated our study on a feasibility analysis for waterfront development. That was the main focus. We looked at what opportunities were in the area, what constraints, and then developed several design concepts, selected a best concept, and then tried to look at the financial feasibility of that concept.

The first part of the study had to do with the market analysis, the demand analysis. All this is contained in detail in a study that some of you may have seen -- the West Linn Waterfront Study -- and I'm simply summarizing from that now. There's another summary in the front of that; it's longer than the summary I'll give you here.

But, in short, the good prospects were for office development for the City of West Linn. We thought that was a good idea for several reasons. One, the City has a projection for meeting office space over the next 20 years. Secondly, it could consolidate its office space, some of which is now out in the 10th Street area. And third, and perhaps most importantly for the issue of potential waterfront development, is that it would create the type of employment base that would be necessary to support any retail development that might occur in the waterfront area.

So, one aspect of our market analysis is public office space for the City of West Linn. Another good prospect would be the credit union. The reason for that will come clear in a minute when I show you the designs that we were looking at. The credit union, which is currently over on this side of the City Hall, would be moved by some of the highway realignments that would occur as part of this. We talked with them. They were interested in having new space anyway, so they could be potential tenants for the waterfront area.

The small-scale professional offices look good. That means offices like attorneys, finance, insurance, real estate, and medical. Those types of things are tied to the expanding population base. Then the supporting neighborhood retail, which again is tied to an expanding population base.

All the projections we looked at were for West Linn to continue to grow at high rates relative to the rest of the urban area, the

metropolitan area. Primarily that growth rate is in population in housing units, and therefore we would be able to support the type of neighborhood commercial that would go with that. Finally, the upper-end, single-family housing.

Intermediate prospects were things that looked like they could work. One was expanded administrative offices for James River. We had several conversations with people at James River to see if they would be interested in office space; moving their administrative functions up from the mill area. The answer was a tentative yes, depending upon what kinds of opportunities would be provided at the site. Others were multi-family housing and hotels.

Poor prospects were regional commercial because of the competition with Washington Square, Clackamas Town Center, the Tualatin area, and other developments in Oregon City and Lake Oswego. We thought that the market here would be for neighborhood commercial, not regional commercial. That's on the demand side.

On the supply side, we don't have the type of land available, except potentially the 19th Street area, and even there it's quite restricted from any type of large-scale development and large-scale offices. That's based on our analysis of the office market in the Portland metropolitan area and in the southwest area, in particular, which is currently very soft. Vacancy rates are in the 20 percent range. It's expected to be over-built for at least several years.

That took care of the demand side of the analysis, and it gives you a rough idea of what we were looking at. On the supply side, we were looking at what type of opportunities and constraints there were at the waterfront site itself. The opportunities are that the waterfront site offers a central location in that you have Highway 43 coming in from the north, I-205 coming in from the west, and from the east. It also has good access. It's got the waterfront potential with a lot of views in these directions [indicating]. It's sort of the geographic center of West Linn.

One of the objectives of this study, as it was described in the original request for a study, was that we're trying to create a sense of community for West Linn, a downtown center. It also has recreation potential, as there is access down under 205 with some land along the waterfront area. It also has constraints, though; all of which you are aware of: very steep slopes immediately along waterfront; it has soil that is bedrock, so it's rather expensive to develop on; rock outcroppings in all directions. There are multiple ownerships here. In particular, James River has a large ownership over in this area, and there are circulation problems here [indicating], circulation problems here [indicating] at 43, and trying to get access to the James River area.

To give you an idea more rapidly of the constraint posed by the circulation problem, this map shows just the highways in the area that we're talking about. This land is all steep slope. This land is all highway. The only small amount of land left for development is right in this area. So, it's a very difficult site.

I'm the economist on the group and the project manager. We also had architects and landscape architects working with us who are not here tonight. Part of the challenge for them is to try to figure out how they could do anything at all in this area given those constraints.

So having looked at all that, we had to come up with some type of design program, and it seemed to us that the development of this area would hinge on -- if it were to be possible at all -- it would hinge on two things. One is a resolution of these access problems and the possibility that as these things were resolved, we might be able to secure more land for West Linn by realignment of some of these highway interchanges.

The second key point became working with the major landowner in the area, certainly the landowner with the only really good piece of land for development: James River. And we had conversations early on with the

consultants, Mike, and people from James River where we talked about how we might be able to design and take care of James River's concerns, which were access for trucks, parking, and security for that parking.

The resolution that we came to, as described in our report, is that if we could design something that gave them equivalent or better access or parking, then they would be amenable to discussing that type of design solution. In other words, if we could get them good parking over here, then they would be indifferent between having that parking here [indicating] and having it here [indicating], in which case the City might be able to secure this land in this area [indicating], for the type of redevelopment that was originally considered.

So we put together for the architects a design program -- that's the next point that I have there -- which was based on market analysis and based on the constraints on the site. We thought that we could use about 10,000 feet of civic space, maybe 25,000 square feet of other office space, which would include space for West Linn and the credit union, and 40,000 square feet of retail space. The trick then for the designers was to try to figure out how they could get that space in there and face the other major constraint, which was to give it the amount of parking necessary for that amount of square footage.

The relationship used in designing office and retail space is roughly four to five parking spaces for 1,000 square feet -- four for office space, five for retail space. What that means is, as you start putting retail space on here, even if you build up, you have a requirement for parking. As you put in more and more retail space, you have to get more and more parking. As you get more and more parking, you use up the room. So we ran into some severe constraints there. I'll show you some of the design solutions that we tried and rejected.

Here is one of the early design solutions, and here is the original transportation network. You can see 43 coming under 205 cutting past City Hall right here [indicating], and it goes right along the embankment, just about in here. Here the motel up in this area and very steep slopes right here. In talking with ODOT, the Oregon Department of Transportation, on what their concerns were about this area, they were concerned with merging and weaving on I-205. They've had some accidents in this area because of cars coming on here, cars coming on here [indicating], and these cars here are trying to get off at the next exit. So ODOT was disposed to do something about that sometime. It wasn't high on their list at this point -- well, it was relatively high, but it wasn't on their six-year plan.

They also realize that they're going to have problems with the level of service on Highway 43 and that this interchange here is particularly nasty for them. What we said was, maybe we can give you a design that will take care of those problems and at the same time free up some land for waterfront development. The design we came up with, and that we got tentative approval from ODOT for, was this one [indicating], where Highway 43, instead of cutting down here, gets moved up. There's some earthwork here, but ODOT really likes earthwork. There's some earthwork required here to go through some bedrock, but it solves a couple of problems. One, it straightens out Willamette Drive, Highway 43, and makes this a major interchange right here. You can't really tell from this; it's not a traffic engineer's drawing, this is a landscape architect's drawing.

The other thing that happens is that the on or off ramps come right into the intersection here. Mike can discuss this in more detail if he chooses, but ODOT put this through their models to see what happened to the level of service, and they said that generally it seemed to work okay. So they were favorably disposed for this alternative. What it did for us was it started to open up some land down here which was previously right-of-way.

So this was an early design where we got City Hall, we added on additional civic space that we wanted, put some office space across from that to take advantage of the views over in this area, and then created a buffer over here at James River by putting their administration buildings and the credit union over here to give them the security that they're

looking for. It gave them direct access, and it put the retail over here.

That all worked fine, except that in order to do this -- this right here is a parking structure. By the time we had costed out the parking structure, it looked like it would cost \$2 million to \$10.5 million or roughly 25 to 40 percent of the total project cost. The assumption that we were operating under was that in order to get James River to give us this land, the City would have to pay for this parking structure. In other words, they got equivalent parking. They don't care whether they have a structure or not. So it would go over here [indicating].

By the time we worked all that through the initial financial stuff, anything with a parking structure just didn't make it. It was too expensive for what we were getting. Then there was another design that we also got rid of, and this was even more intense. In addition to this parking structure here, in order to be able to stack more retail over here, which we think the market would probably bear, we put another deck of parking over here. Again, the same type of thing happened. The additional retail, the revenues from that did not offset the additional cost of this type of parking structure. On this soil, it's too expensive. So we also rejected that idea for our base case.

What we ended up taking as our base case was one that simplified all of this by getting rid of the parking structure, by taking out these buildings over here, and giving that back to parking. So we lost those buildings there and just have the office space here. Then this retail is in balance with the amount of parking we provided here. So it gets to be quite a scaled down project when you don't have parking structures in there.

I, as a planner, and also working with the landscape architect and the architect on this project, we fussed around with many different alternatives down in this area, but none of them seemed reasonable, without extensive engineering costs, and left us with kind of a limited development in this area.

So that's the design that we ended up with, costing out. There are many different designs -- these structures can be moved around. This is only one concept design. What's important about it is that the amount of building that you get here is balanced with the parking, and it covers all the areas available. So it's a good estimate of the scale of the development that you might get down in this area.

Then we did the financial analysis, which is included in Chapter 5 of the final report. What we found was that the project, even with all those constraints, on a base case assumption, was marginal. The greater return was acceptable but not exorbitant. Then it depended upon what kind of assumptions you made about the amount of rents that you could get. There's a sensitivity analysis in here, and you will see that if the rents are even less than 10 percent of what we're talking about, your rate of return drops down to unacceptable levels. So it's a very difficult project, but it is possible under some favorable assumptions.

Also, I want to emphasize that we're looking at this strictly from a market perspective at this point. We didn't talk about whether, because of the desire for the public use of this, for example, building a public plaza at this point -- the City Hall is tied to other civic space to create a sense of downtown here. This is retail over here, again, which is a possibility of Saturday markets, any of those number of things, and ties to the recreation area here. We also think it would be a good idea to acquire this property eventually down in this area for waterfront recreation. Those are all public benefits that are not included in our financial analysis. We are looking at it strictly from a private developer coming in and saying: Should I do this project or not? What we're saying is, at least in this market, given this site, it's tough from this point of view; but if some things pull together, it might work.

The two things that have to fall together is a road realignment for Highway 43. If you don't have that, you're really limited to a very small project, which means pretty much just having City Hall and building another building next to it. It's hard to qualify as a major waterfront

redevelopment at that level of intensity. So that leads then to the recommendations along the waterfront. If the City wants to do anything in this area, it has to continue to press the Oregon Department of Transportation to get this project on what they call their 6-year plan, so it moves up in priority and something gets built here. One of the assumptions that we made was that the City would not have to pay for any of this kind of improvement. This would be a State project, and therefore those costs are not included. So until that happens, major development down here, we don't think is possible.

The other key piece is James River. Getting their part of the property over here would be critical to the project because, without that, you don't have any connection with City Hall. So some of this would have to be acquired. To do that, based on our conversations with them, anything that would jeopardize the financial viability of the mill operation would be unacceptable to them, and we think legitimately. Their interest is to stay here in the long run. They don't see a lot of expansion, but they also expect to continue the operation. So they have to have truck access and parking for their employees.

So our recommendation was then that -- and it's continued in more detail in Chapter 6 of our report -- is that the City continue discussions with ODOT and James River, but the urban renewal district is probably premature at this point. You could begin the research on steps to establish one. I might note here not just the legal research, but also the political research; because, if you're familiar with how urban renewal zones work, and taxing from the financing end of it -- even though you could do it without a referendum -- the experience in Oregon is that eventually that will come back to get you. And you don't really want to do this kind of thing unless you've got the public on your side for doing some type of development down here.

Then the final thing is to monitor the market. So our recommendation on the waterfront area is pretty much that is a hold pattern. There's not much more that you can do to force that ahead at this point.

There were two other areas that we were asked to look at. In the original urban renewal district that was drawn, it included this area up here [indicating]. Mike asked us to take a look at that in particular, and our recommendation was that it was probably a good site for high visibility uses like a hotel or office and that would not be inconsistent with the kind of development we were trying to get down here. You simply can't predict what will happen on an individual parcel held by a single owner. We have heard that there had been potential hotel development there before, and again it could be a long time. It didn't seem to us that there was anything inappropriate about those types of uses there.

The final area was the 10th Street area where we didn't do any detailed analysis like this, but just looked at what the market analysis said and what the zoning was. Our conclusion there, that Mike already mentioned, was that the business zoning along the flatland, while not inappropriate, wouldn't work for that kind of business development; it might be overly restrictive in the short to medium run in that we weren't finding any market for the kind of office development that was envisioned by that zone.

Hence, our recommendation was that if the City wanted to get development there earlier, that there was a stronger market for general commercial use. The other advantage of the general commercial zone in the City is that it doesn't tie a developer to strictly office development. It still allows the office development if the market goes that way, but it also gives the flexibility to put in other uses that are more typically related to freeway interchanges such as 10th Street.

So that was pretty much the summary of the recommendations in Chapter 6. That's a summary of the study. I'll be happy to answer any questions.

MR. TRYON: Any questions right now?

MR. RILEY: Do you know where on the State priority is the realignment of the freeway.

MR. MOORE: I'll defer to Mike on that.

MR. BUTTS: It's not. I recall this last year we had a proposed -- which came through from the University of Oregon students -- basically a diamond shape where the on and off ramp come together. It is on the north and just a mirror image of that on the south.

That was our proposal. Clackamas County prioritizes that for the six-year highway plan, and the County made it a number one project. Then it ranged with the rest of the projects throughout the State and it fell out of the six-year highway plan that processed. The State Highway Department took a look at that proposal, and it looked that it would be a service level E in the very near future with that type of diamond coming together on Highway 43. So they don't want to make those kinds of adjustments and have a service level E. They needed another solution. Also, they weren't sure that this was a solution -- Were there other solutions? They didn't know. They needed that time to do that.

So given that, we were working with Haas & Associates and also the State Highway Department. That's when we began to work with this kind of scheme that you see here, so that the consultants could massage it a little bit more in terms of some of the projects. So that's where it is now. I suspect that next year we probably try to propose this again for the six-year highway plan. The Highway Department locally and in Salem did run some numbers on those interchanges, and they are at acceptable levels, and it does solve their problems. They are at acceptable grades and everything, so we think it's a much better project. So we'll probably resubmit.

MR. TRYON: Any other questions?

MR. RILEY: Have any developers expressed interest that you have talked to? Any commercial developers?

MR. MOORE: For the stage that we're at, it was premature. We don't have -- we have talked informally with people that do development about what they thought about this area. That's what our market analysis is based on: what the rates were that we thought we'd get out of it. We did not submit the pro forma that are included here to any developer, certainly not to the point of soliciting bids. So I don't have any better information for you than that.

MR. TRYON: Any other questions? Thank you.

We're going to have an opportunity for public testimony. Anyone wish to testify in favor of the proposal?

In opposition to the proposal?

Anyone neutral or just have questions?

Does staff have anything to add at this point?

MR. BUTTS: No.

MR. TRYON: Are there any questions now?

MR. HART: On the 10th Street area, the strip between Willamette Falls Drive and I-205, that is a long narrow piece. These hatch-marked areas to the east, are those easements?

MR. BUTTS: Those are roadways that are not developed.

MR. HART: There are some easements in there across from where 8th Avenue intersects 10th Street. Aren't there sewer easements running through the strips so that we couldn't put buildings there? Or are you proposing moving the utilities?

MR. BUTTS: No. In fact there's a proposal into us for that piece of land, I think. It's just a matter of siting those buildings and putting parking lots where the utilities are. So it's just a matter of managing where you want those buildings.

MR. HART: The current proposal that you have, is that for general commercial use?

MR. BUTTS: Yes, of sorts. It's kind of a construction office, is what it is, which is a real stretch of the office-business center. It's more of a general commercial.

MR. HART: Is that at the east end?

MR. BUTTS: Yes.

MR. HART: It's currently proposed for some kind of design review?

MR. BUTTS: Yes.

MR. HART: I'm a little concerned about changing that from business-office to general commercial, because there's a number of parcels there. If they develop independently, and some of them remain residences, you're going to have a real mess of all these small general commercial developments trying to get access to Willamette Falls Drive. If it was all in one piece, or developed as one piece, then you could route traffic parallel to Willamette Falls Drive and come out on 10th Street some place. I think that would work well. But I think you have the potential of some real chopped up developments. I think they would work better mixed with the residential if they were business-office rather than general commercial.

MR. BUTTS: Well, again, if you extend 8th Avenue -- we did approve a doctor's office there at the beginning of that extension for 8th Avenue into the center of that area, which will capture, hopefully, some of the larger parcels. The balance of them will probably have to access off Willamette Falls Drive. But if you look at the purpose of the office-business center, it is for corporate headquarters, and none of those small parcels individually really would qualify under the intent. Offices are allowed in general commercial zones and are probably more characteristic of the smaller lots than is the big one. The office-business center, given those small parcels, I think is really inappropriate given the purpose of that zone. General commercial gives it a much wider range of uses, which I think is needed given the limitations -- like you said, easements and depth and access and size.

MR. HART: What is the dotted line that runs parallel with Willamette Falls Drive? I know that because of the bank, some of the access to the residences is kind of --

MR. BUTTS: I suspect that's just a secondary roadway. This is simply off our atlases, which the Fire Department uses. So the Fire Department is using those for some designation, I'm not sure what.

MR. HART: So the next more intense use above office-business zone is general commercial?

MR. BUTTS: Yes. We basically have neighborhood commercial, which is the neighborhood grocery store; general commercial; and office-business. Those are the only three commercial zones we have. Next it goes into industrial.

MR. TRYON: Could you summarize for us the criteria for approval of the zone change? Are those specified anywhere?

MR. BUTTS: Basically, this is legislative. So what you want to do is refer to back to the market study, and that's what Terry was speaking to in terms of kinds of markets we can expect in the area, what is appropriate in the 10th Street interchange area, and to make sure that your zoning matches those findings and market analysis.

MR. TRYON: Any questions?

Shall we close the public hearing with respect to this issue?

MR. HART: So moved.

MS. ZACHMAN: Second.

MR. TRYON: Moved and seconded to close the public hearing with respect to this issue. Are there any exceptions?

All in favor of the motion?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: The public hearing on this issue is closed.

As I see the issue before us, we are being asked to approve, recommend approval, or recommend denial of adoption of the economic development package and zone change. As always, we have the option to continue if the Commission feels they do not have enough information for them to make a decision.

Any discussion?

MR. RILEY: One question on the submission from the Planning Department. Do they want to continue the public hearing on economic matters or recommend adoption of the material tonight? What was it, page two of the special meeting -- The staff requests that the Planning Commission recommend adoption of this plan and continue the public hearing on economic development issues.

MR. BUTTS: Okay, that was before we knew exactly what was going to be taking place tonight. We did not know the extent of the issues that were going to come out. We didn't know the extent of the recommended zone changes or anything. We anticipated we would need another work session or one or two other public hearings. But in fact it was quite straightforward in terms of what was recommended, and so we thought we would cover it all tonight.

MR. TRYON: Do I hear a motion?

MR. HART: We have three things to accept: the zone change -- Are we also accepting the waterfront study?

MR. BUTTS: That's correct.

MR. HART: And are we also accepting the economic development Periodic Review report?

MR. BUTTS: That's correct, that as well. We also have as Exhibit B on the proposed Comprehensive Plan amendments as well. So it would be the Attachment 1 plus each of the exhibits, with the exception of Exhibit E, which has already previously been approved, which is the boundary study.

MR. TRYON: Is there a motion?

MR. HART: I have another question to try to clarify the motion. The zone change is needed to be indicated separately from these other things?

MR. BUTTS: You can combine it all in one motion.

MR. HART: I mean all in one motion, but the zone change would be enacted by adopting or accepting the attachment one and the exhibits. Would the zone changes would have to be included in the motion as something separate?

MR. HAMMOND: The market analysis for the zone change would be a justification for that.

MR. BUTTS: If you adopt Attachment 1, it includes the exhibits under which is the market study, proposed amendments, proposed zone change.

MR. HART: Okay. Attachment 1 and the exhibits excluding E?

MR. BUTTS: And F.

MR. HART: And F.

MR. BUTTS: And G, sorry. That was submitted today.

MR. HART: And that would include the acceptance of the waterfront study market analysis?

MR. BUTTS: Yes.

MR. HART: Okay. I would move that we accept Attachment 1 and exhibits up to and including Exhibit G.

Are there any after G that need to be accepted?

MR. BUTTS: No, they are just simply information.

MR. HART: Up to and including Exhibits E, which would change the zone in the 10th Street area as proposed; accepting the economic development report, Comp Plan amendments, and the West Linn waterfront study.

MR. TRYON: Very good motion. Is there a second?

MR. RILEY: I second.

MR. WRIGHT: Development Code and amendments, too.

MR. TRYON: There are no amendments to the Code, just the plan.

Is there any discussion on the motion?

We all understand the motion?

All in favor of the motion?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: The motion passes.

We'll take a five minute break.

[A recess was then taken.]

MR. TRYON: Next item on the agenda is the mobile home need analysis and lot coverage findings.

Is there someone here to talk about this representing the industries?

MR. BUTTS: No. They're happy, so they didn't show up.

MR. TRYON: Let's just have the staff report then.

MR. BUTTS: Last time we were on this issue, the Planning Commission did adopt the Mobile Home Park Ordinance. The State does require that the City allow outright mobile home parks in all residential zones that are planned for 6 to 12 units per net acre. That basically applies to R-5 and R-4.5 zones. So the Code amendments and Plan amendments that we proposed last time were to allow for mobile home parks in R-5 and R-4.5 zones as an outright use. They are subject to some design standards and design review. Those standards were contained in an ordinance that we had prepared.

The representatives from the mobile home industry took exception to a few items. One was the requirement that there be a maximum of 40 percent lot coverage on the lot for mobile homes. They thought that was too restrictive. Our present R-5, R-4.5 maximum lot coverage is 35 percent. They felt that was too restrictive. They wanted to go to 60 percent. Our research indicated that, in most cases, there's no lot coverage requirements for mobile home parks, period. They are really a PUD. There's probably going to be some clustering, there's going to be some open space, there's going to be some recreation centers; so the lot that that particular mobile home is on anyway, it's probably going to be much smaller than traditional subdivisions, under which the typical lot coverage maximum requirements are based on.

So we went ahead and are recommending now that 60 percent is fine. Sixty percent seemed to be agreeable to staff and agreeable to the industry. Again, it's probably a bit more like a PUD than it would be a standard subdivision. So the 60 percent is really not a problem.

The other issue dealt with -- They wanted first of all to be exempt from the Solar Access Ordinance. If you look at the very last page of the attachment there on mobile homes, basically we took a typical mobile home park -- there are two provisions in the Solar Access Ordinance. One has to do with new development and siting of that. Mobile homes are really very well suited for access for solar gain. They are long and thin, and put that in an east-west access, and you've got great solar potential, solar gain. Definitely, that should be a criteria. And speaking with them, they have not -- although the first recommendation on their attachment was to be exempt, they obviously go on to say that if we are included, here's some other issues we want to look at.

So, we think that in terms of development, they should be required. We do require a 15-foot setback between structures. And as the diagram indicates, assuming that mobile home is going to be about two feet off the ground, it would cover about 25 percent of the mobile home. That's during the lowest time in the sky. The balance would of course be up higher than that. So, we have adjusted -- we have made some exceptions in the Code. Maybe it would be helpful for me to go ahead and pass out Exhibit C. We have revised this and have highlighted the changes so that you know the changes that have taken place from what is in your packet now.

We have made some changes in response to the letter from Mark O'Donnell, Compass Engineering. We've responded to each one of those requests and incorporated those changes into the Code, and those have been highlighted under Exhibit C.

The only other issue that was not before you before was the needs analysis. Trying to find a similar needs analysis -- there doesn't exist one in the metropolitan area. It's kind of a strange requirement to do a needs analysis. It's assumed if you do a needs analysis that says you need ten mobile homes, then you provide an ordinance that provides for property for ten mobiles homes. In this situation, it says you have to provide for these mobile homes regardless of what your need is. How good is the needs analysis? They don't necessarily have to tie them in, so it's kind of a funny requirement. Those things should be consistent -- although you'll notice that it is consistent in case we get challenged on that, Goal 2. This is basically it; we think it would be satisfactory for the basic requirement.

Tonight we're looking at recommending adoption of the needs analysis, part of the inventory, the Comprehensive Plan, and consideration of the changes and requests from Mark O'Donnell's office as in Exhibit C, and then the balance of the Solar Access Ordinance. The balance of the Mobile Home Park Ordinance has already been approved by the Planning Commission with the exception of the solar access issue and the lot coverage issue.

MR. TRYON: I guess we'll take public testimony.

MR. ELLIOTT: My name is Ken Elliott. My address is 1727 NW Hoyt Street in Portland. I'm with O'Donnell, Ramis, Elliott & Crew, and I'm here on behalf of one property owner and also along with Compass

Engineering, responding generally to the Solar Access Ordinance. I'd like to say that I concur with the staff recommendations in all respects, particularly with the amendments made this evening on Exhibit C.

The only concern we have -- and this is one that we discussed with Mr. Butts over the past week or so -- is that under paragraph C, subparagraph 2, under the design standard on page 2 of Exhibit C, it says that the applicable structures need to be protected from shade by structures and not exempt trees. I think our interpretation is consistent with the staff's interpretation that that second reference to structures was that the structures that would be shading the mobile home would not be interpreted to include accessories to the mobile home itself, such as a deck or an awning. The intent of that is to protect it from shade from a nearby mobile home, from the neighboring home, and not the awning on the mobile home itself. And provided that that is consistent with the Commission's interpretation, and the staff's interpretation, we would be in favor of approval as it now reads.

MR. TRYON: Where are you referring to?

MR. ELLIOTT: On page 2 of Exhibit C. It's under subparagraph C2, the performance option. That's one of the alternatives for complying with the solar access requirements, and it talks about 32 percent of glazing and 500 square feet of the mobile home's roof area which faces within 30 degrees of south, and it needs to be protected from shade by structures and not exempt trees. We think that it's clear that it is the intent that it is to protect it from shade from adjacent mobile homes, from a neighboring parcel, and not from any add-on or canopy or covered deck or porch on the mobile home itself. Provided that's the intent interpreted by the Commission and the staff, we'd be in favor of all the amendments as proposed.

MR. TRYON: Do we have a definition of "structure" that resolves that issue?

MR. BUTTS: Well, it says here "habitable structure."

One of the things you have to keep in mind on this is that this ordinance sets up so that it protects the neighbor. The neighbor himself can put up an awning, he can put up a shed, whatever they want to shade their own mobile home that protects it. So things like awnings or carports or whatever, as long as it just shades themselves, there's no problem. It's only when it shades the neighbor that it becomes a problem.

MR. ELLIOTT: And that's the interpretation?

MR. HAMMOND: I think that's consistent.

MR. ELLIOTT: Thank you.

MR. TRYON: Are there any questions? Any other public testimony on this issue?

MR. HART: Mr. Chairman, I move that the public hearing on this portion be closed.

MS. ZACHMAN: Second.

MR. TRYON: There's a motion to close the public hearing on this issue.

All in favor?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: The public hearing on this issue is closed.

I'm going to ask one question. It has to do with this minimum lot issue. Explain to me again the rationale why it should be a different criteria for mobile homes than for regular homes.

MR. BUTTS: Mobile home park, I think, is conceptually more aligned with a PUD than it is a standard subdivision.

MR. TRYON: Would these be PUD's that come to us?

MR. BUTTS: No, they would be a park. So there are different roadway standards, there are different setback standards. There's probably going to be some possibility of some recreational space, common areas, recreation center; that is more typical of what is a mobile home park, the amenities that go along with that. So like a PUD, we might have an R-10 zoning in the Hidden Springs area, the lot themselves are 8,000 square foot. So automatically, because of that arrangement of lots and the sizes, you're going to have a larger coverage than you would under a standard subdivision. So it's not simply what's the maximum square footage, like 20 lots divided up by 20. That's not the way it works. You cluster them so the lots can be smaller.

MR. TRYON: Would there be a requirement that they come to you with the clustering and open areas?

MR. BUTTS: That is all part of our review process. These standards and design review it will be subject to. So it will be the same kinds of things that you will look at in any development: take a look at buffering, take a look at all the issues, outdoor recreation space, etcetera.

MR. RILEY: And the coverage is independent of the improvements, like roads and stuff, like 60 percent mobile home space?

MR. BUTTS: That's correct. The coverage simply applies to the lot that mobile home is sitting on, which is simply a line drawn on the map as opposed to a plat.

MR. HART: You also indicated that you might not even have to set a maximum lot coverage?

MR. BUTTS: Yes. Clackamas County does not require one. We feel that the mobile home sizes are somewhat standard: single-wide and double-wide, maybe triple-wide. There probably will be some variations within the development. Your density is already applied to the number of units. There's enough mechanisms there to limit the density and lot coverage. You also have setback requirements, etcetera, space in between the units.

MR. RILEY: What parking space requirements?

MR. BUTTS: Two per unit. They'll be classified as single-family, detached residential structures, so two per unit.

MR. HART: You're saying that clustering and the amount of open space is taken care of in the design review; is that correct?

MR. BUTTS: We look at the issues like buffering and screening, so you're probably looking at a wide setback along the periphery of it. You take a look at roadways, where you're going to be routing utilities, etcetera. If there's any natural features on the site, you probably want to preserve those and protect those as much as possible. It depends a lot on the site. Some sites lend themselves to great recreational areas, some don't at all. I'm sure the character of that proposal will reflect that.

MR. HART: That wouldn't change whether he had the 60 percent or didn't have any?

MR. BUTTS: It think the maximum lot coverage would come into play in terms of the size of the mobile home in relation to the lot. You might have to limit to only single-wide and double-wide, for example. Because, if you did all triple-wide, you begin to exceed the lot

coverage. So it does place some restrictions. But what I'm saying is there's a whole host of other restrictions that may come into play long before it will reach the 60 percent, such as the setback and density calculations.

MR. HART: As far as the design review process, would someone else -- Say you took two people. Let's say you did it, and Mr. Spir also ran a design review thing on a mobile home park. Is it likely that you would both come up with the same lot coverage? Or is it a real subjective kind of thing?

MR. BUTTS: I think it has much more to do with the market you're going for. I suspect that if you're going to go for double-wide and triple-wides, you probably should have a bigger amenity package than you do for single-wides. It depends on the market. It depends on the area you're going to put it in, and in turn, on the market you're going to go for.

MR. HART: Does that mean it is subjective, and you are likely to differ from someone else making the same evaluation?

MR. BUTTS: I'm saying that the site itself dictates a certain design, and the market that that individual developer wants to go for will dictate it. If you have a developer that does a number of successful single-wide projects, I'm sure he or she may want to do a single-wide project. But on the other hand, if they are used to doing some rather elaborate triple-wides, or more than that, the double-decker ones, they might want to do that.

MR. HART: What if you get someone coming in who's doing their very first mobile home park.

MR. BUTTS: Then it's wide open. Whatever they want to propose.

MR. HART: So they could come in and cover 60 percent?

MR. BUTTS: But they still have to meet the maximum density requirements. They still have to meet setbacks of 15 feet between structures. There's a number of other things they'll be looking at besides the lot coverage.

MR. RILEY: Is there a definition of what a mobile home is?

MR. BUTTS: There's one in the ordinance which talks about mobile homes as manufactured housing.

MR. RILEY: Does it set limits on total size?

MR. BUTTS: No. It doesn't set limits on size. They have some great double-decker duplexes. There's a lot that you can do with them.

MR. TRYON: Any questions? Do I hear a motion?

We need to adopt the needs analysis, the findings for the 60 percent lot coverage, and the Exhibit C. Is that what we need to do?

MR. BUTTS: Yes.

MR. RILEY: The existing Code already has the 60 percent?

MR. BUTTS: The existing Code requires 35 percent maximum lot coverage in those two zones for single-family homes.

MR. RILEY: We adopted the 60 percent, but it's not part of the Code yet?

MR. TRYON: We've adopted the contents of the Planned Community Development Code.

MR. RILEY: I move that we adopt the -- In the matter of the mobile home park Periodic Review that we adopt the needs analysis, the findings

relative to the 60 percent lot coverage, and Exhibit C, and additional Code amendments relative to solar access.

MR. HART: Second.

MR. TRYON: Motion and second. Is there any discussion on the motion?

All in favor of the motion?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: Motion passes unanimously.

Next item on the agenda, the analysis of cumulative effect of past Planning Code amendments.

MR. BUTTS: It's not my language, believe me. It's those lawyers in Salem.

MR. TRYON: Is there a brief staff report on this issue?

MR. HAMMOND: Brief? We got, what, four years to go over there, Mike?

MR. BUTTS: You can see the methodology. We took a look at every single thing we changed, and I tried to list them all out, and then I tried to put those in some similar types of categories. Then I tried to write a brief analysis of what I thought the cumulative effects were. My summary basically says they were primarily positive.

Again, their concern is in the statutes as relate to available lands. There are a number of zones that now no longer meet the goals. That's kind of the thrust of it. Or is there some number of amendments that you made that now no longer -- is the Willamette River Greenway effective in protecting that corridor? That's really what you're looking for. Has there been damage done to the goals because of some changes you made?

Most of our changes, as I've summarized it, have been primarily to strengthen the enforceive powers, strengthen the protective measures of the Code, and basically also to streamline the process, delegating a lot of the authority that was previously with the Planning Commission and Design Review Board to staff, leaving the major decisions for the Commission or Council. That's it in brief.

MR. TRYON: Any public testimony on this issue?

MR. HART: Mr. Chairman, I move the public hearing be closed on this matter.

MS. ZACHMAN: Seconded.

MR. TRYON: Is there any discussion on the motion?

All in favor?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: The public hearing on this issue is closed. Are there any questions of staff?

MR. HART: This is basically just a housekeeping issue?

MR. BUTTS: Yes, simply because there's no outstanding impacts that I can find. If there were, we'd have to deal with those.

MR. TRYON: I'll entertain a motion to adopt the analysis of the cumulative effect of past Planning Commission Code amendments.

MR. RILEY: I move that we adopt the report on the cumulative effects of past amendments as submitted by staff.

MR. HART: Second.

MR. TRYON: Is there any discussion?

All in favor?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: The motion passes unanimously.

The next item on the agenda is miscellaneous amendments required to complete the Periodic Review. This is Attachment 9 to the staff report.

Mike, can you give a brief rundown?

MR. BUTTS: Yes. The 1987 Legislature came up with a few amendments that we had to undertake. We did a few of those in January. As you can see, most of them have been covered. The only one that we haven't covered yet has to do with the residential home. There has been a redefinition of residential care facility. That definition is proposed to be amended. We are adding residential homes to all our residential districts.

The only other issue is the noise ordinance. If you want some more information, you might talk to Jack. Basically, we said in our Comprehensive Plan that we're going to study the feasibility of any existing nuisance ordinance so as to address noise level violations. We've looked at that nuisance ordinance a number of times for different reasons. A noise ordinance is a lot of fun, but I don't think we ought to get involved in it. But I'll let Jack speak to that. He worked with Gladstone, and they've got one.

MR. HAMMOND: We got a great technical one that goes on decibel levels. We've got noise meters on loan from DEQ. But in reality, there really hasn't been very many instances where it's been put to use. Very, very few cases. I expect to have sort of the same experience here.

MR. WRIGHT: Jack, do you have to have a city specialist or an expert to check out each complaint, or can anybody do it?

MR. HAMMOND: It does take a bit of training, Walter; not a whole lot. DEQ is willing to run people through, and they did that in Gladstone. They've just had very few cases over there where there's a necessity to go out and do it; I could probably count on one hand over the last five years.

MR. WRIGHT: Just out of curiosity, what's the decibel rating that constitutes noise from --

MR. HAMMOND: There's all kinds of different gradations as to what you're butting up to, and it does get relatively complicated.

MR. BUTTS: There's peak, and there's also cumulative noise.

MR. HAMMOND: If you get into cumulative, that's really tough to monitor.

MR. BUTTS: You have to be out there 24 hours with a meter.

MR. TRYON: Would noise problems, would that be addressed by nuisance ordinance?

MR. HAMMOND: Well, yeah. What we basically did there was junk the part of the nuisance ordinance that dealt with noise and developed a noise ordinance to take its place.

MR. TRYON: But West Linn's nuisance ordinance could be the recourse for someone having noise problems?

MR. HAMMOND: Yeah. We've prosecuted noise cases, mostly barking dogs and the like. We always seem to be able to get convictions.

MR. TRYON: Well, it is kind of funny, but it is a real problem for some people.

MR. BUTTS: Also in the design review, we had a provision for noise, too. So, we tried to look at it in advance.

MR. TRYON: Is there any public input on this?

I'll entertain a motion to close the public hearing.

MS. ZACHMAN: I move we close the public hearing.

MR. WRIGHT: Second.

MR. TRYON: All in favor of the motion to close the public hearing?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: Motion passes unanimously. The public hearing is closed.

Questions of staff. I guess I have one. Is there a definition of a socially dependent person, somewhere?

MR. HAMMOND: There's no statutory definition that I'm aware of.

MR. BUTTS: I did just get a survey from the State asking me every single question there ever was about independent home care, it was some big huge survey. I think they are setting the stage to help answer some of those questions and redefine a lot of them. There's been a lot of changes over the last few years, and there's a lot of confusion. It looks like, as a result of this survey, they are setting the stage for themselves to make some more amendments and proposals. They might try to fill up some of those holes.

MR. TRYON: Any other questions?

Do I hear a motion to recommend approval and adoption of these miscellaneous amendments?

MR. RILEY: In the matter of the miscellaneous amendments, I move that we recommend adoption of the miscellaneous amendments as described in Attachment 9.

MR. TRYON: Is there a second?

MR. CRAWFORD: I second.

MR. TRYON: Any discussion?

All in favor of the motion?

RESPONSE: Aye.

MR. TRYON: Opposed?

RESPONSE: [None.]

MR. TRYON: The motion passes unanimously.

[Staff business was then discussed.]

[The August 22, 1988, West Linn Planning Commission Special Meeting was then adjourned.]

WEST LINN PLANNING COMMISSION

AUGUST 29, 1988 SPECIAL MEETING

Present were Commissioners Joe Hart, Debbie Zachman, Charles Tryon, Ron Crawford, and Tim Conser as Chairman; also present from staff were Peter Spir and Jim Montgomery.

MR. CONSER: I'd like to open the West Linn Planning Commission at 7:40 on the 29th of August. For purposes of meeting some rules, if you are representing a group of four or more families, we would like you to limit your comments to roughly ten minutes. If you're representing a neighborhood association or an organized group, your limit is roughly 20 minutes; and for individuals, roughly five minutes. Now, we're not hard-lined, but with the number of people that we have in here, we certainly are concerned. What we are looking for is additional information and concerns, and we would appreciate it if you would not repeat testimony that you heard. It's not necessarily sheer numbers. We are much more concerned about pertinent information as it is associated with each individual application.

I'd like to continue the public hearing for Zone Change 88-03, Design Review 88-17, and Variance 88-06. A design review, planned unit development and a Class II variance. The location is the west side of Highway 43 at Mark Lane. The application is for 104 apartments.

Would you like to give a general overview?

I'm sorry, that's one nice thing about having legal here. We need to go through the ex parte contacts.

Do any members of the Planning Commission wish to abstain from hearing this item?

Do any members of the Planning Commission wish to declare a conflict of interest?

Do any members of the Planning Commission wish to report any significant ex parte contacts?

The parties have viewed the sites?

Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter?

MR. TRYON: Mr. Chairman, before we ask that question, I want to point out that I was not in attendance at the August 15 meeting of the Planning Commission when the public hearing was opened. I have, however, reviewed all the material, and I feel competent to participate in this proceeding.

MR. CONSER: Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter?

Do any members of the audience wish to challenge any individual member of the Planning Commission?

For all those who are wishing to testify this evening, please be aware that if you fail to raise an issue in person or by letter tonight, you will be unable to raise that issue at any subsequent time of appeal. The process is: We are the Planning Commission, we deal with land use issues, and we have jurisdiction over those issues. If a decision that we make is not favorable to an individual, and they wish to appeal the process, then it goes to the City Council, which is your elected body. If they should uphold our decision, then it would go the Land Use Board of Appeals, if appealed.

At this time, I would like staff to give us a report.

MR. SPIR: The applicant is OTAK, Inc., representing Group Two Investors. They are applying for a design review, planned unit development, which involves a zone change and a Class II variance. The property is located at the west side of Highway 43 opposite Mark Lane. The site comprises roughly 14 acres. The zoning is R-2.1 in the northeast corner and R-10 for the remaining portions of the site. Essentially, it's undeveloped forested land with slope increasing to further west and east up the site.

The application is for 104 one- and two-bedroom units. It will have one point of access off Highway 43, roughly opposite Mark Lane. Units will be clustered as close as possible to Highway 43 and to the easternmost portions of the site. The seven-acre area that you see uncolored on the left-hand side, or the west-hand side, will be dedicated to the City for open space; and that is the area with the steepest slopes and the area with the most constraints. The idea is to move the development further to the east and take advantage of the more developable and less constrained areas.

Then the applicable Code provisions are Chapter 24, which relates to planned unit development; Chapter 55 on design review; and Chapter 75 relating to variances.

MR. CONSER: I have a couple of exhibits that were letters that were sent to us. A letter from Jan Jones. It was specifically written to Joe Hart referencing West Linn number one apartment for Mark Lane. She expresses a series of concerns, and I would like to make that -- let's see here where we are at.

How far are we in exhibits?

MR. SPIR: You could decide to establish and Exhibit 4 of that particular letter.

MR. CONSER: We got the staff report, and we got the traffic report, which I assume is Exhibit B, and the application is Exhibit A.

MR. SPIR: Right. Exhibit B is a generalized graphic representation of the planned unit development process. It's not available, so we could substitute one of these letters or both letters for Exhibit B.

MR. CONSER: Okay. We'll make the letter from Jan Jones Exhibit B. And a letter to the Planning Commission -- and I'm sorry but it appears to be Greseth? G-r-e-s-e-t-h. It's written August 15th to the Planning Commission. We'll make that Exhibit E.

Would the applicant like to come forward and make their application?

I might interrupt you for a moment. Have you received these exhibits, or copies of these letters at all?

MR. HAMMAN: Yes, I have.

Good evening. I'm Tom Hamman, an architect with OTAK. I'm going to be the one to present both projects tonight. Considering that we do have the two projects and quite a few neighbors who would like to speak, I'm going to be as brief as possible and economize on my time, then respond to any comments that the neighbors may have following that. I would like to briefly described the project and some of the conditions that we designed to.

With me tonight is Chuck Kingsley [phonetic], who's the developer; Greg Kirahashi [phonetic], a civil engineer with OTAK; Steven Routon, an architect who works with me at OTAK and who has been involved with the project and knows some of the specific details; and Mojie Takallou, who is with SeaTac, who's a traffic engineer, and who did an engineering study on the project. With the exception of Mojie, the people will not be speaking. Initially, we thought that they would just be here and be available for any comments or questions that the Planning Commission or the neighbors may have.

Mojie would like to address some questions that the neighbors have brought up about the traffic report and try and answer those neighbors that have some concerns.

Peter said that the property is zoned on the north side -- the Mark Lane side -- zoned R-2.1 and R-10. Can I stand up and point to the map?

MR. CONSER: Is that going to be a problem for recording at all?

MR. SPIR: I don't believe so.

MR. HAMMAN: The R-2.1 zone is this dash line right here in this area [indicating]. This is the denser zone, and the rest of the site is the R-10 zone. I wanted to point that out. As Peter said, this is the part up here which we would be leaving as the open space and dedicating as a park, just off the top in this triangle [indicating]. Then we are also dedicating the connection down here, which is obviously a connection to Mary S. Young State Park.

Our major criteria in developing the design for the project was fitting the buildings into the slopes and taking advantage as best as possible of the views we have off to the east. The other major criteria was in relating to the adjacent single-family dwellings which are near the project. Now, we did initially look at carrying the development further up the hill. We looked at designing, and we made studies of taking the road and turning it around and developing a curve up in here and bringing it up in here [indicating]; but we felt that that was too much of an adverse impact on the overall site. We basically took these buildings down and concentrated them down in this area, and left this open, because we felt it was an overall better development on the site. We didn't have to scar as much of the site. We could have gotten a few more units on it. We are below maximum allowed density with this, if you review our calculations. We felt that this was just an overall more efficient use of the site. It does preserve about have the site.

The park -- perhaps some of you aren't aware -- On dedicating the open space for the park, one of the reasons for this -- I have this map here from this City of West Linn which shows the connection -- pointing out up here for those who can see our site -- there's the Mary Young State Park here [indicating]. Well, I can just say that Mary Young State Park is over here on this, and there's this connection, this piece, and then there's another major open space here, and that's roughly a series to another open space here, which is represented by these dotted areas. I wanted to show this to the Commission so that they have an understanding of this.

MR. CONSER: Do you have any additional copies of this?

MR. HAMMAN: I have this one and one other. Do I need more?

MR. CONSER: Well, we normally like to have at least a copy for everyone on the Commission plus a copy for staff, if possible.

MR. HAMMAN: I'm sorry. I got them from the City, so I didn't realize it was going to be an issue. I'll not present it if it's a problem. I do have this one copy.

MR. CONSER: I'd like to mark that Exhibit F.

MR. HAMMAN: If I may. Our project is this site right here. These dots represent open space in the City of West Linn. Our open space is up in this area [indicating]. Our open space connects with the continuous open spaces up at the top of the hill and brings those down and connects them to the Mary S. Young Park across Highway 43.

Our buildings, as I mentioned, are setting parallel to the slopes. The drives come up the slope and they also run parallel to the slopes. The buildings we designed have a step down. They are two stories and a basement, so that they are three levels on the down-hill side and two levels on the uphill side. The buildings step down. There is one less

level on these sides which relate to the residential areas and to the driveway. You've seen on the elevations we've presented that we have gables and roof lines which are typical and representative of the typical sort of residential construction in the area. We have activity with the smaller gables on the front and the decks and the residential character and a typical kind of building massing.

I have met with the neighbors on both of the sites, and I'd like to address some of those issues in a little while. There are issues that relate to setbacks and the building sizing and massing. First, I'd like to explain some of the road improvements. The staff report recommends certain road improvements in this area. We did work with the staff and with ODOT, and we redid these road improvements. The staff report does say that all the road improvements should be on our side of centerline, which we have met, since that recommendation, with staff, and that was an inaccuracy in their proposal, in their staff report. In actuality, what they're asking for is that the road improvements fit with the ultimate design. If we put everything on centerline we'd be too far off center with the design. And so what they want us to do -- if we put our left-turn lane -- move other this south lane, have the bike path and the sidewalk in this area, we may not be at the right location for the future ultimate design of the street, and they want us to be at that location. So that's where we'd be putting that, and that was what the staff report intended.

There's an issue of the domestic water system. The neighbors in this area say that their water system is inadequate, that there's an inadequate flow and pressure. We have checked with City staff, and City staff says that they are not aware of any problems in that area, and that there is actually a pressure reducing valve to serve this area. With this area --

MR. CONSER: Just a minute. I recognize that there are going to be disagreements with testimony. I ask you to be patient and considerate of all parties speaking. Thank you.

MR. HAMMAN: The pressure reducing valve brings the pressure down in this area from 80 to 100 psi, and it's adequate both with pressure and with flow for our area.

Following the hearing that was postponed two weeks ago, we had an opportunity to meet with a group of neighbors on the south side, and there were two groups of neighbors on the north side that showed up and had objections to our projects. We contacted all those groups. We've met with the group on the south side, and we met with one of the groups on the north side. The other group declined to meet with us, so we did not have an opportunity to discuss any of the issues that they may have.

Following our meeting with the group on the north side, the Mark Lane side, we met last Thursday night. One of their concerns was traffic and the traffic report, and that's why our traffic engineer is here to address some of those concerns. Another one of their concerns was water, which I just mentioned. Another one of their concerns was the distance that our buildings were set back from their property line. We were 20 feet from their property line at the closest location, and they requested an additional setback. That's what this plan is. We have updated this plan to address their concerns. The closest we have our buildings is 35 feet, which is a dimension that was agreed to at our meeting with the neighbors; that 35 was an acceptable setback, which was as much as we felt that we could manage. We have also tried to turn these buildings so that they're not looking at them, as much as possible. This one we were a little more successful with. This one we weren't quite, and we'll still try to move that one a little bit more. You can see we've relocated the building down by the road quite a bit by moving these parking spaces.

Another issue that relates to this, from our meeting that we had with our neighbors -- which we just came from a few minutes ago prior to this meeting, so they did see this plan. And of the group that were there, there was no objection voiced to this particular arrangement, and

they did see some progress towards them by us doing this. We will be saving -- They requested that we leave the natural plant material that is there: the trees, the shrubs, the undergrowth, and so forth, because they wish to maintain as much as a buffer as possible. This sketch here shows all the trees. The is is actually an updated survey from this [indicating]. This is an actual topographical survey of the site. These are trees right in the area which have been located by our surveyors. There may be a few grading issues where we might not be able to save quite all of them, but as many as possible in this area will be saved.

Now, we have the 20-foot strip here that will be dedicated to the City. The neighbors requested that the developer provide a fence along this boundary. They requested that it be a six-foot fence, and there was some discussion about the materials. We offered a wood fence. They didn't want a wood fence because they were concerned about maintenance. They would like a concrete block fence, but the developer can't afford a concrete block fence six feet high for that length. As a compromise, we were discussing a Cyclone fence. Now, this is an acceptable fence material for the developer. We discussed putting slats in it, and some neighbors agree, some disagree. There wasn't quite a final agreement by the neighbors about fence material, and the developer will offer to put up a six-foot Cyclone fence.

There was also a discussion with the neighbors about where that fence would be located. Now, when we dedicate that 20-foot strip, we can locate it on our side or on their side. Last Thursday night, they wanted it on our side; tonight they seem to prefer it on their side. We're willing to put it in either way. I think tonight there seems to be a general agreement of the people who were there that they would prefer it on the boundary. So, unless we hear otherwise from them, we would put up a six-foot Cyclone at their common boundary.

The neighbors also requested that when that land is dedicated to the City that there be a deed restriction on that land that it be for park purposes only. They heard some rumors that the City might be trading land with another developer so that there could be other lots put in this area, or something. So, as long as it is acceptable to the Planning Commission, the developer is willing to put a deed restriction and dedicate that the land be used for park purposes only.

The neighbors also were very concerned about schools and the fact that providing new apartment projects will add more students to the schools. We contacted Sam Nutt [phonetic], who is the representative that we were told to talk to at the school district, and he saw no problems with the additional apartments. As you know, there's a new federal law that went into effect that you cannot restrict with no children. There will be a law that goes into effect in the near future where you cannot restrict to adults only. So, there's a possibility that there will be schools. The neighbors at the Mark Lane site felt that Sam Nutt was not the appropriate person to talk to and suggested we talk to Dee Cox [phonetic], the superintendent of the schools. We did so. Dee Cox felt that there would be no problem at this time. Dee Cox said that the school district is building 17 new classrooms currently, and those new classrooms were designed to accommodate a growth of six percent per year, which is what they've had the last few years. This may fill up sooner than the six-percent-per-year growth in the new classrooms, but when that happens, then the number of people per classroom is starting to increase, at that point they'll have to add more classrooms.

So, in that contact with the school district, the school district felt that this would not have an adverse effect on the school system.

I'd like to quickly comment on the staff report that there were a couple of items I mentioned about the roadway issue and the location of the improvement. There was an issue about the storm drainage and that it be a ten-year storm. We submitted, with our design, for a five-year storm. The planning ordinance said five years and another ordinance said ten years. We will provide information on a ten-year storm. We didn't see that being any technical problem with the project.

We discussed the open space area being dedicated to the City. And then one issue I haven't really addressed is the access to the open space. It states here, shall be provided north boundary landscaped area to the satisfaction of the City Park Supervisor. The item under discussion there is whether or not there is a path built along these 20-foot easements, or if it's built, when. Our discussions with the City staff would be that if the path was built, it would be like a barkdust or chip-type path. It would not be a hard surface path. The neighbors have expressed a concern that they do not want a path up that area, and they would prefer that no path be built. Of course, there is no development up at the top of the hill that this path would be connecting to. So it may be appropriate to postpone any path construction until there is something that the path can connect at both ends.

In our application, the last item that I'd like to mention is Recommendation No. 9 in the staff report about the density bonus. They did not wish to grant us the bonus for energy conservation, and we thought there were a couple of items in that energy conservation that were applicable, but we're not going to submit it. We are glad to receive the bonus for design excellence.

That's my presentation. Any questions that you have at this time?

MR. CONSER: Any questions of the applicant at this time?

MR. HART: I have one quick question. You did the density calculation without the energy conservation bonus. Do you know what density would be allowed?

MR. HAMMAN: When we loose the density -- Steve?

MR. ROUTON: It would be R-2.1 district. Our current density calculations call for 70 DU. We would be reduced to 65 DU in that particular district. In the R-10 district, we would be reduced to, I believe it's 50.65 -- I'm sorry, 64.51 from 66.9, which doesn't affect the number of units that we have on that site in that district. Overall allowed density exceeds the margin for adjustment.

MS. ZACHMAN: I have one question. You said you talked to Dee Cox?

MR. HAMMAN: Yes.

MS. ZACHMAN: What did they say? They were putting in 16 new classrooms?

MR. HAMMAN: Seventeen. It was actually Mr. Routon that talked with them, and I'll ask him to respond.

MR. ROUTON: I was the one who spoke with Dee Cox.

MS. ZACHMAN: And they said 17 new classrooms?

MR. ROUTON: That's correct. This summer 17 new classrooms are being brought on line in anticipation of six percent growth over the next few years. He also told me that they fully expected the classrooms to be filled to 25 students, which is considerably less than the level that they now have in the school system, very soon -- much sooner than anticipated. They cannot know exactly when that will be until after enrollment. So it's pure speculation to say that all of the classes are filled up to the existing level now. That's something that we are not going to know until after enrollment takes place.

MS. ZACHMAN: Did he say where these classrooms were located?

MR. ROUTON: No. He asked me specifically where these two projects were located. I told him on Highway 43. He was familiar with the area, and so he spoke with reference to that particular district, to that particular school system area.

MR. CONSER: Would you come up to the microphone. We are trying to record this to the best of our ability, so come up and identify yourself. We more than likely got it all, I just meant in the future, if possible.

Any other questions?

There's just a question I had. That 20-foot connection buffer strip -- you're intent was not to develop that, just leave it as natural as your construction would allow?

MR. HAMMAN: Actually, our initial proposal showed it landscaped, and the neighbors asked that it not be landscaped, that we not take out the natural plant material that's in there and leave the existing plant material. So we would do that for the 35 feet, which is what they asked for.

MR. TRYON: Do you consider the slope area west of the site to be buildable?

MR. HAMMAN: There are portions of that slope which are 50 percent or more. Our design based on this plan here [indicating] is that we did have to have a design that was technically workable where we could bring the road up in this area and build some buildings on the upper side of the hill. It did not seem economically effective. It did not seem appropriate for stretching it out that far into the site. My answer is that we did do a preliminary design that we could get a couple units up there, but it did not seem to be an economically- or design-effective way to utilize the site. It was better to pull them down and keep them tight down towards the bottom.

MR. CONSER: Any additional questions?

MR. CRAWFORD: I have one question. These additional comments or questions -- conditions set forth by the City Planning or the City staff -- Do you agree to all of those as well?

MR. HAMMAN: Yes. I agreed with all of them, and the ones I touched on, I added some additional comments to.

MR. CRAWFORD: I didn't hear you say you have agreed to all of the conditions set forth.

MR. HAMMAN: You're right. Actually, I didn't say that, but I do.

MR. CRAWFORD: Thank you.

MR. HAMMAN: With the comments that I had.

MR. CRAWFORD: That's all I have.

MR. CONSER: Anybody else? Mr. Hamman, you'll have another opportunity during rebuttal.

MR. HAMMAN: Thank you.

MR. TAKALLOU: My name is Mojie Takallou. I am from SeaTac Associates, the firm that prepared a traffic study for West Linn apartments.

What we did in this case, we went through normal procedure to look at the existing traffic data. Then we look at what kind of traffic is going to be generated by the new apartment complex. To find the existing traffic data, we went and did a traffic count. Then we also used the trip generation model, or Trip Generation Handbook, which is a national standard that we are using to see how the new apartments is going to have impact. We add those traffics to the existing traffic, and we find out basically there are not going to be any major impacts for this project.

We also made quite a few recommendations in this case; for example, the left turn, which is going to go into the project. We also look at

the sight distance. The sight distances of the project were adequate. We look at the traffic signal variance. It did not make the requirements, because the traffic is so low. So, basically what we are concluding that the apartment complex on Highway 43 does not have impact.

The way that we did the traffic count, it was done on July 13th, which is Wednesday. The reason that we select Wednesday, because we never do traffic count on Mondays and Friday. Traffic data on Monday and Friday, it fluctuated a lot due to a lot of other trips involved. We did traffic count during the peak period, which happens from 7:00 to 9:00, 11:00 to 1:00, and then from 4:00 to 6:00. And then we find the peak hour volume. And then we went and used the national standards, which we call Trip Generation Handbook. It is published by ITE, Institute of Traffic Engineers.

What they have done, they have done so many studies around the country for similar projects, and they give a table, which is included in the report, and it tells us exactly how many trips is going to be generated during the peak period, during the morning and afternoon peak period, for this project. And again our conclusion was there are not going to be impacts in Highway 43. So, what we are concluding, the existing traffic volume, along with the new traffic volume which is going to be generated, does not have impact.

At this moment, I would like to open to any questions that you might have.

MR. CONSER: I'd like to ask a couple of questions.

Right now, did you do a service level study on Mark Lane?

MR. TAKALLOU: That's right.

MR. CONSER: What level did you find Mark Lane at during the peak periods?

MR. TAKALLOU: The Mark Lane, when you go to the project, it's going to be operated at level of service E.

MR. CONSER: Okay, with the project in, it would be at a level E?

MR. TAKALLOU: That's right.

MR. CONSER: Okay, and currently it's at --

MR. TAKALLOU: We are talking about the Mark Lane which is going to go through the project.

MR. CONSER: Oh, okay. I see, uphill from the apartment.

MR. TAKALLOU: Right, from the apartment. Only 40 vehicles are going to be the impact, and those are the people that are coming from the project.

MR. CONSER: What is the delay time for service level E?

MR. TAKALLOU: Level of service, what it is, it is basically goes from A, B, C, D, E, F; and A is the best, and F is the worst.

MR. CONSER: So, you're anticipating -- And it's based on the delay time to get out?

MR. TAKALLOU: That's right. Based on delay, and we use the Highway Capacity Manual -- the 1985 Highway Capacity Manual, which is the most recent one; but it's not going to have impact on Highway 43.

MR. CONSER: Any other questions of Mr. Takallou?

MR. TRYON: Did your analysis take into account projected increase in volume resulting from West Linn II?

MR. TAKALLOU: Yes.

MR. TRYON: Did it take into account the projected increase in volume resulting from the multi-family buildings currently being built or just being finished on Hidden Springs Road?

MR. TAKALLOU: What we did -- I did not write the proposal. I didn't work on the project on this report. Our traffic engineer with 17 years of experience in traffic engineering, he did the project. He was not available, so I am representing him.

MR. TRYON: But you don't know whether the analysis took into account the Hidden Springs project that right now is being finished.

MR. TAKALLOU: I don't know that question. I don't know if he considered that.

MR. TRYON: Do you know how the Trip Generation Handbook and the sources that you use, how they compare with the Traffic Management Plan that the City has adopted for Highway 43?

MR. TAKALLOU: 1987 Traffic Management Plan?

MR. TRYON: Yes.

MR. TAKALLOU: It was very compatible. What we do, we use the same source -- everybody in the country, they use the same source.

MR. TRYON: And to your knowledge, there's no conflict in terms of what the current traffic patterns are?

MR. TAKALLOU: No.

MR. TRYON: That's all I have.

MR. CONSER: If I'm looking at this right, you're looking at your total site traffic, PM peak hour -- You're looking at roughly 20 left-hand turns per hour peak onto Mark and 20 left-hand turns into the proposed project off of Highway 43; is that what you're indicating?

MR. TAKALLOU: Yes.

MR. CONSER: Any other questions at this time?

MR. HAMMAN: I think there was a misunderstanding. Maybe I didn't get it right. But the report on page 4 indicates the levels of service, and the side street westbound, which is Mark Lane, has an existing level of Service D and remains at existing level of service D. Our side is what Mojie was referring to as level E.

MR. TAKALLOU: That's right.

MR. CONSER: That's what I thought you were anticipating, a level for Mark Lane would not be impacted. When you say that there's no impact, you're saying that you're not changing the service level of Mark Lane or Highway 43?

MR. TAKALLOU: That's right.

MR. HAMMAN: We are actually providing a left-turn lane for Mark Lane, which does not exist at this time.

MR. CONSER: Okay. Thank you.

What I'm going to do now is ask -- I'll call the names. I apologize if I mispronounce the names in reading them. If you wish to speak on this issue, step forward, give your name and address and your statement. If you are waiting to speak on the number two issue, which is the development off Randall in the old Bolton school site, then so state it, and I'll put it in another stack.

John Forslaw?

MR. FORSLAW: I want to speak on the Randall.

MR. CONSER: Thank you.

Joe Beaver?

MR. BEAVER: Oh, I would be first.

MR. CONSER: I planned that.

MR. BEAVER: Joe Beaver. I live at 3760 Mohawk Way.

I appreciate the developer and the architect, they did answer a lot of questions. I disagree on two subjects. One's your traffic count. That is not accurate. I live very close to Highway 43, and I can count better than their computer or whatever they use up there. It's entirely wrong. They say it doesn't have an impact on Highway 43. It most certainly does. There have been four people killed on the corner of Mohawk and Highway 43 in the last 12 or 15 years. They're trying to say there's only going to be 40 vehicles leaving that complex. There's 102 apartments. I don't think they'll be getting free rent. Most everybody has to go to work. I don't understand 40 automobiles departing from that complex on Highway 43, with 102 apartments.

The other one is about the school districts. The 17 classrooms that are being built are at Wilsonville and Stafford. That's the 17 classrooms. None of them are being built at Cedar Oak or Bolton for these -- this is built and students go over there to go to school. Cedar Oak and Bolton's really going to get hit with no additional classrooms.

On the water pressure, maybe it's good right now, but if you put in Hidden Springs and put these hundred in and more down at Barlow, we're not going to have any water pressure. There's not enough water in the City now. They're restricted on the top of the hill. They keep adding apartments and complexes, we're going to be completely out of water.

That's all the issues I have right now.

MR. CONSER: Any questions of Mr. Beaver?

Thank you, sir.

Phillip Johnson?

MR. JOHNSON: I'd like to speak on the second issue.

MR. CONSER: Thank you, sir.

Dale McKay?

MS. MCKAY: My name is Dale McKay, and I live on White Cloud Circle.

I would like to ask a question. If the Planning Commission -- which was stated in the papers -- is recommending this project, recommends that this project be passed, what will the project do for our city? If we litter up our city with apartments, what's it's going to do for us? Why do they recommend it to win?

MR. CONSER: First, I'd like to clarify something, and I will make sure staff speaks to that issue. We are a Planning Commission, and we are an independent body of the City. We are essentially your neighbors that have training or background in general land use issues or designing or development or business-type issues. We are essentially representing you, although we are not elected, on those issues. We are very concerned about being unbiased. So, we're not recommending anything. The City planning staff may be recommending approval of those conditions, and it is their representation. And to answer your question, we'll have staff

address that in the staff report, which will be essentially after the testimony.

Okay? Thank you. Did you have any other questions?

MS. McKAY: No.

MR. CONSER: Don McKay?

MR. McKAY: My name is Don McKay, and I live on White Cloud Circle.

I just wanted to reiterate basically what Joe Beaver had said in that I have to take exception to the traffic count these gentlemen have taken. I have to exit on White Cloud Circle every day going to work, and I realize what the traffic impact is now just by virtue of the shopping center down the road opening up, and some other things in the last four or five years. I take exception to their count. I think it's way off. I really don't think Highway 43 at its present state can take this type of traffic. That's basically all I have to say. Thank you.

MR. CONSER: Any questions of Mr. McKay?

Thank you, sir.

Mark Hayes?

MR. HAYES: Mark Hayes, White Cloud Circle. I represent myself and my wife.

Our position on the development is we do not oppose it due to the conditions that the developer agreed to tonight. Those are that the apartment complex is now numbering only 102 apartments, rather than 104, and a minimum of 35 feet between the building and our property line on Mohawk Way. They'll leave the existing trees and vegetation in that buffer zone. The fence still has to be decided upon what it's going to be made from, and I don't know how that's going to happen, but it's going to have to happen. And the worry for me just now is that if the fence goes on our side, those trees are then out of our bounds, and they could then be attacked, in a manner of speaking, by the people in the apartments. So, if we're going to leave this buffer zone in there, the fence really needs to protect that buffer zone from both parties. That buffer zone must be protected.

I believe that is about all.

MR. CONSER: Any questions of Mr. Hayes?

MR. HART: I have a question for you. The fence is -- you would prefer a concrete block fence?

MR. HAYES: I'm not qualified to speak on that, because I don't live in one of the houses that borders this development. I live on the other side of the circle. I think that that decision is going to have to be reached between the developers and the people that live in houses on Mohawk Way.

MR. HART: Well, for a hypothetical situation: what is a concrete block wall -- what difference would it make if there was natural vegetation left on the other side of the wall or not?

MR. HAYES: Well, as you can probably guess, it was me that proposed the natural vegetation, and I certainly wouldn't propose a concrete block wall.

MR. HART: The same idea holds true in my mind for a Cyclone fence with wooden slats. You can't see through that, but might it not be more pleasant to have a landscaped area there?

MR. HAYES: I see what you're driving at now. No. The natural vegetation consists of oak trees about 60 feet tall. I'm not so worried

about the blackberries and things like that. It's the tall trees that we wish to remain. And the tall trees are now circled on that plan.

MR. HAMMAN: I think the staff addressed that, but I would guess that the tall trees are required to remain.

MR. HAYES: Be that as it may, I think it doesn't hurt to get that point pressed.

MR. HART: No other questions.

MR. HAYES: While I'm here, there was one other thing that the land deeded at the top of the hill, that really should be put down as being -- to not be developed. It should become a park in the future.

That's all. Thank you.

MR. CONSER: Any other questions?

Thank you, sir.

John Jones?

MR. JONES: My name is John Jones, and I live at 2892 Mark Lane.

I'd like to briefly address three items. First of all is the traffic. I also question the figures of the traffic analysis taken in one day, particularly in the middle of summer when the majority of people take their vacations and school is not in session. So just based on a five-day-a-week attempt to get out on Mark Lane -- from Mark Lane onto Highway 43, turning left -- I experience routine delays of three to five minutes in making a left turn onto Highway 43. On severe traffic days, I've had to turn right, go down to the light at Robinwood, turn left at the light, circle back around, then head south on Highway 43, in order to get onto Highway 43.

So I question then the statement of no impact on a road that I already feel is highly overused. The only alternative that I can see from a traffic standpoint is to go back roads through the community -- and there's not a way to go completely through West Linn by the back roads -- and you come out by Bolton School. You either have to try to use the traffic light at Bolton School or go down one block and try to make a left turn there. That's unacceptable to my way of thinking to add traffic from 104 units trying to turn onto Highway 43 opposite of Mark Lane.

It's already been mentioned that the switching slides to the school system. It's already been mentioned that all the additional classrooms are at Stafford and would -- To my knowledge, there are no projections for additional classrooms at Cedar Oak or Bolton. As of this year, there has been a denial of transfers into Bolton School from any of the boundary areas. The full capacity of Bolton School is 450 students. They are current at 458. The 17 new classrooms at Stafford are already assigned an average of 27 students. We were talking about 25 as the number.

The impact of the 98-unit development across from Robinwood Center has obviously been an impact on Bolton School already with the 458 capacity. Usually, during the first week of school, there is a number of students that show up at school that are not projected. So, I anticipate 458 to be well below the actual number of students that are going to be attending Bolton School. I would say an accurate count would be at the end of the first week of school.

So, without any major redistricting of the school districts themselves, I don't understand how we're going to be able to handle with Bolton and Cedar Oak two additional apartment complexes of the size that we are talking about.

And the third thing that I'd like to talk about is the drainage situation. I live on Mark Lane, and there's obviously a natural drainage down the hillside. Where it currently goes is a -- Well, in high water it's a creek between my property and the West Linn Lutheran Church. In heavy rains, there's standing water in the backyard in spite of improvement attempts on my part to put in drainage systems out to the street and to the storm drain. In heavy rainfall the drainage is already inadequate in that area. I'm not really sure what impact taking out the natural vegetation across from Mark Lane is going to have on an already poor drainage situation. I'm concerned about that aspect of the environmental impact of the apartment units.

That's all I have.

MR. CONSER: Okay, so your concern, again, is the traffic count, the school and their impact and the fact that they're working at maximum, and you have a concern about drainage and runoff and the storm drainage.

MR. JONES: Yes, sir.

MR. CONSER: Any questions of Mr. Jones?

MR. JONES: I'm going to speak to the second issue.

MR. CONSER: Okay. Thank you.

Wanda Bleyhl?

MS. BLEYHL: My name is Wanda Bleyhl. I live at 2740 Jolie Point Road.

I have been a resident of West Linn, supposedly Portland's most liveable community, now for three years. I did a little research over the last few days regarding the traffic on Highway 43. I obtained my information from the State Department of Highways. I was told that using the City limits on the northbound side and I-205 on the south end, there were 2.7 accidents per million vehicle miles on that stretch of road. That compares with an average of 1.33 accidents per million vehicle miles on other urban state highways within the state. I think that statistic speaks for itself. Obviously, we're having accidents. Obviously, we already have traffic problems on Highway 43. It is my belief, before we go any further and further complicate the traffic issues along that stretch of Highway 43, we need to address that issue.

I'd like to mention one other thing that no one's brought up yet. I went to the City today, and I asked how many building permits were granted for last year and this year, in the City of West Linn total. There were just over 300 housing units granted for the City of West Linn over the last two years. What has been proposed in these three units amounts to 266 units, from what I understand. Now, we're talking about a sizeable amount of growth within a one-mile stretch on Highway 43 in West Linn, which directly impacts all of the current residents living there. As I made my rounds of my neighbors this weekend, I realized how many people had no knowledge that this was going on. I do not think that it has been made public enough, and I think that we really have to stop and address these issues as a community.

Thank you.

MR. CONSER: Are there any questions at this time?

MR. TRYON: What was your source at the State Department of Highways?

MS. BLEYHL: He called me back today, I talked with an engineer there. I have his name and his phone number written by my phone, but I didn't write it down for here.

MR. TRYON: This was an engineer with the State Department of Highways?

MS. BLEYHL: Yes. He gave me this number from the 1986 data. The 1987 data is not even available yet. So we are already talking about something that's a year old.

MR. CONSER: Your calculations of 266 units, if I understand, you have --

MR. BLEYHL: That does include the Hidden Springs unit, which is there now.

MR. CONSER: Okay. If possible, I'd like to ask that you remain seated until we get a chance to canvas the Commission and find out if there are any question.

All right, thank you.

Bob Anderson?

MR. ANDERSON: My name is Bob Anderson. I live at 2788 Mark Lane.

A few of the things I'd like to bring up. Several have mentioned about the schools. One of the comments was that there would be no immediate effect on the schools. That's not taking into consideration that the new classrooms, which has already been brought up, are not in the immediate area. The capacities on those being unknown -- the state requirement of 35 or whatever. Those are supposedly up to 25 already from the time they open as far as if you include the increase of students in the percentage. I don't know if I got that across right.

The traffic delays. That's another issue that's been hit several times. I think the first gentleman who spoke said something about three to five minute delays getting onto Highway 43 from Mark Lane. He must be going at a pretty good hour because that seems to be a pretty good short time for a delay. Some of the other problems -- I don't know personally if you have ever driven past Hidden Springs during traffic hour and tried to do the legal thing and made a stop when somebody's making a left-hand turn turning up Hidden Springs. The legal thing to do is stop in line like 50 million other people; but what most people do is turn around and go right through the bike lane and get past them. We've got several spots where we have immediate traffic problems already. There's no refuge there. That is sure deserving of a refuge before any new development. There's several places like that as far as traffic.

MR. CONSER: Just to clarify a point, are you talking about at Hidden Springs or are you talking about Pemlico where it goes up the hill?

MR. ANDERSON: Yeah, where it goes up into Hidden Springs Ranch. Not the new Hidden Springs development.

MR. CONSER: Okay, Hidden Springs Road is at Robinwood where the light is?

MR. ANDERSON: No. I'm talking about --

MR. CONSER: You're talking about Pemlico Road?

MR. ANDERSON: Yes.

And as far as the traffic study, I doubt very seriously if any of the traffic studies conducted, even though it is supposed to be national average, was conducted in such a city as West Linn. I think it's rather unique from most cities in the fact that we have one main exit road. I doubt if that's average as far as this is not an average city. Most cities have more than one exit in and out of the city. As one gentlemen stated, you could go through back roads through part of the city, but that would take twice as long as waiting for traffic, and you'd still never get all the way through town. So we only have one access in and out of town going either way.

Drainage is another big problem. As it's already been stated. I know one gentlemen had stated four people dying in the last 12 or 15 years on the corner of Mohawk and 43. I know, myself, several years ago, I was involved in an accident right at that corner due to drainage drained onto Mohawk that had frozen up in the wintertime, and slid off in the trees there. I had a speech that night from the ambulance driver who told me not to worry, I was the third one that night. So we are already talking about a problem area. Now you want to cart away some more of the clay and get some more water on top of the drainage. I know you could walk up and down Mark Lane to just about every neighbor up and down the street and look at their list of receipts from water drainage repairs to their houses. My house, which is halfway down the street, I've ripped out two bedrooms, a bathroom and part of the living room due to water drainage problems. Four of my neighbors directly below me and above me have done the same thing, to my knowledge, because of the poor drainage already.

That's basically some of the things I wanted to hit on.

MR. CONSER: Any questions of Mr. Anderson.

Beverly Hanthorn?

MS. HANTHORN: I'm Beverly Hanthorn, I live at 2979 Mark Lane, which happens to be the northeast corner of the intersection of Mark Lane and Highway 43.

I have a number of concerns, most of which have been raised earlier this evening. The primary one is traffic. In the wintertime there are numerous accidents. I have had people land in my backyard and go through my fence that have spun out and gone off the highway. I've got a grove of oak trees at the corner of my property that have kept numerous people from flying into my house. There are evenings that there are two or three accidents there. The water drains down Mohawk Lane, goes across the street. It's sheltered, and it becomes ice, even though the sanding trucks are out regularly. There are accidents all the time. I'm a real pro at dialing 911 in the middle of the night and running out to see if there are any serious injuries.

In addition, there is bound to be additional runoff coming off of another road coming down the hill directly across from Mark Lane. That should be really interesting when people spin out coming from Mohawk and then hit another sheet of ice.

There's a Tri-Met bus stop at Mark Lane. I don't know what the plans are for that bus stop. I have a son that was a pedestrian hit by a car when he was 15. That was four years ago. At 19, he still doesn't drive. He depends on Tri-Met to cart him around. I have real concerns on how he's going to be able to cross Highway 43 during busy hours to go to school and to go to his job. Nobody seems to worry too much about the pedestrians or bikers. There are lot of pedestrians and a lot of joggers and a lot of bikers who use Highway 43. There's going to be that much more traffic. There are very few intersections that are unlighted along Highway 43 that have traffic going in both east and west directions. I am real concerned on how that's going to affect our children as they need to cross the streets.

One of the earlier individuals mentioned people illegally going around the right side of traffic that's wishing to turn left, or the outside lane going to the bike lane. I know our law enforcement people in West Linn seem to ticket a whole heck of a lot of people for doing that, but I would say 90 percent of the time, when I go to turn into my driveway coming home from work, coming off Highway 43 headed south onto Mark Lane, that at least 98 percent of the time at least one car passes me on the outside on the bike lane. I personally try to stay as close to the center of the road as possible to make that left turn so they don't have to go too far into the bike lane.

I also have concerns on municipal services, the water pressure. Now I know that there have been statements that it's not low. Well, there

have been times that I've had one heck of a time getting the shampoo out of my hair when I shower at certain times of the day, particularly in the summertime.

The schools, police and fire protection -- Well, West Linn's a great place to live. I've lived here to nine years. The reason I lived here was the quality of our schools. And the quality of the town as a place to live, it's residential. We've got nice homes, we've got nice people. We have a high percentage of ownership. I'm real concerned about having a whole lot of apartment units and how that's going to effect the crime rate, how it's going to effect our property taxes. The property taxes are always a big concern. If we're talking about additional use of the services, the property taxes generally paid by an apartment unit, which would probably be assessed I guess at 28, 30 thousand per unit, just really isn't going to compare to the rate of taxes that individual homeowners are assessed on our properties. I don't think there are very many private homes in the city of West Linn that are assessed at 28 to 30 thousand, at least not in the neighborhood which I live in.

Again, I'm looking at this particular project in addition to the project at Robin Wood which is just coming on line and the additional 68 units, and we're talking about nearly 270 added housing units. Now, at an average of two people per unit, that's looking at an increase in the population in the City by 550 people, which is almost a five percent increase in the City's population in just a very limited span of about a one-mile area. That seems an awful high density to me.

I'd also like to make a couple of comments on how the construction -- should this project happen to be done -- Already, I have the surveyors blocking my mailbox. We've had a lot of surveyors out there. I believe it was the traffic count person that was sitting in a lawn chair there on the corner of Mark Lane and Highway 43 that left quite a bit of litter around by the end of the day. You know, just from those two incidents, I've really worried how it's going to effect our neighborhood during any kind of construction period.

I guess that's all I have to say.

MR. CONSER: Any questions of Ms. Hanthorn?

Dean Kirchem?

MR. KIRCHEM: My name is Dean Kirchem. I live at 20110 White Cloud Circle.

I wasn't intending to speak tonight, but something was said earlier that I think bears repeating. The traffic people that did the survey, by their own testimony, indicated that there was a service level existing now of a D level on Mark Lane, as it is right now, and on the new addition of an E level, with that being the maximum. I don't feel that that is acceptable to the fact that it was not brought over -- two additional developments would indeed, probably, without a doubt, put that over the max, or to the max. As was indicated, the accident rate is extremely high compared to the national average. I feel that the traffic situation as a whole on 43 is somewhat testy. The increase of the three developments, even though they are probably fairly good quality units, and they will probably enhance our area, do not contribute well to our traffic situation.

One possible proposal would be to extend the turn lane past White Cloud Circle. Also to extend it down 43 so that it takes care of Pemlico also. Pemlico has a very bad problem as you probably already know. I feel that these development would be unsafe to the community unless the traffic situation is assessed first, and the problems solved before that.

MR. CONSER: Any questions for Mr. Kirchem?

Jacquelyn Spielman?

services. The economic cost would need to be met by all residents of West Linn, not only by the owners and developer or new residents. In addition, the impairment of the environment caused by introduction of these large housing projects will also diminish property values for all existing homeowners in their vicinity. The investment in a home, its beautification and upkeep, is the primary and largest economic investment most families make. The hundreds of families negatively affected should be considered.

All of these factors will need to be balanced with housing requirements, increased tax revenues, and the right of land owners and developers to maximize economic investments. West Linn is presently a most desirable place in which to live. The beauty of mature trees, not only along Willamette Drive but throughout out city, with good accessibility to Portland and surrounding cities, the nationally-recognized excellence of our schools, the good quality of our air and water, the thoughtful care and responsibility for our city by its leaders and volunteers all make West Linn a special place to live. We urge your thoughtful consideration of the negative impact the implementation of these projects would have not only for the citizens living near this one-mile corridor, but for all the people who use Willamette Drive and in the broad-base costs of the services borne by all residents of West Linn.

Thank you.

MR. CONSER: Thank you.

There was some confusion I had. There was a comment you were making about concern about landscaping. And somewhere in your testimony I missed whether you were talking about concerns of landscaping along White Cloud or Mark Lane?

MS. SPEILMAN: No, it was at the entry opposite Mark Lane. It seemed to -- as I read the proposal -- it seemed to be low-level planting that would let the parking spaces that serve that bottom unit be clearly visible to people passing along Willamette Drive and to those exiting Mark Lane.

MR. CONSER: Any other questions for Ms. Spielman?

Marie Horvath?

MS. HORVATH: My name is Marie Horvath. I'm representing the Robinwood Neighborhood Association tonight.

I hope I don't repeat too much that's been said. But back in the days of the shopping center construction, we were concerned about the driveway in the center of the block. We were told the driveway was for construction materials only. We desperately fought against that driveway going in the middle of the block, but it didn't do us any good. We felt that we were sold down the lane.

Then we discovered that Cedar Oaks was proposed to be cut off or closed up, and Hidden Springs would be opened up through the church's property and down River Road. We fought about that for a long time also. The only battle we won was to keep Cedar Oaks open and get a street light at that corner.

Right after that, in 1980 to '82, the State Highway Department conducted a study of Highway 43. The City has documented evidence of that study. It was determined that the service level on Highway 43 was at D and E levels. At that curve on Mohawk Way, it was already at E level. Now, this was six or seven years ago. And that S-curve was E on Mohawk Way. As the gentlemen said, levels go from A to G. Before it even gets close to the G level, the State Highway Department steps in and does something about the situation that has occurred.

Since that time, we have had considerable amount of construction on that highway with no relief yet in sight, of course, bypassing the G

MS. SPIELMAN: My name is Jacquelyn Spielman, and I live at 2941 Mark Lane.

I want to ask if I may read a statement. We have 126 signatures from the Woodland Oaks Neighborhood, which is the area directly opposite the proposed Mark Lane project. Would that be permissible, since the people have signed this with the idea that this was going to be presented to the Commission? Would that be permissible?

MR. CONSER: I don't have a problem with that.

MS. SPEILMAN: Rather than submitting it informally.

MR. CONSER: Do you have additional copies of it?

MS. SPEILMAN: It's all here. I'll give it to you as soon as I've finished it, if that's all right.

MR. CONSER: If you would like to do that. Then we'll make it an Exhibit G.

MS. SPEILMAN: Thank you.

If these two petitions are accepted as presented, along with the Hidden Valley Apartments now nearing completion, West Linn would add a total of 266 apartment units within a one-mile corridor. Right now, according to the Institute of Traffic Engineering, the national average car trips per unit in a multi-family development is 3; six passages in an hour per day. For the proposed West Linn No. 1 Mark Lane Development of 140 units, this would mean 624 car passages in and out of the complex each day.

Presently Woodland Oaks residents using Mark Lane onto Willamette Drive and turning southbound have an E level of service. This access is approximately one block from a blind curve on a busy primary north-south roadway. The entry/exit sited across from Mark Lane is planned to be the only entry/exit road to the proposed 104 unit development. If we include all three subdivisions of 266 units, this would total 1,596 car passages in and out of the one mile section between Hidden Springs Road and Barlow Street each day. Consider the following traffic impacts of this change: noise and air pollution; highway maintenance on a road increasingly stressed with truck traffic; trash along the side of the road; safety, which has already been mentioned, for children and adults crossing Willamette Drive to board city and school buses, as well as those caused by the blind curve already mentioned; an increased load for limited police and fire personnel and equipment.

The impact on our environment would include: increased underground water runoff into properties below the hillside, particularly those located on Mark Lane, since most existing mature trees will be removed from that part of the eastern slopes being graded and development for these project; the increased cost for water pumping and storage to accommodate the water pressure and general service requirements; the decreased landscape and separation between the project and residents of Mohawk Way when the proposed 20-foot access corridor is built; increased noise and air pollution, which was mentioned; as well as the loss of mature evergreens, maples, alder and spring-blooming wild cherry trees now enjoyed by all who exit Mark Lane and pass by that property.

The landscape plan seems to visually protect all three neighbors to the project, except the Woodland Oaks residents using Mark Lane. On this entry side of the property, it appears that only low level plantings are planned for that apartment so that parking spaces designed for use of residents of the lowest building located to the far northeast corner would be clearly visible from Willamette Drive and most noticeable to those exiting Mark Lane.

We urge your consideration of the impact that 266 new families would have on our presently overcrowded schools, parks, and on city services including waste and septic as well as on the water, police and fire

level at this time. It's obvious that the State has dropped us off from the proposed six-year plan, again for the second time, in favor of the new governor's transfer of funds for highway projects for economic development. That's why we were dropped from the six-year plan. These new apartment units will certainly cause the quality of life in West Linn to deteriorate. And it seems to me that the existing residents' needs should be valued more than the developer.

At the time of consideration of Hidden Springs units, OTAK came and talked with the neighborhood association. One of the things he promised the neighbors behind the units were they would not block their view. Well, I went out today, and I got a picture of one of the homes where the view is, and you can see that they did block the view. And I will give you that picture in a minute.

Anyway, as you know, the traffic pattern plan is going on again and they're talking about closing these roads off because we have too much flow onto the highway. Two of those streets in the Robinwood area are Walling Circle and, you guessed it, Cedar Oak Drive. There again, talking about taking Hidden Springs and going through the church property and going down River Road again, and cutting off Cedar Oak.

I would also like to talk about two other things. I talked with Barbara Hartfeld [phonetic] the other day with the school board, and she informed me that for the new students going into the apartments, a new school will have to be built. That would make West Linn the highest paid in the state. We're about the fourth now, but it would make us the highest paid.

And another thing that's going on right now is some of the parents from Cedar Oaks school have organized because they have 29 students coming in the classrooms, and they are demanding new teachers. The trouble is, we have no classrooms for additional teachers.

I also talked with Chief Castleman [phonetic] from the fire department, and he is very worried about the traffic situation on Highway 43.

That's it.

MR. CONSER: If I understand what you're saying, you're saying that, according Barbara Hartfeld, the development of the apartments would cause a new school to be --

MS. HORVATH: Yes, the new students coming on line would cause a new school to be built. They're fighting for new classrooms at Cedar Oak right now. But, you know, the City and the school district have been fighting about parking over at Cedar Oak, and the school district doesn't want to put in parking.

MR. CONSER: What you're actually saying is, and I'm not sure it's terribly relevant at this point, but you're saying that it would then generate the highest tax rate, not highest paid?

MS. HORVATH: Per student in the state.

MR. CONSER: Cost per student.

MS. HORVATH: Right, cost per student. We are already, by the way, \$400 per student over Lake Oswego. Higher than Lake Oswego.

MR. CONSER: Any additional questions?

MS. ZACHMAN: You mentioned something about parking?

MS. HORVATH: Parking at Cedar Oaks, yes. They need more parking at Cedar Oaks. They have a very hard time when they have any program going on, even with extra help they have over there, a lot of times developing problems for the police even to get down Cedar Oak Drive.

MR. CONSER: Any additional questions for Ms. Horvath?

MS. HORVATH: I will give you the picture.

MR. CONSER: Yes, please. We'll mark it as Exhibit H.

Might I ask what the address of that house was?

MS. HORVATH: I don't know. I didn't take the address off of it. It's right behind the units that are just opening.

MR. CONSER: Theodore Kyle?

MR. KYLE: I'll speak about the Randall apartments.

MR. CONSER: Randall apartments, okay.

At this point, I have no more testimony that I am aware of on the Mark Lane development for number one.

Mr. Beaver, did you intend to speak towards number two at all?

MR. BEAVER: No.

MR. CONSER: Mr. McKay?

MR. McKAY: No.

MR. CONSER: Mrs. McKay?

MRS. McKAY: No.

MR. CONSER: Mr. Hayes?

MR. HAYES: No, thank you.

MR. CONSER: Mr. Jones?

MR. JONES: No.

MR. CONSER: Ms. Bleyhl?

MS. BLEYHL: No, thank you.

MR. CONSER: Mr. Anderson?

MR. ANDERSON: No.

MR. CONSER: Ms. Hanthorn?

MS. HANTHORN: No.

MR. CONSER: Mr. Kirchem?

MR. KIRCHEM: No.

MR. CONSER: Ms. Spielman?

MS. SPEILMAN: No.

MR. CONSER: And Marie?

MS. HORVATH: No.

MR. CONSER: I need to keep my paperwork in order here.

If there's no more testimony against or in favor or at this point neutral, I'd like to ask for the staff report. Maybe we can get an answer to some of these questions.

MR. SPIR: As I mentioned, there are a few areas to go over on the planned unit development approval criteria. Essentially, any development that has over 25 percent of the site in slopes and in excess of 25 percent has to be reviewed under the conditions of the planned unit development. In this case, we had those steep slopes on the west-hand side which, again, is part of the PUD. We see the density that would have been allowed on those steep slope areas being transferred down over onto the eastern side of the development, plus moving over on the eastern portion.

The applicant requested a density bonus for design excellence. The staff recommended in support of that request. The basis for that is contained in the staff report. The applicant also requested a bonus for energy conservation; however, we didn't feel that was justified. Again, the basis for that decision are recommendations included in the staff report.

Chapter 46 had to be reviewed. That deals with off-street parking and loading. The applicant is providing approximately 186 parking stalls, which exceeds the requirement. Access to the site is via the driveway opposite Mark Lane. The entryway will be widened 20 feet to accommodate the turn radius of emergency vehicles. This is traffic coming off of Highway 43, we're talking about now. Traffic leaving from the site onto Highway 43 will be two lanes. One will be a left-turn lane 15 feet wide. Another lane will be also 15 feet wide. Another lane will be also 15 feet wide, and that will be for southbound traffic.

Interior roads will be adequate to provide for emergency vehicle turnouts and the like. The single access point was considered acceptable given trip generation and the findings of the traffic study commissioned by the applicant and the desire by the City of West Linn to consolidate points of access onto Highway 43 according to transportation access management study of 1987 and the design concept for Highway 43 which was adopted this year. The access point will be at the intersection of Mark Lane. There will be left-turn refuges accommodating turn movements off Highway 43 into the site. This will take traffic out of the normal travel lanes. They will have that refuge, and we won't have those problems about traffic pulling onto the bike lanes to get around left-turning vehicles. Similarly, traffic coming down Highway 43 wishing to access Mark Lane, they will also have a left-turn refuge to take advantage. And so you can see this is of benefit.

Also consistent with the design concept and the transportation access management study, staff was recommending that the developer provide for one lane northbound, one lane southbound, and there would be a left-turn refuge, of course. There will be two bike lanes, curbing and a sidewalk on the left side of Highway 43. So you can see that, for example, pedestrian traffic in this area will be improved -- or safety for pedestrians in this area will be improved by the provision of that sidewalk. We will have an improved bike lane as well.

The design PUD requirements require buffering between the uses. As the applicant stated, there will be a landscaped berme on the north side, perhaps protected through either dedication of an easement 20 to 35 feet wide and will include a fence and vegetation. The entryway/driveway provides a buffer to the south and over here [indicating on the map] it is considered an acceptable buffer between the two properties. Units in the south portion of the site will be screened by landscaping, which you can see there. All parking will be behind the apartments, particularly these ones over there [indicating]. There was concern that some of the glare and the noise and so forth would be impacting the adjacent properties. There is a house here, and you can see the advantage of having the units between the parking area and the adjacent housing.

Let's move along to the variance request. One of the requirements of the planned unit development is that there be an effective transition between uses. Here we have single-family residential and here we have multi-family. There is a requirement that there be some kind of a buffer, again, a transition between these two uses. We might see, as a solution, bringing this road through here [indicating] and moving these

apartments back up the hillside. But if we were to do that, we would run into the problem of inadequate water pressure to serve the third-story apartment units. So, that's variance that we're requesting in allowing these units to be left a little further down on the hillside to get an adequate water pressure, and at the same time, we think it's kind of a more positive buffering between the parking area and these -- or the single-family residential down here.

I'll just run over the approval criteria for that variance. The exceptional and extraordinary circumstances which apply to the property which make that 100 foot setback, which I was referring to, possible is the steep terrain, which makes water services to the higher floors impossible if they were set further back up the hill. The authorization of the variance will not be materially detrimental to the purpose of the Code. Indeed, this configuration is, from the standpoint of design and esthetics, far superior to the alternative, which of course is impractical, since it would not provide adequate water pressure in that location for the higher units. The hardship does arise from a violation of the Code. Rather, there is that steeply sloped site which restricts normal permitted use of the land due to problems created by inadequate water pressure at that elevation.

Those are the main points of the staff report. I'll go onto the recommendation that staff does recommend approval of that PUD, the design variance, based on the stated findings included in the staff report, and with the conditions included in the staff report, if I could run over them.

The first condition of approval would be that Highway 43 shall be approved to provide one bike lane, one northbound lane, one left-turn refuge, one southbound lane, one bike lane, and we'll have curbing and then also sidewalk on the west-hand side of Highway 43. These improvements should be approved by the City Engineer.

Second condition would be that an on- and off-site storm drainage system shall be designed and constructed to handle ten-year storm and shall be approved by the City Engineer.

The open space area north of the property shall be dedicated -- Oh, I'm referring again to the west side of the property shall be dedicated to the City. Access to the open space shall be provided along the north boundary landscaped area to the satisfaction of the City Parks Supervisor. This buffer shall be 35 feet wide, landscaped and, again, dedicated to the City, and a fence will be built along that north property boundary.

The apartment facilities, parking, driveways, and off-site improvements shall be constructed and landscaped to conform with plans submitted in this application.

The fifth condition would be that all water and sanitary sewer lines shall be planned and installed with the City Engineer.

The sixth condition would be that construction shall only occur between 7:00 a.m. and 6:00 p.m. It shall not occur on Saturdays, Sundays, nor on statutory holidays. All dust generated during the construction phase shall be mitigated by water spray trucks. The lighting plan shall not produce off-site glare, and that plan shall be reviewed by the Planning Director.

The ninth condition is the proposal shall receive a density bonus for site plan and design excellence, but shall not receive a bonus for energy conservation.

I could answer some of the questions that were brought up by members of the public, if you would like me to at this time.

MR. CONSER: Okay. Before you do, maybe I would like to take a pass through the Commission and see if they have any questions on the testimony at this point.

MR. HART: On page 5, under buffering between uses, along that north boundary, the site shall be buffered by a landscaped berme plus thick off-site vegetation. Off-site vegetation is the backyards of --

MR. SPIR: Correct, that is.

MR. HART: -- the lots along --

MR. SPIR: And you should be aware of the fact that that staff report was prepared before the applicant was able to meet with members of the public and hammer out agreements and concessions on the width going perhaps 35 feet along that north boundary.

MR. HART: On the same line, Condition No. 3, did you just happen to add something about the fence as you were reading that?

MR. SPIR: Right.

MR. HART: Back again on page 7, under variance, the second paragraph in the middle, it refers to extensive landscaping between apartments and the residences. Can you give me a better description of what kind of extensive landscaping is proposed?

MR. SPIR: There is a landscaping plan, but it's in this area here [indicating], the landscaping here. The Code would allow us to provide a transition from this house and these apartments in the form of a road. For some reason they have the idea that a road is an effective transition or buffer. Our intention is that these people here would probably much prefer to have this type of landscaping to look at backed up by the apartments, rather than have a driveway through here and all the glare and noise that would come along with it. Now, from a design standpoint, it really didn't make much sense to go with that type of a transition, using that road as a transition.

MR. HART: I understand that. I was referring just to what "extensive" landscaping meant. That didn't refer to anything off site.

MR. SPIR: No. We are just talking about the varieties that were going through here. I don't have the landscape plan to refer to, but it seemed to be rather generous. In comparing any kind of landscaping with the harshness of a driveway, I felt it was a lot more preferable in the alternative to a driveway as a buffer.

MR. HART: No other questions.

MR. CONSER: In this variance request which you're referencing to single-family units, it would be essentially northeast of that project, the dogleg down there. What impact or how does that variance apply to the properties along White Cloud?

MR. SPIR: The variance only applies to these units along here. No other units. They are seeking a variance from setback requirement of 100 feet that is supposed to allow for a transition between these units and this property here [indicating]. So it doesn't apply to here.

MR. CONSER: Why isn't the north side there impacted since those units --

MR. SPIR: They are already -- They are not required to go with the PUD.

MR. CONSER: Oh, they're R-2.1.

MR. SPIR: Right.

And so, for example, there's an effective buffer transition, according to the Code, here in the form of that road, and along here it is not required to have type of a transition. But I think in terms of the design review, that's why the applicant has agreed to that broader buffer, the 35-foot buffer.

MR. CONSER: To increase the buffering.

MR. SPIR: Right.

But, you know, it is possible perhaps to have squeezed some type of road through, but it really didn't seem to make much sense, just worsening the situation. I didn't see that as a positive transition.

MR. CONSER: Could you explain to me -- I recognize that the City is set up with a series of zones that are served by the various water storage facilities. And we certainly have knowledge that there's a problem on the top of the hill. There's no storage for the water pressure. There's been statements that there's roughly 80 to 100 pounds in this general area, yet you're saying that there would be inadequate water pressure on the third-story, if these units were flip-flopped.

MR. SPIR: If we were to move these units back up the hill to this vicinity, let's say at about a 380 foot elevation for the ground floor, the third floor units would be pushing probably over 410, 420 feet in elevation. There was concern that we wouldn't have pressure at that elevation.

MR. CONSER: It would then pass to the next water zone, which is not possible; correct?

MR. SPIR: There was a problem, that was my understanding.

MR. CONSER: Do you want to expand on that a little bit?

MR. MONTGOMERY: We would be approaching the top of that service zone at 340 feet, and we would be making the situation worse by the fact that the upper floors of the units at the top of hill would be the most affected, plus the fact that it would push the recreation hall up the hill, plus the fact that we are going to have to fight some fires in there, so we're pushing our fire fighting up the hill. In order to service that area, we would have to come down from up on the hill with a full fire line all the way down to the open space and catch the whole top of this subdivision with this water service, which would be very possibly for the City to have to maintain, and it would not be a very feasible system.

MR. CONSER: Okay. Any other questions of Peter at this time?

MR. TRYON: I have a couple real simple ones.

On page two of the staff report, under the findings, the very first paragraph says, section 24070B1 states that any development site of this type 1 and type 2 land shall be developed into a PUD. In the second paragraph it says that PUD affects only the portion of the site they're on. That's only the R-10 site. Would you clarify that? I don't quite understand.

MR. SPIR: They requested the PUD to apply to this area here and this area here [indicating] so that the density that would be allowed in this steeply sloped area could be transferred. So, for example, if it was seven acres, and they would be allowed 28 single-family units ordinarily under the R-10 zoning; going to the PUD, you would then develop 28 multi-family units and distribute them for placement down here. That's the way this PUD system is working, and just left this area under the R-2.1, and it's not affected by the planned unit development.

MR. TRYON: So it's the area west of the site is all R-10?

MR. SPIR: Correct.

MR. TRYON: I guess the second related question is: Could you spell out once more for us, I know it was discussed earlier by the applicant, what the allowed densities are in each of the two sites, the R-10 and the R-2.1? What the allowed densities are and what this development proposes?

MR. SPIR: Well, the allowed density in the R-10 is 10,000 square feet.

MR. TRYON: In terms of number of units.

MR. SPIR: Yeah, four-point-something units per acre. And then the R-2.1, 2100 square feet. That's 20 units or more per acre. And in going through the computations of this allowable density, there was agreement between what the applicant came up with in their figures and staff's figures. But I didn't commit them to memory to cite at this time. But we did go over their computations.

MR. TRYON: I guess the applicant's rebuttal might address that specific question. The number of units for each of the two sites being proposed.

MR. SPIR: The total number of units in this area is not met. Under this proposal, it's not any greater than the total number of units that are going to be allowed under the R-10 zone. Just instead of having single-family homes, we're going to multi-family. Just redistributing them on site.

MR. CONSER: Okay, any additional questions of staff at this time?

If you would like to go through with what notes you took and address the concerns?

MR. SPIR: Well, they're rather brief. The question was raised, why West Linn would want to have any multi-family housing. It is my understanding that part of Oregon State planning law requires that a range of a mix of housing types be offered. In the Comprehensive Plan process and the development of the Development Code, in over a hundred public meetings and hearings before adoption of those documents, and through that process these sites were designated for multi-family housing. I think the applicant is simply exercising his right to develop at those sites.

MR. TRYON: Not both sites.

MR. SPIR: Pardon?

MR. TRYON: Not both sites.

MR. SPIR: Not both?

MR. TRYON: Just the R-2.1 site.

MR. SPIR: Well, both sites --

MR. TRYON: No, I'm talking about the Mark Lane site. Just one section there was designated as multi --

MR. SPIR: Correct. Right. But I was just speaking to perhaps the broader question of any multi-family unit. We can't exclude that. Just as we cannot exclude manufactured homes from the community. We have to make some provision for that housing type.

MS. SPIELMAN: Mr. Conser, is it possible for the audience to ask a question at this part of the hearing?

MR. CONSER: Normally, no. Normally, we try not to do that, if that's all right. We're going to try to go through and answer -- let staff answer questions. We've been taking extensive notes, and we will be asking questions of both staff and the applicant relative to the questions that were made. But in order to keep a reasonable sense of order, we'd rather not have to field questions after testimony, if possible.

MR. SPIR: The only other comment -- someone raised the high accident rate per thousand miles driven and that figure. I just want to

emphasize the fact that the Department of transportation has been involved in this process from the beginning. The fellow who works for the Department of Transportation in this region has been to a number of meetings, and it was his opinion at those meetings that these projects did not warrant -- in the trips that would be generated -- would not warrant anything beyond these improvements that have been submitted by the applicant, the left-turn refuges and the like. The improvements in the order of the signals and additional lanes, he didn't feel that that was required. So, I'm not saying that we may have some exorbitant statistics, but his grasp of those statistics didn't encourage the need for any additional improvements.

That was about it. I didn't have any other comments to make.

MR. TRYON: Are you familiar with the Exhibit E, which is the letter from the Greseths, I think is the name, where they talk about traffic impact of this particular site. Some of the statistics were included in the petition that was read tonight. Can you comment on how this compares with what the numbers of the traffic analysis and the traffic data were from the applicant. Is there contrast between these numbers or are those essentially in agreement with each other?

MR. SPIR: Did you get a chance to look at that?

MR. MONTGOMERY: We find them to be substantially in conformance with each other.

MR. CONSER: Based on the master plan, which we are in the process of approving, or have approved for Highway 43, are these improvements, improvements that --

MR. MONTGOMERY: I could go through a long list. I think I can answer most of those questions, if Peter's done -- If you would like me to at this time.

MR. CONSER: We can call you up here or if you want to speak from there, that would be fine.

MR. MONTGOMERY: I'm here to discuss and to comment on the questions of traffic, of the water pressure, of the drainage, and the accidents.

MR. CONSER: Jim, would you like to introduce yourself for the record.

MR. MONTGOMERY: Jim Montgomery, City of West Linn Engineering Department.

The applicant has been asked by staff to follow the Code on this application, and that Code calls for mitigation of impacts. What I am concerned with is the impacts on our water system, sanitary sewers, storm drainage, and traffic. The data that we have and the studies that we have are all available, and the applicant has looked into each one, and he has tried to align this project with every code that the City staff has to offer. We have a water system master plan. We have a storm system master plan. We have a traffic plan.

The water is the first thing I'd like to speak to. The most important thing, of course, is the service to the whole City, this homeowner region. The waterline that's in Highway 43 is an 18-inch waterline. It was tested here just recently and had 100 pounds of pressure at the highway. That does not say that the pressure is not a problem in some of the homes in the area. It doesn't say that there aren't pressure problems in the area. But all the waterlines in this area are up to Code. They're all about six inches or better. But the City staff would certainly like to entertain any of the taxpayers in the area who feel that they have a water problem. We would like to hear about that, and we would then go out and test their pressure at the hose outside of the house and see if we could identify any problems.

The applicant has met that need. There are no oversizing requirement on the water system. Obviously, as he goes up the hill with the -- the applicant's proposal -- as it goes up the hill, he's going to lose water pressure, and that's the reason we asked him not to move any further up the hill. There is a pressure reducing station at Mark Lane and Highway 43 which would require that the first three or four homes on Mark Lane might experience a lack of water pressure. We would be willing to try to adjust that pressure reducing station. We're probably reducing the pressure by 50 pounds at the test station, if it didn't affect the neighbors on down Mark Lane or at the lower elevation.

The storm drainage issue is the same situation. The applicant is required to mitigate and take care of any impacts he has on the storm drainage. The applicant is getting drainage from up on the hill. He's accepting it into this development. He's putting it across Highway 43 and out into the park. He's going to put in a new crossing under Highway 43 as per the master plan, and he is going to pick up every bit of water in his development and put it into the system and mitigate the impacts that it has on the park and on the downstream users.

The fact that there is a lot of underground water in the City is not something the application can do anything about. He has to take care of his impacts. There's still going to be underground water all over the City, and Mark Lane and Mohawk Lane are good examples of this. But this applicant cannot impact those things adversely.

The traffic issue is one that the State Highway Department has wrestled with -- weakly, I might add. The City staff, at the direction of City Council is pursuing everything we can to help mitigate traffic problems on Highway 43 and other parts of the City. The level of service is less than what we would like to see; however, the State Highway Department in their speaking to the taxpayers and in the conversations with us certainly give us lip service as to the problem. But when we go and compete up against the other urban highways, our accident ratio isn't good enough. We don't have enough accidents for the State Highway Department. We don't have enough traffic for the State Highway Department. We cannot get on the six-year highway plan. Pemlico is on the highway plan, Jolie Point is on the highway plan -- all for this very application you see right here: all for turn lanes, all to bring the level of service up. And I think they're all at about 1994 right now, before we'll ever see it, if we see it then.

So they might say that our accident rate is higher. They might tell us that our traffic is bad, but they won't do anything about it. So, the City staff has to look at it and do the best we can. Now, the traffic plan that Peter spoke to asks for two lanes southbound for the full length of Highway 43, one lane northbound. With turning refuges at certain intersections. It does not call for a turning refuge at Highway 43, Mark Lane; that's according to the traffic plan that's been accepted by the City Council and was done by the County. This application would put that turning refuge in at Mark Lane; whereas, otherwise we would not see one there.

So, they are going to mitigate many of the traffic problems, but they are not going to solve the existing problems. They are going to certainly improve some of them, however. They are going to improve the highway width, the half street in front of their development to 30 to 33 feet, which meets our transportation plan. And they are also going to add tapers all the way down several hundred feet each direction almost to the point of giving enough room for a left-turn refuge at Mohawk. So they are being asked to mitigate, and they are being asked to take care of every problem that our codes call for in these areas.

I would like to go through for a moment and check some of the comments to see if I have covered everything.

One comment was the ice on the highway and the accidents. It's the staff's belief that this application will indeed help to remedy that ice problem. Currently the State Highway Department cannot keep the drainage water off the highway, and it ices up causing traffic problems and some

serious accidents. This application will certainly keep the water off the highway. And it will, if not solve that problem, it would certainly reduce it.

There was a comment about a blind curve. In order for this site -- This particular access to Mark Lane meets all the state highway sight distance requirements. This application also has been approved by Lee Gunderson [phonetic] of the ODOT. It meets all the codes for Oregon State Highway Department.

There was one note about the Cedar Oak access to Highway 43. It is not the intention of the traffic plan to cut off Cedar Oak and to connect that particular street up to Hidden Springs. That has been withdrawn from the plan as of the 1987 amendment.

That's all I have.

MR. CONSER: Any questions of staff at this time?

MR. TRYON: Is the traffic analysis of level of service, is that centered just on the traffic that abutts and accesses the property, or is that an analysis that's done up the highway, down the highway, from the impact of the development?

MR. MONTGOMERY: The level of service on the highway is somewhat independent of the level of service at intersections. Obviously, the level of service on the highway -- If there's no intersections, then there's really no problem, in a sense. Because there's no forces of traffic against other forces of traffic.

MR. TRYON: I guess I'm saying: Does that impact intersections up the road and down the road from this site, just by the initial cars that are being put on the highway from this site?

MR. MONTGOMERY: There will not be sufficient cars added to the system to pump it up to a level that the State Highway would recognize.

MR. TRYON: There would be no change in level of service at any point along the highway resulting from this development?

MR. MONTGOMERY: There would be change, but it would not be severe enough to impact the State Highway Department's assessment. The State Highway Department has a difference in opinion as to how many vehicles per hour are acceptable. I think their numbers are somewhere around 1100 vehicles per hour, and our study is 700 vehicles per hour.

MR. TRYON: When you say there would be a change, but not enough to impress the State, what kind of change are we talking about? Will there be change in the level from D to E, or from E to F, anywhere along the highway that you know of?

MR. MONTGOMERY: The traffic study that was done by the County took into account all the of the land uses in the City, all the trip generations from those. They assume this would be a 2.1. They assumed it would be multi-family. Their plan does not differ significantly from any other highway plan that's been done for the City. Staff concludes that there would not be a significant effect to bump it to another level.

MR. CONSER: To qualify that question, if I might, levels are based on delay time; is that correct?

MR. MONTGOMERY: That's right.

MR. CONSER: So what you're saying specifically is, looking at Highway 43 independent of any side roads, if it's at level -- just as an example, we'll say level C, and I have no idea specifically which it is -- but we'll say it's at level C at 700 and some units. That means that delay times for vehicles travelling north and south is at a certain level of delay; that's been the bench mark. This particular development adding its vehicle traffic would not change that level of flow on Highway 43?

MR. MONTGOMERY: That's correct.

MR. CONSER: It would not bump it to the next level?

MR. MONTGOMERY: Right.

MR. CONSER: The cross traffic in this case, Mark Lane, would be at a level B, which constitutes a time delay, would not be impacted -- maybe the impact would be at least neutralized because of the left-turn issue?

MR. MONTGOMERY: The impact of the additional vehicles coming into the highway opposite Mark Lane would be substantially offset by the fact that the left-turn refuges are added.

MR. CONSER: So that's the point that they're making between the no impact on Highway 43 and no impact on Mark Lane.

You mentioned that there may be substantial pavement to make a left turn into White Cloud.

MR. MONTGOMERY: The taper to the north of this project will have to merge, if you will, into the left-turn refuges for the Mary S. Young Park. So, when it gets to Mohawk, there's still a significant painted median.

MR. CONSER: I was looking at a study, and I show Pemlico still on the books for '89, '90, about three weeks ago. Is that something that's already outdated again?

MR. MONTGOMERY: I'm afraid to look, because every time I look, it gets bumped about three more years.

MR. CONSER: Any other questions?

MS. ZACHMAN: On the traffic impact, you say it will not impact. Is that based on the numbers that were given by the people that work in the development end, or is that based on the numbers that we got from some other source, or does it make any difference?

MR. MONTGOMERY: Well, this whole process has an impact on everything, so there's an impact; but when you're going from 700 vehicle trips per hour per lane, and you're trying to go to 1100 vehicle trips per hour per lane at peak hours, it's a tremendous impact to -- a tremendous increase in vehicles to make that kind of impact. There are reasons why traffic backs up where it does. There are reasons why it reacts the way it does. A good reason why there's so much traffic at Cedar Road and Hidden Springs is because there's two signals so close together.

MS. ZACHMAN: I guess the question I have is where they got their numbers for trips in and out when they've got 102 units, but they only show 40 people going to work and 10 coming back.

MR. CONSER: Just to help you out, just briefly, that is per hour, assuming that not everybody goes out at 7:00; 502 don't leave at 7:00.

MS. ZACHMAN: That's where I was confused.

MR. MONTGOMERY: That's per hour.

MS. ZACHMAN: The other question I had was on the drainage. You had mentioned that the drainage was going to go under 43 into Mary S. Young Park. Is there a natural drainageway through Mary S. Young that it's going to go to, or is it just going to go into a --

MR. MONTGOMERY: No, it will have to be kept in a channel.

MS. ZACHMAN: Okay, but there is an existing channel there that could handle that amount?

MR. MONTGOMERY: There is an existing channel. I don't know if it will handle it, yet. But we'll have to do something about it. There's also an existing channel that runs down behind or to the north of the properties on Mark Lane. That particular channel is not the same channel that comes over from Pemlico and runs down those back properties.

MR. CONSER: By that, you're saying that this particular property -- by redirecting the water off this particular piece of property to the channel that runs down parallel to the highway and down to Mary S. Young, it would not impact, it might improve?

MR. MONTGOMERY: I don't think you're going to see any effect on groundwater from one side of the highway to the other. All of this groundwater works together, however. And so, while it may seem plausible, it's difficult to trace where groundwater comes from.

MR. CONSER: Has there been any studies or is there any concerns about hillside saturation, which we have identified in other portions along the hill?

MR. MONTGOMERY: I think the applicant has a soil study available. That's something they would have to pursue as far as their building permit.

MR. CONSER: For permit purposes, okay.

What is the sight distance for the state highway there? Is it three 300 feet?

MR. MONTGOMERY: I think it's 300 or 350 feet right in that area.

MR. CONSER: Any other questions at this time? Joe, you had some.

MR. HART: Are there any proposals for fire hydrants on site?

MR. MONTGOMERY: Yes. There will be a separate fire line that will run under the site, separated from the water service line. They will both come out at 18 inches at the highway.

MR. TRYON: If the buildings in the R-10 zone were back farther up the hill, would it cause water pressure problems just on the third story?

MR. MONTGOMERY: No. Essentially that 340 mark is at the parking lot right now. The problems would be with the third floor; but in fact, depending upon what the final grading is, it could impact more floors than that, and it would certainly impact the recreation hall, and it would possibly affect the fire flow in that area. The fire flow would be right at the T, right at the intersection of the hydrant.

MR. TRYON: The alternative would be to run a line down from above?

MR. MONTGOMERY: It would have to be a line capable of fighting fires brought down from above.

MR. CONSER: So when you're saying under Condition 5, all water and sanitary sewer lines shall be planned with the approval of the City Engineer, if they do not meet water pressure standards, then they would have to go back to the drawing board; is that correct?

MR. MONTGOMERY: That's correct.

MR. CONSER: Any other questions at this time?

I've got a series of questions that have come up, and I'm going to run through them as quickly as possible. If you want to go ahead and go back to your desk, and you can field these at will. Anything you can't field and you want to default to the applicant, feel free.

MR. MONTGOMERY: All right.

MR. CONSER: My first concern is road improvements. Does the State and the applicant and the staff agree with the road improvements as far as centerline and centerline adjustment?

MR. SPIR: Right.

MR. CONSER: That concurred with?

MR. SPIR: Correct.

MR. CONSER: So you get the same combinations of pavement widths, curbs, sidewalks in addition and just will be centered at a different point.

MR. SPIR: Yeah. I think that was something Lee Gunderson was enthusiastic about as well.

MR. CONSER: Water pressure of 80 to 100, I think that's been addressed. Was there ever any intent on this parkway that this additional property be dedicated for open space for the City to develop that into a passive or walk-through type of park area or transfer of land?

MR. SPIR: I think it was always -- It was never the intent to do anything more than a passive recreation area just as some type of a linkage. But talking to the Parks Supervisor, they just thought that it would be irregularly used, very infrequently used and that it would be dedicated for open space and see very little use. It's main purpose would be buffering and setting aside natural areas of open space.

MR. CONSER: Greenways.

MR. SPIR: Right.

MR. CONSER: Do you have a feeling one way or the other from the staff's point of view as to where that fence along the north property line should be going, keeping in mind that if that 20-foot section is dedicated to the City, who then maintains it? If the fence goes on the -- Well, I guess what I'm really going back to is, when we require a multi-family commercial development, that they provide us a landscaping plan, that landscaping plan comes with a maintenance contract, in effect to maintain and provide buffering. When there is a natural area in there, who maintains and provides that? And if it falls to the City, does the City then pick up the liability?

MR. SPIR: I think whichever one you go with, an easement or a dedication, there's a little uncertainty as to who's responsible, and very often it does fall into -- or there's a lapse in maintenance.

MR. CONSER: Is that a legal question that you would prefer to have legal staff address?

MR. SPIR: Yes, they are legal questions, certainly. But also in terms of operational maintenance questions that the Parks Department may want to -- They'd just as soon probably not have anything to do with it.

MR. CONSER: The deed restrictions for the park purposes -- the statement by the applicant that there was a request that there be a deed restriction that there be just a park purpose up there; is that any problem for staff?

MR. SPIR: I think that sounds really best. I'd be uncomfortable with the dedication.

MR. CONSER: You're looking then for a 20-foot easement, access easement, with deed restrictions for development except for the park.

MR. SPIR: I don't know if we need it 20-foot wide. Are you just concerned about access through that landscaped area; is that what you're talking about?

MR. CONSER: Okay, the application recommends that this would then tie all the open space areas together, and that it would be dedicated to the City. Your comment is rather than have dedication, have an easement through that 20-foot strip, thereby making sure that somebody maintains it other than the City, which certainly has their hands full maintaining open areas.

MR. SPIR: Yeah, exactly. I think that would be the intent, and I think we would work up something with Deanne and come up with a final order that was to make sure that that was clear. As to the exact wording, I'm not comfortable doing that right now.

MR. CONSER: Are you comfortable -- well, I guess I'll recommended to Jim that the traffic study done on a Wednesday -- it makes sense to me that people take holidays on Mondays and Fridays -- you would get a more average flow; is that correct?

MR. MONTGOMERY: More average flow would be in the wintertime on a Wednesday or Tuesday or Thursday.

MR. CONSER: You pretty well addressed the water issues such as the water zone, and you'd be pushing the upper limits, and the Condition 5 addresses that concern.

The comment of what will this do for the City, by Ms. McKay, as far as -- That's a vague one. You want to address that? I realize you did somewhat to the effect that the property was zoned in such a way to begin with for multi-family, and the adjacent property was zoned for single-family.

The transfer of the total potential lots from single-family to a cluster housing as opposed to a spreading out all over that, is what you're talking about?

MR. SPIR: We really didn't get into that. That's not part of the approval criteria. We did see a positive factor associated with setting aside of seven areas for open space. That was one thing. And it seemed like a classic use of the PUD provisions that transfer, that clustering of the development in the area that it's most suited for it, and the setting aside of the areas of constraints.

MR. CONSER: Is it your understanding now that the application is for 102 units or 104?

MR. SPIR: Well, actually, my understanding that the density, the allowable density would conceivably allow 114 units, and they are proposing 104 -- or 102?

MR. CONSER: I'll ask the applicant that question.

MR. SPIR: So we don't really see too much of a problem as far as them exceeding their allowable density.

MR. CONSER: What's staff's feeling on the school issue? I recognize we've dealt with that before. We've got two governmental bodies that coordinate. We certainly had the school representation on the Comprehensive Plan as well as several other studies that we have.

MR. SPIR: A portion of the Comprehensive Plan, under the public facilities specific policies, asks that development proposals consider the impact upon school facilities. Beyond that, there isn't that much comment.

In the discussions with the various officials of the school district and when staff members have contacted other people about this issue, the response had been that it's something that they can live with.

My understanding was that the price structure of these units is relatively high, and it would generally exclude a lot of the people who would be having school-aged children. So, judging from the price

structure and the comments we've received, we didn't anticipate there would be any problem. We didn't think that a family of two with two children would be moving into a single bedroom apartment at \$700 a unit.

MR. TRYON: Did you say that the Comprehensive Plan requires that there be consideration of the impact on schools?

MR. SPIR: Essentially all development proposals must consider the impact; but it's a relatively broad policy.

MR. CONSER: When we put the Comprehensive Plan together in '83, there was representation from the school district and acknowledgement -- and they were simply to provide acknowledgement that the only way that the City would meet its obligations of 8 units per acre throughout the city, at least the opportunity to develop at that level, and to refine that we provided that opportunity. They had input at that so that they could meet that density level, for their anticipated school level at that density; is that correct?

MR. SPIR: I'm not familiar with those discussions at all.

MR. CONSER: There's been some concern about the bus stop and how that will be dealt with. Pardon me, I had that down for the applicant. I'm sorry.

Any idea of extending turn lanes is not a practical point at this time because it's a state-controlled highway?

MR. MONTGOMERY: Well, it's certainly a practical application. However, it's a question of impacts that the applicant's putting on the highway. We'd certainly like him to go down and widen Pemlico, if they had the time.

MR. CONSER: All right.

What about the idea of putting a striped crosswalk at Mark Lane? Is that anything that would be identified?

MR. MONTGOMERY: Oregon Department of Transportation would not allow a crosswalk where there's not a light.

MR. CONSER: Okay, it becomes a liability, then. Well, I tried.

Okay, what level of -- There was some testimony that Mohawk was already at a level E in a previous study, and it has moved up toward a level G. I believe there's only a level F, and after level F, we fall off the end of the earth. What level is Mohawk identified at today?

MR. MONTGOMERY: Mohawk doesn't have a level designation in the latest study because it is not a collector or better. Typically, the Mohawk designated street -- That typical street, the level of service is not going to be dependent upon Mohawk. There's only so many houses in there. There hasn't been any more put in. So the level of service would be dependent upon the highway, how much traffic's on the highway.

MR. CONSER: I've run out of questions. Any other questions of staff at this time?

Would the applicant like to come forward to give rebuttal.

[A ten minutes break was then taken.]

MR. CONSER: I would like to call back to order the Planning Commission meeting, if I could, please.

MR. HAMMAN: This is Tom Hamman, again. Many of the questions that we took notes on were answered by staff. So rather than repeat, we felt that we would let the staff's answers hold, unless you had further questions of us.

There were some questions we knew that would come up about density, and Steve Routon will speak to that. There's some additional information about schools that Mr. Routon can address as well. The water conditions and the drainage, we believe that staff answered that, and we didn't feel we could offer any significant additional information.

A couple traffic issues and pedestrian crossings; we'll have Mojie speak to them.

I'd like to make a couple of quick comments on some of the things that you spoke about. At the end, you discussed maintenance of the park and the issue of that. I'd like to reiterate that the neighbors asked that that strip in particular be left as a natural area with the existing natural vegetation. So, in effect, there would be little or no maintenance required in that area.

Also, the issue of whether or not -- I'm not sure whether you were speaking of the entire park area, or just the strip, and whether or not that would be a dedication or an easement. But the dedication of the park was part of our application and that we requested as part of the application a density bonus to be given to us. Now, in terms of that, the ordinance requirements, we discussed this with the Planning Director, Mike Butts, and an easement does not suffice for that. It needs to be a dedication.

MR. CONSER: If I could clarify that, the dedication of the park area as a natural area will take care of itself over the years. There's no questions about that. Whatever happens can happen to a large enough area that the initial impact won't be that great. The 20-foot buffer zone between the existing residents and the development, if it were to be left natural, obviously, if everything died out, for whatever reason, that's natural and that's the chance you take. There's no question about that.

Whereas the landscaped controlled area, if the property falls down or whatever, then the maintenance will be the responsibility of the applicant or the responsibility of the property owner, and can that be enforced. That was my concern. Whereas, if it was natural, the difficulty is not to enforce. What happens, happens. And I was concerned about that. So that's where I was coming from on that issue.

If that clarifies it -- It may not help, but it might clarify it. There's no question about the dedication of the park. I recognize that. The maintenance is nonexistent. It's that buffer between the White Cloud property and your property which is my greatest concern.

MR. HAMMAN: My only other comment was -- I'd like to make a comment in terms of the use of the R-10 zone. Some of the questions that Mr. Tryon has been posing -- I'd just like to point out that obviously whether it was multiple family or single family, the density would end up being about the same, or somewhat less, because we are building somewhat fewer by not building up on the hill. With this plan, there is the advantage of consolidating the construction down in the one side, which obviously maintains open space and less development of the site and the R-2 generating the park area.

MR. CONSER: Any additional questions of the applicant?

Hopefully, a comment earlier -- One of the questions was: Why 40 vehicles coming out of the project per hour? And, of course, I later addressed that to Debbie that we're looking per hour; granted that all the hundred and whatever people are going to come in and out of there once or twice or three times a day, but not all at the same time.

MR. HAMMAN: That's right. Mojie explained that to me a little bit earlier today, as well, that it is per hour. I didn't understand it either when the neighbors asked me. You've got over a 100 people; it didn't seem right. And it is because it's on an hourly basis, and it's also based on ITE standards which are used, and it comes from them. It's

not something the engineers make up. It's an overall standard used for all projects of this type.

MR. CONSER: Mr. Hayes commented that we were looking at 102 apartments. That was a concern of his. Are we talking 102 or 104?

MR. HAMMAN: I'm afraid Mr. Routon will have to answer that. We've been switching around, and he's been dealing with that particular question better than I, and all the density issues in our conversations with the neighbors.

MR. CONSER: I'm going to forget one of these if you guys keep passing this off.

MR. HAMMAN: It's even got me confused. I think it's 102, but I'm not positive today.

MR. CONSER: The bus stop. Do you want to try and tackle that one.

MR. HAMMAN: Well, I'll comment. Mojie can say more. But, basically, the State Highway Department does not want a crossing unless there is a signal, so we cannot put an additional crossing there. There is a bus stop on both sides of the Highway right now, and that would remain.

MR. CONSER: Did the State require a bus turnout on that?

MR. HAMMAN: No they did not.

MR. CONSER: I'm not going to ask you to address the tax issue. Obviously, it's going to pay more taxes than what it paid setting there as forest.

MR. HAMMAN: I would comment that in terms of the highway, it has been reviewed independently by our office with ODOT, as well as in several meetings with ODOT and the City of West Linn. It's been reviewed by the various departments in the City of West Linn. We've had our traffic engineer do a traffic analysis and traffic report, and the civil engineers have done the design of the improvements.

We feel like we have done a good job in doing the research and the evaluation and design of the project. We also actually went on the site and surveyed all of the conditions out there to make sure that all of the improvements would fit. So all of those physical conditions have been covered, as well as the safety issues. To the best of our knowledge we have met all the ordinances, all the requirements, and everything that everybody has asked us to do. We feel like we have done the best we can under the circumstances and taken care of the issues in front of our site, and we will be improving the conditions by providing a left-turn lane for Mark Lane, as well as to our site.

MS. ZACHMAN: On the traffic issue, when you took a look at that -- Now, you put in the Hidden Springs development; is that correct?

MR. HAMMAN: Our office did do that. I was not involved in that particular development.

MS. ZACHMAN: But your office did handle that?

MR. HAMMAN: Yes.

MS. ZACHMAN: Did they look at the traffic patterns for each of the three sites separately, or did they take into consideration all three site together?

MR. HAMMAN: In this current report? The current report did not take into account the other project, which was already under construction before these two started. As I recall, the first couple pages of the traffic report said that it takes into account the second site. I don't have it right here, but if you have it in front of you, you might check

the first couple pages. I believe it does say that it takes into account the second site in the proposal.

On the West Linn 1 site, on the third page in, page 1 in the introduction, it says -- There's list of items down here, and the third one down: in establishing the project and discussing the development with ODOT, a number of steps were identified to complete the study. These items included accounting for projected traffic for this development, 102 units, and the proposed Randall Street apartments, 70 units.

MS. ZACHMAN: There was a question that was brought up one on the exhibits, and that's right.

MR. HAMMAN: Yes.

MR CONSER: Any additional questions at this time?

The dedication along Highway 43, I recognize you have sight distance requirements, but there's been a question about the vegetation along 43 as viewed essentially by the Mark Lane and the highway people, low level vegetation.

MR. HAMMAN: Yes, that's right. I did take some notes on that. The person was concerned about seeing the building from Mark Lane, and in actuality, we didn't have the site surveyed. The staff agreed that we could present without the full survey and use the area topo, and we weren't sure the trees -- These trees [indicating] are existing trees, and we would plan on saving those trees. Now, of course, trees would be the buffer from this direction as well. But, really, the buildings will be seen from the highway and from Mark Lane. The bottom floor will be five to ten feet higher than the highway. So, it's not like you can look right in it; it will be up a ways. And then there will be the trees and there will be -- We will obviously put some more vegetation down below it. But there are some views. We would prefer to have some of the views and not completely cover it up with vegetation so that you can't see the building.

MR. CONSER: Any of the other gentlemen want to address a couple of the questions that we had?

MR. HAMMAN: Yes, I think Steve Routon will speak to some school questions and density. Then Mojie can speak to a couple of traffic issues.

MR. ROUTON: I'm Steve Routon. I believe the question was asked, regarding density, what two different districts were allowed. On the R-10 district, that is the lower of the two densities, we are actually allowed 49.99 units. We are proposing 37. On the R-2.1 district, we are allowed -- and this is discounting for the energy conservation density bonus which we were not allowed in both cases -- in the R-2.1, we would be allowed 65, actually 64.5 which is rounded off to 65 per the ordinance. We are proposing 65. So, that gives us a total of 102 units, where we could have 114.5.

MR. TRYON: And you say that those numbers do not include the energy conservation bonus?

MR. ROUTON: That's correct. That's before the energy conservation bonus.

MR. CONSER: So you're looking at 102?

MR. ROUTON: That's correct, 102 proposed units.

MR. CONSER: Okay.

MR. ROUTON: Concerning the school issue, which is a major issue tonight, as I stated earlier, I first addressed -- I contacted Sam Nutt with the school district, and he told me that in fact they would

anticipate opposition from the neighborhoods with these projects being proposed, and that in fact the school district is overcrowded and steps were being taken and had been taken to alleviate that overcrowding. Their stated policy, according to Sam Nutt, was that they did not oppose development. They understood that with developments that more children would be added to the classrooms, and that was something that was anticipated.

The neighborhood that we met with on this particular project suggested that I contact directly Dee Cox, which I did this afternoon. Dee stated also that the district was overtaxed. He asked me specifically which area these apartments were going into. I told him the Highway 43 area, and I asked him to address that area specifically. He mentioned that there were 17 additional classrooms that were being added, and in fact that was, as planned, originally that would take care of demand for the next three years.

He also said that it is likely that those 17 additional classrooms would be filled up, at least to a level of 25 children per classroom immediately, but that that was not something they could determine now. They had to wait for the enrollment figures before they could actually ascertain that.

Regardless, the classroom size will be down considerably from the 32 to 35 students that they had, I guess, in the last school year. That is the information that the superintendent gave to me today on the phone. He said that he also -- He also stated that the school district was not in a position to oppose these projects. They would expect growth figures of six percent per year. They have for the last three years, and expect that to continue.

They also expected -- and after going over the rental structure for this project, which is from \$400 to \$650 -- that at the top, there would be an additional 26 students that could be enrolled in the school district because of both of these projects, not just the one we're talking about here, but the other one we're talking about later. And that would be at the top, with the \$650 rental, he would not anticipate any kind of impact on the system at all. He felt like the growth was something that was anticipated and planned for and would be planned for.

MR. CONSER: Any additional questions?

MR. TAKALLOU: My name is Mojie Takkalou. I would like to just address the two questions on the traffic which has been raised throughout tonight. One of those, it was again, trip generation. How come we have 10 and 40? Basically, what we are having, we are using ITE Land Use Code 220. For every development that they have, apartments, stores, or anything that we have, they have done studies in the country, 267 samples in the country. What they did, they went and they find out ten percent of the traffic during the peak hour comes in and 40 percent goes out. Okay, 102 units, so ten comes in and 40 goes out. And that is the reason that we do the traffic count during the peak period.

The next question was regarding the accident rates. Basically, according to the access management -- the study which was done in 1987 -- the accident rate of the north and southbound off Mark Lane from 1983 to '85 was three accidents for each direction. That is not that many.

The other question which was raised by someone, it was that the accident rates is higher than national during 1986. When you call someone to give you accident rates, there are also some other questions that you should ask. One of those is, we don't go by the accident rates, we go by the preventable accidents. Those accidents that can be prevented. Some of the accidents -- If you are drunk, you go out and kill someone, that is your fault no matter what we do. That 1.3 accidents per million, you have to look at much more closely and see how that data was derived.

In my opinion, Highway 43, it was a country road. Later on it was converted to state highway. There are very poor accesses at some

locations. There are steep grades, some passing six or seven percent. So this improvement, it is not really endangering the situation. Those situations, they are going to stay right there. If we have poor sight distance, which of course is going to stay right there -- but the sight distance at this location is adequate. The reason that we are going to use the sight distance is for stopping, and that is basically distance that you travel when we see there is something coming up, an accident, you see some obstacles on the roadway. Six inches above the pavement, you are sitting in your car, your height at eye level is 3.75 feet. You have to see that and stop before reaching that.

For the proposed projects, we have adequate sight distance. No problem. There are other locations that you have sight distance on Highway 43.

The other question was pedestrian crossing. Well, the signal is not granted at that location. It is a state highway, and Oregon State Highway does not allow us to put a pedestrian crossing.

That's all that I have.

MR. CONSER: Thank you. Any questions?

MR. HAMMAN: I have one very quick comment, and it actually has to do with the hour and the next project. And I realize it's getting late. There have been a lot of people come about both projects tonight. The second project, many of the issues are similar: the traffic, the water, the drainage, the schools, and a lot of them are similar. The other neighbors do have somewhat different issues. I don't believe they're quite as extensive, but I'm not positive. Our meetings with them related to the minor issues, and I'm not sure how many people are going to speak on the second issue.

MR. CONSER: I recognize that. We'll do what we can.

At this point, is there a motion to close the public hearing on this issue? Or is there a motion to continue the public hearing for additional information?

MR. HART: I don't have any need for additional information.

MS. ZACHMAN: I don't either.

MR. TRYON: I move we close the public hearing.

MS. ZACHMAN: Second.

MR. CONSER: It's been moved and seconded that the public hearing be closed. All in favor, signify by saying aye.

RESPONSE: Aye.

MR. CONSER: Opposed?

RESPONSE: [None.]

MR. CONSER: The public hearing is now closed.

In the interest of time, it is my inclination to go ahead and handle this particular issue at hand to the best of our ability tonight with the thought in mind of continuing the other application to a later date. Is there any other thoughts on that or is this the consensus of what direction we ought to go?

MR. HART: Do you have any feel for how much public testimony there's going to be on the second one?

MR. CONSER: On the second one, I only have three parties who have requested to speak. One party representing a large number of people, and

has already presented a large amount of engineering data and background. That's basically the feel I have for it.

MR. HART: Does staff think that the issues are any more complex than the current --

MR. SPIR: I don't think they're any more complex. They're slightly different, and this particular person may feel that they have a right to speak on these points. You may want to ask them.

MR. CONSER: I think my concern here is, again, the lateness of the hour tends to generate frustration and poor decisions in anybody. This body is not exempt. My concern is that, even given the minimum times for all parties to give presentation with the impact that we're talking about on another site, there's another development that we really haven't even begun to look at. I am rather concerned about that personally.

MR. TRYON: We'd like to [inaudible]

MR. CONSER: Ron?

MR. CRAWFORD: I would support that.

MS. ZACHMAN: I don't know. I hate to put it off again. You have people that have shown up twice already.

MR. CONSER: I recognize that.

MR. HART: I agree with some of Deb's comments, but I'm starting to feel fatigued myself.

MR. CONSER: That's tough. Okay, we haven't opened up the other application at all. From the legal point of view, we would close this public hearing, and we now go into deliberation process.

I have to explain, it's normally our policy to try to accommodate any public testimony on the night that was stated. I don't think in the last three years we've put off a project or public testimony, and there are several people that attend most of these meetings. We try not to inconvenience people, especially a third time. It's rather embarrassing, but there's also some issues that are very concerning, and I wouldn't want to short anybody on anything that they would have to say.

So, from that, we are in deliberation on the zone change for the 102 units. Is there a consensus? Ron?

MR. TRYON: I have two questions of staff. Peter, the PUD section of the Code talks about all residential developments being developed as PUD's wherever one or more of the following criteria applies. One of the criteria is that the development site being proposed is more than 25 percent on steep-sloped lands.

Would you again review for us why that is a requirement of the Code, that the site be developed as a PUD when it has that characteristic.

MR. SPIR: Well, the belief was that certain lands were best suited for open space and they were -- Because of these constraints, they should not be developed, and if possible, that density could be transferred to other areas, and this would be an incentive to set aside these lands for open space and natural drainageways and that type of thing. So it worked itself into this PUD chapter. And because this site has 25 percent -- the slopes are over 25 percent then they fall under those provisions. Does that vaguely answer the question?

MR. TRYON: Are you saying that the Code is intended to encourage this type of development?

MR. SPIR: Exactly. Encouraging more creative use of the land, clustering the development. I could run down --

MR. TRYON: I just wanted to get a summary of what the requirements are. What you're saying is that it's there to encourage this kind of development and this kind of site.

MR. SPIR: Yeah, exactly. Rather than scattering it all over the -- equally distributing it over the terrain, even though the terrain is ill-suited for it, the normal distribution of units.

MR. TRYON: The idea being that this way we preserve likely open spaces, and serve drainageways?

MR. SPIR: Exactly, right.

MR. TRYON: That's all I have.

MR. CONSER: Any other questions of staff?

Ron, you want to give some comments or give some direction?

MR. CRAWFORD: I feel that most of the comments regarding most of the public testimony have been regarding transportation or traffic and drainage. It seems to be the big issues, along with other things like public service, crime, schools, and those types of things are also in there. But the main thing is -- The main one item as I see it is the traffic. The secondary issue then would be the drainage.

I feel that the traffic issue has been pretty well addressed by the proposed Highway 43 development. I also feel that the proposed development on Highway 43 is going to fit in with our long-range plan that the City has with West Linn -- or rather with 43.

I am concerned about the drainage into the Mary S. Young Park. I think, if I remember some of the testimony from the people who live along Mark Lane, that they have a problem with that creek that overflows into their backyard now. I feel that by dumping that runoff into Mary S. Young Park without some kind of preparation, there is going to be added water to these people along there.

I'm basically supporting the application, and I don't know just how to address that drainage thing.

MR. CONSER: Okay. Chuck?

MR. TRYON: This kind of application is always real tough because it is such a major change from the way things are. The relevant points, though, I think are that the densities being proposed are less than what would be allowed on the site outright. The impacts on traffic and drainage are entirely consistent with the master plans for both that the City has adopted through the public review process. I don't think this particular proposal in this particular development is doing anything to the highway that the City had not planned on or foreseen coming at some point. I think the applicant has done a commendable job in addressing the concerns of traffic and drainage. For that reason, I support the application.

MR. CONSER: Deb?

MS. ZACHMAN: I concur. It's really been a tough issue to go through all the paperwork and everything else. You look at the Comprehensive Plan, and we are required by the Land Use Department to designate a certain number of areas for a higher density use. I commend the applicant for really trying to work with the neighborhoods, and I appreciate the neighborhoods' problems as well. I think the traffic issue, I think if anything, from what I have understood, what we've seen with the left-hand refuge and addition of the sidewalk in that area and bike lanes, it is going to help traffic. But traffic on Highway 43, anything's going to help right now.

The big question I still have in my mind is the school issue. Now, it's been addressed that they do have 17 new classrooms going in, and so

far it's been stated that it's supposedly going in at Stafford, not Cedar Oaks and Bolton, which is the area that really needs the additional classrooms. But I do not think the applicant is charged with having to handle that issue. So I do agree with the applicant.

MR. CONSER: Joe?

MR. HART: The situation right now started many years ago when West Linn started feeling growing pains, and started feeling the market pressures for real estate that became desirable within West Linn. We took steps then to try and provide for an orderly growth. We developed master plans that addressed the transportation issue, the water issue, the storm drain issue, plus probably others that I can recall right now.

Our Comprehensive Plan and Development Code has set up some objective guidelines for orderly development of developable lands, and that's what we're seeing here tonight. It's the implementation of those codes that were developed trying to accommodate this growth. I think it fits in well with what we've planned for years ago, of what we could foresee. I think that it fits in well.

The issue of schools is something else. The Comprehensive Plan, one of the policies does address that, and I think that the school has to do some of their own master planning. From the comments in the testimony, it sounds like there is at least some kind of planning going on in the school district to accommodate the growth. I don't think we learned for certain what that planning entailed, but there is enough testimony that I believe there is some planning taking place there.

On the drainage issue, we had a couple of people testify regarding groundwater in their backyards on Mark Lane. I only know that Mr. Jones lives on the south side of Mark Lane. He would be affected by a diversion, or increase of runoff through Mary S. Young Park. I'm not sure where or which side of the street Mr. Anderson lives on. But having walked the trails through Mary S. Young Park, I feel that the storm drainage can be handled. The comment from Jim Montgomery was that if it looked like it wasn't going to, they would do something to make sure that it would. So, I'm fairly satisfied with the drainage issue.

I think you can tell that I'm in agreement with the rest of you in favorably receiving this application.

MR. CONSER: The only comments I would like to make with that direction is that it would appear that if there were approval with the conditions as listed, that Condition No. 1 would have to be adjusted by staff. So, I'm kind of, depending upon what the motion becomes, I'm directing staff to come back with the final approval. But at any rate, Item No. 1 needs to be adjusted to reflect centerline.

MR. SPIR: As well as Item No. 3 with the changes.

MR. CONSER: The drainage has been covered under Item 2. No. 3, you need to add information west of the project. And I think we need to include under No. 3 something to the effect that the legal staff would look at the issues from the easement on that landscaped north boundary, versus dedication, or however that works out. Unfortunately, without legal staff here, we can't hardly handle that here.

No. 8, the lighting plan shall not produce offsite glare and be subject to the approval of --

MR. SPIR: -- the Planning Director.

MR. CONSER: -- the Planning Director, which needs to be adjusted.

I don't know now, but we need to somehow get a condition in there for that deed restriction on the park, if that is the direction of the Commission.

Finally, there needs to be some way of tying down the location of that fence, and there are no conditions subject to that; either that or in the motion. Whomever wishes to make it, if they wish to solidify that, that would at least give some direction.

MR. CRAWFORD: Excuse me, Mr. Chairman. I have a question for you and staff in that Item No. 3; mine is not complete here, as you stated that during the testimony. Does that include the 35-foot setback upon the north side of the property?

MR. SPIR: That's what we're going to try to incorporate into No. 3.

MR. CRAWFORD: Okay.

MR SPIR: Mentioning that the landscaped area shall be directly dedicated or protected by easement to the City. A fence would be built on the north boundary, adjacent to that 35-foot strip -- something along those lines; but to get it all in Condition No. 3.

MR. TRYON: You could put in something about the fence in the same condition.

MR. SPIR: It comes down to the question of whether or not the a Cyclone fence with slats is acceptable from a design standpoint.

MR. CONSER: I don't want it too loose, because I think it needs to be part of the motion. If you leave it too loose, you stand the chance of -- It would be nice to have the applicant and the affected parties come to an agreement. But subject to them not coming to an agreement, they'll be right back here, and we'd have to make a decision. So my direction would also be, whoever wants to make this motion, to give some direction appropriately.

MR. HART: I have a question. You're talking about making some conditions but asking for some what? Some additional input from legal counsel which would address an issue that we would again have to act upon later?

MR. CONSER: That's what I'm trying to avoid here.

MR. HART: Okay.

MR. CONSER: What I was giving you direction to do is try to streamline Condition No. 3 to include the change from 20 to a 35-foot change. The wording subject to the staff's recommendation that they essentially just comment whether the open space area west of the project, the high area I suppose, shall be dedicated to the City. Access to the open space shall be provided along the north boundary by a landscaped area of 35 feet to the satisfaction of the City Park Supervisor and deed restrictions be identified accordingly to dedicate this as park lands only.

My other concern of course is the fact of whether the 35 foot becomes an easement along the north side or whether it becomes a dedicated parcel. I guess my greatest concern there is of course is the liability of a fall.

MR. SPIR: You can have them go both ways. You can have dedications -- outright dedications and we're in the process of getting easements, you know, on either side of the creeks, and so forth. So it could go either way, probably. Especially if we wanted to leave it in its natural state, I think dedication or easement would work both ways. But if it's something that is landscaped and requiring maintenance, that's the question I think you raised. Do we want to get into a thing where we're obligated to put those maintenance dollars into it? And our Parks Department, I don't think would be very excited about that.

MR. CONSER: No. I don't think the City wants that obligation.

So, if it were dedicated parcels, the City becomes obligated, but the obligation of the City is to leave it natural.

MS. ZACHMAN: That's what the request was anyway, is to leave it natural?

MR. CONSER: That's right.

MS. ZACHMAN: That was also requested by the one party that was concerned about it.

MR. HART: They didn't care about removal of blackberries. They were more concerned about the tall trees.

MR. CONSER: With that, is there a motion?

MR. HAMMAN: Mr. Chairman, may I offer a suggestion?

MR. CONSER: Actually, we're in deliberation right now. This public hearing is closed at this point.

Is there a motion? I recognize that it's a difficult one.

MR. HART: I'm just trying to figure out all these different items we're trying to cram into Condition 3. I'm still wondering about your desire for an easement, as opposed to dedication, is over an maintenance issue?

MR. CONSER: Maintenance and liability. Essentially, there seems to be a direction to -- There's a direction of the applicant to provide this buffer. There's the direction of the staff to provide access. There's a direction from public testimony that it not have a pathway through it. And then there's finally a direction that the area be landscaped to the satisfaction of the City Parks Supervisor. You've got a lot going in there. What I guess I'm saying is, based on the information you've heard tonight, I need to have Condition No. 3 speak to those issues and be definitive as to what the direction of this Commission is.

MR. HART: I'm satisfied with, basically, the wording that's there, leaving the landscaping as an issue to be decided by the Parks Supervisor. Whether it's dedicated or an easement, since we have precedents for both, I don't think that makes a great deal of difference.

MR. CONSER: I'm willing to accept whatever you want to go with on that. The problem is not having legal counsel. I'm sure they'd tell us what to do. But at any rate --

MR. SPIR: Did you not have a -- in that 35-foot-wide landscaped strip, a 10-foot-wide public access easement would be provided and that would leave the maintenance of that landscaped strip to the management of that property, and we would establish a 10-foot-wide access easement through that landscaped strip to go from Highway 43 up to that open space area. I think that would work.

MR. CONSER: What control would we have over keeping it natural if that were the direction?

MR. SPIR: Oh, yeah. You want to keep it in the natural state?

MR. CONSER: How do you keep it in the natural state?

MR. SPIR: I thought we were going to the landscaped plan that -- We don't want to go with the landscaped plan?

MS. ZACHMAN: I'm just shaking my head because that isn't what I heard from all the testimony and everything. What I heard was to leave it natural and leave the buffer there. That was agreed upon between the applicant and the person that brought up the subject -- was that it would be left natural.

MR. CONSER: No question about that the applicant stated the neighbors said that they didn't want it set up as a landscaped area, and what I'm trying to do is respond to those two issues. Right now, No. 3 does not -- 3 says we got to landscape it. And there's another condition in here that says it has to be landscaped per plan.

MR. HART: I have a comment regarding that issue. I live on a lot surrounded by Cyclone fence with wooden slats provided by an adjacent developer. The area on the other side is landscaped to a certain degree, but it's bordering a parking lot, so there isn't a great deal of landscaping to shield the impact that comes through the fence. Having a 35-foot-wide area I think is going to be very adequate, particularly if there's landscaping in there. I can envision in the situation that I'm in with this Cyclone fence with wooden slats, that if it was left natural on the other side, pretty soon you have blackberries and vines running through the fence and whatnot. I would end up being a little bit concerned about the appearance that it would create on my side of the fence.

I think that with the landscaped area and a pedestrian access, it may develop into some kind of hiking trails or nature walk later on that if there was some kind of landscaping there, it would possibly reduce some kind of fire hazard. So, I would actually -- Can you, Mr. Spir, comment on what the current landscaping plan is for that strip?

MR. SPIR: Well, I mean I was just going with that of a few days ago, and so this 35-foot strip is a new development occurring only a few hours ago. If we're talking about leaving it in its natural state, you know, thickets and blackberries and so forth, there is very little maintenance that has to go into upkeeping blackberries. So, in that case, access to the open space at the west side of the property shall be provided along a 13-foot-wide strip, along the north boundary, and this strip should be dedicated to the City. I think that would work out very nicely for open space and park purposes.

MR. HART: Peter, are you aware of any trees that -- Well, in surveying the property, what kind of trees are in there? Trees that could be saved or trees that could be pulled out because they're not large enough?

MR. SPIR: Can you repeat that?

MR. HART: Along the north property line, one of the residents was concerned about keeping trees.

MR. SPIR: Well, I'm not familiar with -- You know, there was no site analysis.

MR. TRYON: It's circled right there on the bottom of that plan there.

MR. CONSER: In the bottom plan, the revisions tonight were shifted, the units. See the trees clustered in there? Those are supposedly trees that exist and, except for those trees -- according to the testimony, except for those trees that would fall through the foundation -- they will save all those saveable in there.

Is there any additional information needed by the Commission?

MR. HART: I'm willing to attempt a motion.

I move that the matter of File No. ZC-88-03 / DR-88-17 / VAR-88-06, that the Design Review, Planned Unit Development, and Class II variance be approved, with the findings as outlined in the staff report, with the following conditions.

Let's say with the amendments to the conditions as included in the staff report, that Condition No. 1 will be corrected to include the design presented and approved by the State Highway Department; Condition 3 be changed to include 35-foot-wide open space along the north boundary;

that there be included a 15-foot-wide pedestrian easement and that this area be landscaped in accordance with the landscape plan; and that a 6-foot-high Cyclone fence with wooden slats be erected along the northern boundary -- let's change that to the northern property line, so that it runs at the property line between the Mohawk residents and the project. And those would be the only amendments.

MR. CONSER: I have eight.

MR. HART: Light plan shall not produce off-site glare as assessed by the Planning Director.

MR. CONSER: Reviewed and approved by the Planning Director.

MR. HART: Reviewed and approved by the Planning Director, that sounds good.

MR. TRYON: I'll second that motion.

MR. CONSER: Okay, it's been moved and seconded. Any discussion?

MR. HART: Without legal counsel here, I suppose there may be some discussion over the issue of the 35-foot-wide open space with a 15-foot easement running through it.

MR. SPIR: That's possible.

MR. HART: And how the landscaping will be provided and maintained, so I think that's still an issue that needs to be ironed out, and possibly at the staff level.

MR. SPIR: Have we fenced ourselves into a corner by making these conditions of approval? Doesn't staff need latitude to make those decisions?

MR. CONSER: Well, staff can make those decisions if given the direction to do them. They can also come back with a final order based on this motion, of which we sign off on.

MR. SPIR: If the final order was to be reviewed by the Planning Commission members, that would mean holding off on the ultimate planning decision here till the next Planning Commission meeting, which would be next month.

MR. CONSER: A motion would be made that the final decision would not be made this evening.

MR. SPIR: Correct.

MR. CONSER: Unless you want to take a shot. They had their opportunity. They didn't want to show up.

MR. HART: Well, I'm just wondering if the wording is sufficient to provide enough grounds for us to stand on. I'm not so sure --

MR. CONSER: Perhaps a suggestion -- "subject to the City Attorney's approval" would give them then latitude to make sure that the wording --

MR. HART: Okay, can we discuss this just one more point. We have the 35-foot-wide open area, plus I did not add -- we were talking about deed restrictions, that needs to be --

MR. CONSER: That would be on the top part.

MR. HART: Do you want to possibly add that as a tenth condition?

MR. TRYON: That could be done.

MR. CONSER: You could just add that to the second one.

MR. HART: Let's go back to the other issue. First, 35-foot-wide open space --

MR. TRYON: Why don't you say 35-foot-wide strip to be provided by dedication and/or easement, subject to the approval of the City Attorney and the Planning Director.

MR. HART: Landscaped?

MR. TRYON: Landscaped.

MR. CONSER: A 6-foot fence.

MR. HART: Okay, the fence stays in. What we're talking about is just the 35-foot-wide strip ends up being --

MR. TRYON: Provided by dedication and/or easement subject to the approval of the City Attorney and Planning Director.

MR. HART: So, how do we -- Do we just take the approval of the second to incorporate that into the motion?

MR. CONSER: Sure, you bet; but the second has to approve it.

MR. HART: Adding the tenth condition, which would require deed restrictions that the open space be used for park purposes only.

MR. CONSER: Okay, is there a second to the amendment?

MR. TRYON: I'll second that.

MR. CONSER: All those in favor of the amendment, signify by saying aye.

RESPONSE: Aye.

MR. CONSER: Now, back to the motion. It's been moved and second. Any further discussion on the motion?

All those in favor, signify by saying aye.

RESPONSE: Aye.

MR. CONSER: Opposed?

RESPONSE: [None.]

MR. CONSER: It's been approved. Now, where we sit right now, is this application has been approved with the conditions that have been applied. If anybody who is standing tonight, has spoken tonight, or has signed in on the sign-in sheets, wishes to appeal this to the Council, it must be done within 14 days of the final approval, and that will be in a few days when the paperwork all comes out and is issued. It must follow with a \$150 fee. That \$150 fee for an appeal must state the grounds specifically that the appeal is being based on. The \$150 fee can be waived if two or more members of the Council wish to pick up the issue or if the neighborhood associations wish to pick the issue up themselves directly.

Are there any questions to that?

PUBLIC HEARING ATTENDEE: What constitutes a neighborhood association?

MR. CONSER: Currently there is a Cedar Oak Neighborhood Association, and then there is a Bolton Neighborhood Association. Cedar Oak was represented here tonight; Bolton was not that I am aware of. No one has spoken for the Bolton Neighborhood Association. So that \$150 fee could be waived if you can persuade them to come forward. I'm not sure exactly how strong the Bolton is, but I think it's recognized.

Any other questions?

All right. That issue has been dealt with. Now comes the next issue. About the only thing we can do tonight -- much to my disappointment, and I'm sure everyone in the audience -- is we can open the public hearing for the purpose of continuing the site variance.

The next agenda item is a public hearing on Zone Change 88-04 and Design Review 88-18, a Design Review and Planned Unit Development for No. 2, which is located up at Randall Street, or the Old School site.

I would like to call to order the public meeting. I can open it, go through the process, and we can continue it. I don't think I need to go through all the legal to continue it for another date, do I? Any ideas?

MR. TRYON: I don't know.

MR. CONSER: With that, we'll open the public hearing for the purposes of continuing to a date and time.

MR. TRYON: Mr. Chairman, I move we continue this public hearing to the next regularly scheduled meeting of the Planning Commission, which is September 19, 1988, at 7:30 p.m.

MR. CONSER: Peter, there's another issue that night?

MR. SPIR: Right.

MR. CONSER: All right. I assume this will follow behind that issue or is there a way we can put this in front of that issue?

PUBLIC HEARING ATTENDEE: Don't do that to us.

MR. CONSER: I understand.

MR. SPIR: It's a subdivision, and I think it could be handled very quickly; but we can put this in front of the subdivision.

MR. CONSER: I would prefer to have this in front of it.

There's a motion. Is there a second?

MS. ZACHMAN: Second.

MR. CONSER: It's been moved and seconded. Any discussion or questions?

MR. HART: I have one question. Jan Jones, who wrote me that letter regarding the proposals, or rather corrections, that she wanted included in the record -- as long as the public hearing is still open, can I give that to you to --

MR. CONSER: Is that for this issue?

MR. HART: She made some comment in there and wanted to make a correction.

MR. CONSER: Sure, that will be the exhibit to the exhibit.

We sound awfully formal. We hate to be, but it does keep order.

MR. TRYON: Are we okay on the 120-day rule?

MR. SPIR: Yeah, we're good through October 18th, I believe.

MR. CONSER: October 18th allows us a month plus a review, and we should be able to pack that all in at that meeting.

There is a motion to continue to the 19th at 7:30. There's a second.

All in favor, signify by saying aye.

RESPONSE: Aye.

MR. CONSER: Opposed?

RESPONSE: [None.]

MR. CONSER: I really appreciate your patience. I'm awfully sorry.

[A break is taken as audience leaves hearing room.]

MR. CONSER: Exhibit D will also be an exhibit to be followed through with the next application.

MR. SPIR: Right. And it had that little addendum.

MR. CONSER: This will be an addendum to that.

Is there a motion to adjourn? Are there any comments from staff?

MR. SPIR: No, just that we have -- we're tapering off in the number of items. We have this continuance, then we have Barrington Heights Phase IV on September 19th. At the October 17th meeting, we are looking forward to a design review for the new library building. Then past items that probably will be appealed to City Council include the MACC day-care center, which will go to the City Council, probably. They haven't formally appealed yet, but we expect they will. Then the water tower is coming up on September 7th for City Council. That's about it.

[Staff business was then discussed.]

[The August 29, 1988 Special Meeting of the West Linn Planning Commission was adjourned at 11:45 p.m.]

WEST LINN PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 19, 1988

The West Linn Planning Commission was held on September 19, 1988, with the following commission members present: T. Conser, M. Riley, W. Wright, R. Crawford, D. Zachman, C. Tryon, and J. Hart. Staff members present: Jim Montgomery, P. Spir, D. Darling, and Pam Allen, hearings reporter. Also, Jon Buckley from the Traffic Safety Commission.

Tim Conser was acting chairman for the meeting that started at 7:30.

Mr. Conser asked that anyone wishing to testify tonight to fill out a form and present to the commission so that we can get their name into the record. He also asked people to sign in on the sheet out in the hall if they did not wish to give written or oral testimony. That way they will become part of the record in case they desired to appeal any decision at a later date.

Mr. Conser started with an "open period" for future agenda items. There were no questions of the audience or anyone in attendance.

Mr. Conser then called for approval of the August 15, 1988, Planning Commission minutes. Are there any additions or corrections?

I do have a correction. On the first page, about two paragraphs down, I made that statement, not Deann Darling.

M. Riley: I have a correction on the next-to-last page. I think we approved that at 55 students in the motion.

T. Conser: Any other corrections or additions? Is there a motion to approve the minutes?

M. Riley: I move we approve the minutes as submitted and corrected of the August 15th, 1988, Planning Commission meeting.

R. Crawford: I second.

T. Conser: Okay. It's been moved and seconded. All in favor signify by aye. (aye) Opposed? (No one was opposed.)

The next item on the agenda is item no. 4 which is Design Review/PUD to develop a multi-family subdivision. The applicant is OTAK, Inc. The location is the west side of Highway 43 at Barlow Street, and the file number is ZC-88-04/DR-88-18.

I call to order the continuation of the public hearing at 7:41. Do any members of the Planning Commission wish to abstain from this application? Do any members of the Planning Commission wish to declare a conflict of interest? Do any members of the Planning Commission wish to report any significant ex parte contact?

W. Wright: I received a letter from our school superintendent, Mr. Cox.

T. Conser: Yes. I believe all the commission members received a letter and I asked staff to see that the applicant got a copy of that letter. Did the applicant receive a copy?

Mr. Hamman: Yes.

D. Darling: I think this letter deals with Mark Lane and not the Barlow Street issue.

T. Conser: Well, the contents -- Yes, the letter was written more towards the Mark Lane issue, but I think the contents were intended more towards development in general.

D. Darling: You may want to make it an exhibit at an appropriate time in the Barlow hearing.

T. Conser: Okay. Continuing. Have all members viewed the site?

W. Wright: No, I have not. So I will abstain.

D. Darling: It's not a requirement that you view the site. You may proceed if you want to Mr. Wright.

W. Wright: Okay. I'll proceed.

T. Conser: Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge any individual member of the Planning Commission? For all those who wish to testify, please be aware that if you fail to raise an issue in person or by letter tonight you will be unable to raise that issue at any subsequent time of appeal. (No one responded to any of these question except for Walter Wright.)

At this time, I'd like to have staff give us a brief overview.

P. Spir: We have before us a Design Review/PUD to develop a multi-family subdivision. OTAK, Inc. is the applicant. It is located at the west side of Highway 43 at Barlow Street. File no. ZC-88-04/DR-88-18. This is on what is popularly known as the "Old School Site".

Peter briefly described the layout of the site and said that he would continue with his report later.

T. Conser: At this point in the hearing Mr. Conser marked certain exhibits. The letter from Mr. Kyle was made Exhibit B, Exhibit C will be the letter addendum from Jan Jones, Exhibit D will be the letter from the West Linn Traffic Safety Commission, and the letter from Dea Cox will be Exhibit E.

Tonia McConnell: Requested that the letters entered as exhibits be read into the record.

T. Conser: Mr. Conser read Exhibits C,D,and E into the record. Exhibit B was not read into the record because of the length of it but was made available to anyone who wishes to have a copy.

D. Darling: Mr. Chairman, we need to make it very clear that we are accepting Exhibit E pertaining only to the Barlow Street project, not the Mark Lane project. The Mark Lane hearing has been closed and it would not be proper to accept any further evidence into that hearing at this time. It must be restated that this Exhibit E is for the Barlow Street issue only, and not on the Mark Lane issue.

Tom Hamman: I'm Tom Hamman, architect with OTAK, and I'll be representing the project here tonight. I have with me Chuck Kingsley, developer, and Steve Routan, an architect who worked with me and can fill in on some of details tonight.

Mr. Hamman addressed the issue of point of access from this development using the main driveway. (He used a map on the wall showing the position of this driveway.) He said that they found with using the existing driveway present a real problem with Barlow. He said that they had met with the city staff out at this site and decided that this wouldn't work. They also evaluated an access onto Randall Street and found that this could work; however, the developer questioned the reasonableness of bringing the traffic down into the neighborhood. They figured the neighbors would object to this and so would the city staff. After looking at other access locations we decided that we could make this one work.

Mr. Hamman explained the building designs so that the commission could see how they have worked with the neighbors to not ruin their views and still keep the views in the project. He explained that they have contoured the buildings down in keeping with the slopes and contour of the grounds around them. The design of the buildings are such that it will help them fit in with the neighborhood.

He stated that utilities have been reviewed by staff. Sewer lines are near the site and they are adequate. The waterline has been worked out with staff. The stormline, we are at a high point in the development and the water is intended to go to the south.

Since some of the issues were dealing with the neighbors in the area, we met with them to discuss these issues. Mr. Ted Kyle, we met with him twice in our office, and we had a neighborhood meeting on one gentleman's deck one evening to go over the issues. We have dealt with all the issues and all of the neighbors are in support of this project with these new modifications/conditions:

- 1) The most easterly building fronting Willamette Drive shall have a building height of not more than one and one-half stories as measured on the uphill side. This building shall not have more than two floors for dwellings.

- 2) Require a noise-barrier fence be built in a semicircle around

Tom Hamman: (Continued) the south easterly end of the swimming pool area. This fence shall be at least 4-feet tall and shall be solid so that it reflects noise away from the adjoining homes.

3) Require a solid wood or concrete block fence be built near the property line to separate the development from the adjacent homes. This fence shall be tied to the rock wall at the south end of the development adjacent to Randall Street and to the proposed garages and carports located adjacent to properties at 2475 Randall and 6333 Barlow. These carports shall have a solid back wall extending from the ground to the roof supports. The fence and carport wall shall provide a barrier to foot traffic between development and the neighborhood to the south. A gate for landscape maintenance shall be permitted. The gate shall be locked except during maintenance work. The south end of the fence running along the driveway of 2465 and 2475 Randall shall be set back from the property line five feet for a distance of 30 feet from the right-of-way line to allow vehicles to turn around at the end of the existing driveway.

4) Vehicle access to Randall Street shall be prohibited in perpetuity. No construction access shall be permitted from Randall Street.

5) The stairway at Barlow near Willamette Drive shall be renovated and incorporated into the walkways and paths to provide access to the Tri-Met bus stop from the development.

With those five conditions it's my understanding that we have reached an agreement with all the neighbors that were in this area and any others that were associated with the group that Mr. Kyle was working with. And we submit this as an agreement that we can add to conditions for approval on the project.

Mr. Hamman stated that he had met with Mr. Forsloff regarding his concerns about his driveway with respect to this project. Mr. Hamman said that Mr. Forsloff will be able to use their driveway in return for a trade off of a couple of things: since they will be doing road improvements to that section of road, they will be able to encroach two to three feet on Mr. Forsloff's property and make their tapers better; they have also agreed that they can take the edge of the driveway and move it over to the property line, thus giving them a few more feet to spread out their buildings a little bit more. They will landscape that portion of his property and he will maintain that landscaping and when this property develops more than one house, then they will also share in the driveway usage and maintenance.

Those are all the concerns that have been presented to us on this project, and we've been able to sort them out and make agreements on all of them. If there is anyone else here tonight and we have not been able to speak to them because we have not been able to find them in any way -- anyone who wishes to speak to us, we certainly want to know about it.

The letter on traffic was a surprise. We met with the City a few times. We met with OTAK. We met with the city engineers on the site. We were not aware that there was a West Linn Traffic Safety Commission that was being watchful. In any case, their concern about the only access point, I have already addressed. We found that other routes through other local streets is not a reasonable alternative partly because we were impacting the neighbors with traffic and partly because where we would come out is a worse access point than what we have over here. Nearly everyone that sees this access point says that it ought to be gotten rid of but the city staff feels that it must be kept, particularly Earl Reed of the city staff, and that's why that's there.

The letter from Dea Cox -- we contacted Dea Cox at the request of the Mark Lane neighbors. He did tell us that he didn't know how many students would be showing up until school started. In any case, as determined by the previous hearing, the applicant is not charged with solving the school issues. We are following the zoning and Comprehensive Plan of the City through public hearing, and we are implementing those. We did our best to approach the school administration and inform them of our project and the concerns of the neighbors bordering this project.

None of the people on the site have mentioned concerns about serious traffic problems on this site. We are improving the intersection. We are benefiting overall. Regarding the letter from Dea Cox, we did that in response to the neighbors from Mark Lane and I'd like to say that I object

Tom Hamman: (Continued) to having that letter admitted to the record on this project because it was dealt with specifically for the other site.

I'd like to make a few comments about the staff report and the conditions of approval. Condition No. 1 - Highway Improvements, as on the other project, we have no problem with the improvements. We agreed to do that and do them according to staff's approval; however, as to our agreement, the Highway 43 modifications are to fit into the existing right-of-way and east side of the road. Not ours; but the opposite side of the road and within an ultimate 40-foot right-of-way on our side of the road. What this calls out for is that all the improvements are to be centered on our side which will not fit into that 40-foot right-of-way.

Item No. 2 is fine. We have no problem with that. We have no problem with No. 3.

Item No. 4 references the fence right along here (indicating) and I would suggest that we supplement that with the neighborhood agreement.

Items No. 5, 6, 7, and 8 are fine. We agree with No. 9.

I would suggest that we add a condition for the neighbor to the north that says that we will work together with that neighbor to come to an agreement to share the access drive.

That completes my presentation.

T. Conser: Any questions at this time?

J. Hart: Your design appears to restrict the right-of-way on Barlow.

T. Hamman: No, we won't really be impacting Barlow, there's a rock wall there --

T. Conser: How close will that rock wall come to the traffic?

T. Hamman: I guess we should review that because there is a blind corner there. That's a good point.

T. Conser: Any other questions of the applicant? (There were none.)

At this point in the hearing, Mr. Conser once again informed persons who might have come in late to please sign in or fill out a half form. He then asked for testimony against this application and called Tonia Twigger McConnell.

Tonia Twigger McConnell: My name is Tonia McConnell, 6590 Lowry Drive. My first question is has the State Highway Department been consulted about this issue? In fact it is the objective to reduce the number of direct highway accesses onto Highway 43, I would like them to take a look at this. Do we have a fire ladder that goes three stories? Mr. Hamman speaks about the drainage and the water to the south and that there are no problems. I want to know who said that. I want to know definitely that there are no problems with the water and if it's planned on being diverted, I'd like to know where, and if it's into the park, I'd like to know if someone has contacted the State Park's Department. He just mentioned that water will be diverted to the south. On the preliminary report there are no problems. I want to know who made the preliminary report and who has determined whether or not the drainage will be sufficient in this project. I understand that when the library was to be built in this location the city council required that a light be put in to accommodate the traffic to and from the library, I want to know why this development doesn't require a light to direct its traffic flow. And although Mr. Hamman doesn't like the letter from Dea Cox, I as a taxpayer and mother of two schoolchildren am concerned about the school district issue. We already have overcrowded fourth grades, and I think that more people in this area is of concern to the school district. I specifically moved out here and pay about \$1500 in taxes per year to ensure that my children will get a good education, which will not happen in overcrowded classrooms.

I'd like to know if there is any federal funding that has been applied to this project. As my final comment, I'd like to say that I, as Dea Cox would, like to see a moratorium until we find out how the traffic is affected by the Cedar Oak development that has just been finished, and how it will be affected by the Mark Lane development before we make anymore decisions to build with access onto Highway 43. It is not uncommon for it to take me eight minutes to get from Hughes to Cedar Oak Drive. That's too long.

Thank you.

T. Conser: Any questions of Mrs. McConnell on this testimony? (There were no questions.) Okay. We will make sure that these concerns are addressed.

T. Conser: (Continued) At this time I'd like to ask Ted Kyle to come forward and give his testimony.

Ted Kyle: I'm Ted Kyle. I live at 2465 Randall in West Linn. I represent most of the neighbors that are south of the site between Randall Street and the highway.

Mr. Kyle explained that he was the person that had written the 26-page report and stated that many things had changed since he wrote that report, along with the fact that there had been two continuances on this hearing. Mr. Kyle stated that the developer had contacted him and the neighbors and that there had been several meetings to discuss and work out the concerns of everyone. Mr. Kyle said that he applauded the developer for coming forward and working with the neighbors on their concerns and working out an agreement. He did state some concerns about the foot traffic and roadway sight distance and concerns about water problems with two residents in that area. Other than those concerns, he thought the agreement worked out with the developer and neighbors was a good one and he also stated that he felt the problems associated with Highway 43 were a community problem and not the problems of the developer.

T. Conser: Are there any questions of Mr. Kyle?

M. Riley: I'd like to ask Mr. Kyle what is the proper figure on that density issue that was raised?

T. Kyle: Mr. Kyle stated that he figured it several different ways and was willing and prepared to discuss this at length about two weeks ago, but has come to realize that this project may be one of the best for that piece of property for all people concerned.

He also stated that he knew it was the policy of the city to save as many mature trees as possible, but that in that instance the trees block their views and he and his neighbors have no problem with seeing any of the Cottonwood trees taken out and any other trees that he may want to take out. From their standpoint, they don't want the trees.

T. Conser: Any additional questions? (There were none.)
Thank you for your testimony. I call John Forsloff.

John Forsloff: My name is John Forsloff and my address is 20925 Willamette Drive. Just in the last hour or so the questions that I have had are being resolved.

Mr. Forsloff stated that he would like to see some signs place along the highway to indicate that the highway is divided there.

Mr. Forsloff stated that he had raised this issue with the Traffic Safety Commission and it looks like the problems can be resolved.

He restated that he felt very strongly that some kind of sign to indicate that the highway is changing would be very helpful. He also stated that he felt that they could live with the project quite well and said that he wouldn't mind living next to it.

T. Conser: Any questions of Mr. Forsloff? (There were none.)
Thank you, Mr. Forsloff. I call Jack Dennis.

Jack Dennis: My name is Jack Dennis and I live at 2093 Willamette Drive.

Mr. Dennis stated that he wasn't aware until a couple days ago that the driveway that the developer is proposing is right in front of his house. He stated that no one has talked to him about this. He is very concerned about the driveway being directly in front of his house. He has five children who play out front and this right-of-way is going to increase traffic pointed directly at his house. He also stated that he is not against growth and this project seems fine, but he is very concerned about the driveway being right in front of his house. He stated that if he had to state whether he was for or against this project, he would be against it just for the reason of that driveway from the project being directly across from his driveway. He would propose something like a guardrail or sound barrier of some kind -- something to help with the traffic flow.

I also stated that he agreed with Mr. Forsloff that some signs on the highway to indicate a road change would be a good idea.

Those were his concerns tonight and if he could get an answer on that he would feel much better about the situation.

T. Conser: Any questions of Mr. Dennis? We will see if we can have staff address that particular concern.

I call Tom Neff.

Tom Neff: My name is Tom Neff, 672 Marylhurst Circle. Within the context

Tom Neff: (Continued) of the existing plan, I don't have any quarrel with the project. It looks like they have done a good job. I'm wondering what the face of it will look like from the roadway. I'm wondering if they could elaborate a little bit more on what retaining wall will go back in.

T. Conser: Any questions of Mr. Neff? (There were no questions.) Thank you, Mr. Neff.

I don't have any additional requests for testimony --

Audience: I have written a statement that I would like to go on record.

T. Conser: Okay. Would you like to give testimony or --

Audience: No. I just want the statement on record.

Louise Morgan: I'm Louise Morgan. I live at 20825 Willamette Drive just two building blocks north of this project.

T. Conser: If I may, may I read this into the record: "I am totally against building multiple unit ('ticky tacky matchbox houses') in an area of single housing zoning. This is the wrong place for such a development."

Tonia McConnell: I have one more question I would like to ask.

T. Conser: Okay. Go ahead.

Tonia McConnell: I am just curious as to why we are looking to building more apartments in the area when we currently have vacant apartments in this area?

T. Conser: Okay. We will add that to the list of questions for staff. With that, I'd like to call for the staff report.

P. Spir: The applicant covered most of the points we felt were important to raise. I'll just go over a few of them again.

Peter went over a few of the items listed on the staff report and then stated that staff recommends approval of the PUD and Design Review based upon the stated findings and with the following conditions that he would like to present towards the end of this hearing.

He addressed some of the issues raised. Mrs. McConnell asked if the Department of Transportation had been consulted on this project. In fact, Lee Gunderson of the Department of Transportation has been working with the developer and the staff on a number of items on this and is in support with this point of access.

Regarding the fire ladder and whether or not we had one that would reach three stories high, the fire marshall reviewed this application and said that there would be no problem in that area.

Jim Montgomery can respond about the drainage.

Regarding the library light. In this instance there is a lower trip generation so it wasn't considered to be appropriate.

The school district issue, that is not part of the approval criteria. In fact, the approval criteria, as it relates to the Mark Lane site, asks that all sections of the Comprehensive Plan be satisfied and the Comprehensive Plan requires that we consider schoolroom availability. Staff was under the impression that although schoolrooms are tight that room would be made available, and we also balance that situation against the fact of the high-price structure of these units; most people with children would be trying to get housing elsewhere.

I think Deann Darling may want to discuss the legal ramifications of building moratoriums.

The question has been raised if we need more apartment units. The area is zoned for multi-family housing and it is not part of the approval criteria as to whether or not we are at 40% occupancy of our present apartment stock or not.

Tonia McConnell: At this point in the hearing Mrs. McConnell interrupted with questions regarding the occupancy rate and was told by Mr. Conser that she could not ask questions at this time. Peter Spir continued.

We are very aware of the impact this has on schools and public utilities in this area but did feel that due to the price structure of these units that there would not be a great deal of children. We did not feel at this time that it was feasible to deny the application on the classroom availability.

I think Jim Montgomery may wish to respond to the concern of a driveway pointing directly across from the project.

The applicant will probably take the opportunity to respond to what the building site will look like from the front.

P. Spir: (Continued) That concludes the staff report.

Debra Zachman asked a question about the school situation. Is the developer held responsible for the impact on the schools, because of this project? Peter replied that the developer has met all of the approval criteria for this application and that impact on classroom space was not one of the criteria.

J. Hart: Mr. Hart asked about the 8-foot high fence that would be on the back garages -- (inaudible)

J. Hart: Mr. Hart asked about the traffic light that was needed for library but not for this project.

Jim Montgomery: Stated that he thought that light had been a request of the city council.

T. Conser: Mr. Conser pointed out in the staff report on page 4 under Chapter 48, second sentence, where it says via the driveway opposite Mark Lane, that is a typo. That should say Barlow Drive.

Mr. Conser asked for a report from the Traffic Safety Commission.

Jon Buckley: Jon Buckley, Traffic Safety Commission. Traffic Safety's major concern on this project concerns where the driveway will be exiting onto Highway 43 and sight distance. Not so much the horizontal sight distances, as the traffic starts going up and down that grade you start losing sight vertically. It was thought perhaps that moving the driveway to the south you'd have better visibility for the cars coming up the grade towards that major intersection.

The only other two points we had were questions for the Commission to think about and one was having only that point of access onto 43 and no other access as an alternative. And the second thought that we had for the Planning Commission was if Barlow would remain a through street. We heard testimony tonight from staff that it's needed as an emergency access. Maybe as an alternative Barlow Street would be better off to be considered closed at some later date, rather than left as an open street.

T. Conser: Asked Mr. Buckley if he had considered making Barlow a oneway street going uphill?

Jon Buckley: You could make it a oneway in but you would probably have to regrade Barlow maybe clear up to Randall in order to get the proper grade coming down to 43.

Jim Montgomery: Mr. Montgomery said that he was going to comment on the water and drainage problems and the fact that the applicant has said that there are no problems with staff. To explain that -- there are some problems in the area with utilities; however, the applicant is following the Master Plans for the water and storm drainage in putting his development in and he is taking care of any impacts he has on the system.

The water issue -- The rust problem in the area has become a problem for the city staff in the fact that the water system has changed since the improvements have been put in. With the 18-inch line being added to the system some of the older cast iron pipes in the area do not have the cement lining and there's gotten to be a problem with stagnant water, and the city is pursuing a solution to that. The applicant is not going to make that any worse. He certainly could improve it in the fact that the circulation in the water will improve. Here again, he will follow the Master Plan.

The light on Highway 43, it's possible that city council was referring to a pedestrian crossing. I don't know the particulars on it but I'm quite sure this site never got to the stage for any kind of studies as to whether or not there should be a signal.

The traffic sign issue should be submitted with the applicant's plans that he submits to city council and staff for them to look at it. The city sometimes will go to the state and ask them to look into certain situations on signs. This is not an area that the city typically decides, it's a state highway function.

The issue of the gentlemen who lives directly across the street and concerns of safety for him and his family, I think those are basically an applicant/neighbor issue. The city is certainly open to a study of the issue and I'm sure that the applicant will also want to speak to this issue.

As far as the Traffic Safety Commission report, the criteria for traffic safety that the applicant has to go through has been met. Staff has looked at this and we concur with the State Highway Department that this access is the best there is considering the fact that the applicant is only going to improve the area in sight.

T. Conser: Could you comment on turning Barlow into a oneway street?

J. Montgomery: It's always a possibility to do something like that. It's an impact on the neighborhood even though it would appear to be a slight impact. It would be difficult to comment on it without going into a real study issue and it would not follow the Master Plan that we have. But really the bottom line is it's not the responsibility of the applicant to control the traffic on a public right-of-way.

T. Conser: Your recommendation then is to improve Barlow to the level it will handle the traffic?

J. Montgomery: Yes.

M. Riley: Asked about the long term plan for Highway 43 at that point.

J. Montgomery: Stated that the long term plan is for dual access, both egress and ingress into the neighborhood.

T. Conser: Deann, would you like to give your comments on the staff report.

D. Darling: A couple of comments on the conditions, if in fact you get to the approval point. On condition No. 1 I think there needs to be some language added clarifying that those Highway 43 improvements will be centered on the existing right-of-way. I don't think the language that is there about Barlow Street is sufficient. I think that at a minimum it must indicate that Barlow Street should be improved to a two-way street to tie into the new configuration and subject to the city approval. On condition No. 9 it's not a condition the way it's worded. Peter has got some language that he would like to have added that would say on the end of that that would say it would result in a reduction of the number of units by two, thereby making the maximum 66. If we add that language, then it's a proper condition. Regarding the proposed conditions from the residents, they are really worded almost well enough that we can adopt them as is, with minor changes. No. 2, on the fence around the pool, I think you need to insert the words, "noise barrier". It should say, require a noise barrier fence be built. The reason is I would never want anyone to think it was a safety fence around the swimming pool. The city use to regulate that and we specifically did away with our ordinance because once we attempt to regulate safety fences around pools, if there ever isn't one and a child drowns, then we are liable. So we are in no way regulating the safety of the swimming pool, merely the noise.

On condition No. 3, I think there needs to be something in there regarding the height of that fence and the location. Conditions 4 and 5 are fine as worded.

On the issue of building moratorium, we cannot have a moratorium on building unless you have a reason why it is, and if it is going to be that there isn't school space there must be a corrective plan in place to solve the problem prior to the adoption of the moratorium. That's a state law. People used to place building moratoriums when they didn't want the area to grow anymore, and landowner's would get stuck with property and could do nothing. The state now says if you want a building moratorium you must have a plan to fix the problem prior to placing a moratorium.

On the issue of federal funding, I know of no federal regulation regarding the use of federal funds that would in any way impact the land use decision before the city. Likewise, I agree with Peter about the vacancy of apartments, that's the developers problem and the risk they take when building a project. It's not the city to regulate whether or not he's making the best economic use of his property.

On the issue of Mr. Dennis' driveway, I think if that becomes a safety issue then the city will take another look at it. The code says you have to minimize the impact, not eliminate it. I think that possibly the applicant and Mr. Dennis can come to some sort of agreement on this issue. The applicant has met all the code standards.

J. Hart: Asked if the city could require the applicant to make improvements to Mr. Dennis' property.

D. Darling: No, but on the highway frontage, if it was appropriate as a result of impact from this developer, we could do that. But not on Mr. Dennis' property.

Tonia McConnell: At this point, Mrs. McConnell tried to ask a question about a building moratorium and was not allowed to ask anymore questions. Deann Darling said she would talk to Mrs. McConnell during a break or after the public hearing. Mrs. McConnell agreed to this.

T. Conser: Asked for Mr. Hamman's rebuttal.

Tom Hamman: Addressed the fact that he was aware that there were minor drainage problems, not that there were "No problems". He said that they would be dealt with and taken care of with staff's approval.

He stated that there is no federal funding applied to the project.

The neighbor with the driveway that's right in front of his house and is concerned, there will be a broader road which will increase the safety to some extent. If it turns out to be a real safety issue, I would think we could resolve it with staff.

Mr. Hamman explained what the appearance of the project would be by referring to the chart on the map explaining the different elevations and landscaping of the project site. He stated that they were trying to maintain as much view as they could so they wouldn't be filling it with trees.

Regarding the 8-foot fence along here. It is my understanding when it is dropped below 8 feet then it is not part of the building.

It is my understanding that the right-of-way improvements may be centered. But the agreement that we have is that the east side of the highway can remain as is as long as we can fit them all over to the west side of the highway.

Jim Montgomery: I think to say that the improvements should be centered on the right-of-way is sufficient. It will have to be worked out with staff and the developer.

T. Hamman: (Continued) Stated he had a real problem with the description of the improvements to be made on Barlow. It is our understanding in the meetings that we have had with staff that we were doing no improvements to Barlow Street other than the connections at Highway 43. This is completely new to both of us that we would make a two-way street on Barlow.

On condition No. 3 we would be proposing a wood fence, not a concrete fence or barrier. Putting it on the property line would be appropriate, and it will be 6-feet high.

Mr. Hamman stated that there was nothing written about the driveway to the north, about conditions of approval, if the Commission wishes to make it a condition that would be fine. It would have to be worked out between them and staff.

T. Conser: Any final questions of the applicant?

M. Riley: I have one question. Is it reasonable to ask that the street improvements be done first to accommodate construction traffic?

J. Montgomery: Well, normally the first thing they do is destroy all the streets. They will have to provide some kind of traffic control if they are going to have any kind of impact on the traffic flow. This is a private improvement. Typically, they would have to do all the building first and then put in all the street improvements at one time in order to make it work correctly.

T. Conser: At this point the Commission has the option to continue the public hearing for additional information or close the public hearing. What do you want to do?

C. Tryon: I move that we close the public hearing.

R. Crawford: Second.

T. Conser: It's been moved and second to close the public hearing. All those in favor signify by saying aye. (aye) Opposed? (No one was opposed.) Public hearing closed at 10:14.

A ten minutes recess was taken at this point in the meeting.

T. Conser: Asked everyone for their feelings on this application.

M. Riley: Stated that he did not have any particular problems with the application for approval. He did say that he had some concerns about an easement on the property to the north.

D. Zachman: I agree with what Mike said. (her comments were inaudible.) She did say that the developer had really gone out of his way to work with the neighbors and she commended him for that.

J. Hart: The only additional issues are the Barlow Street issue and what kind of improvements should be made there. If there is a condition I think it should be to let the city engineer -- allow some more negotiations between staff and developer to decide what should be done with Barlow Street

J. Hart: (Continued) improvements. In the conditions requested by the residents regarding locking gate, I would like to see another sentence in there that says, the fence and carport wall shall provide a barrier for the traffic -- I think that sentence can be deleted also since the city isn't going to enforce that.

Other than that I am basically in favor of approval of the project.

C. Tryon: I agree with what the others have said. (Mr. Tryon made some comments here regarding Barlow Street but there were inaudible.) He did state that one of issues before us tonight was the issue of multi-family dwellings. Now is not the time to fight that battle. That issue should have been raised when the zoning was brought before us. It is now zoned for multi-family housing.

R. Crawford: I feel very much the same as the rest of the Commission does I'd like to compliment the developer on his extraordinary efforts in cooperating with the neighbors.

W. Wright: I concur with all that's been said. I'm interested in that stairway and the safety factor has to be considered by staff. I'm in favor of approval.

T. Conser: We try to work with the school district in keeping them abreast. In 1983 they had quite a bit of effort in working on our Development Plan and on our Comprehensive Plan. They had a lot of in put and they knew what kind of densities were required - 8 living units per acre. As well as providing for densities of this R-2.1. We are not developing, as it is turning out, near that density. The school district has been aware of those kinds of densities. None of us go unaffected by schools and the issues that are being brought up.

My only recommendation to the staff is that something be done along that north carport line. Possibly enclose that and to actually make the fence run along the property line. I think it would be easier for all parties to maintain that. That's just a recommendation.

P. Spir: We have the wording on what we would call condition No. 10. It would read, the developer shall grant a 35-foot wide access easement to the north property owner for access along the driveway for existing use and future development. Said development of that north property shall be restricted by the provisions of Chapter 85 and 93 of the Development Code Said easement to extend the length of the pavement proposed on the north property line. Existing access to Highway 43 on the adjacent lot shall be blocked off. Access to the current use on the north lot shall be by a 10-foot hard surface driveway intersecting with a 35-foot driveway for the project.

The conditions that were submitted by the neighbors tonight, shall be incorporated with the existing conditions.

C. Tryon: Mr. Chairman, I move that we approve the application for Design Review/Planned Unit Development, ZC-88-04/DR-88-18, for the parcel located at the west side of Highway 43 at Barlow Street as that application has been presented to the Commission tonight. This approval will be subject to the findings in the staff report dated August 4th, 1988, and subject to the conditions contained therein with the following changes: condition No. 1 to clarify that the improvements to Highway 43 will be centered on the existing right-of-way and that Barlow Street will be improved, where it borders the project, to the width of 18 feet and existing retaining walls and improvements shall be subject to approval by the city engineer; condition No. 4 be changed to add items No. 2 and 3 from Exhibit F, which is conditions agreed to between the developer and residents neighboring the project. Items 2 and 3 will be changed as follows: that the words "noise barrier" will be inserted before the word "fence", and item 3 will be changed to read, "require the six-foot high, solid-wood fence to be built on the property line separating the development from the adjacent homes." And in condition No. 10 be added which reads, "Developer shall grant a 35-foot access easement to the north property for access along the driveway for the existing use and future development. Such development shall be restricted by the provisions of Chapter 85 and 93 of the Development Code. The said easement shall extend the length of the pavement proposed on the property line. The existing back access to Highway 43 from the adjacent lot shall be blocked off. Access to the current use on the north lot shall be by a 10-foot paved driveway intersecting with a 24-foot driveway in the project." And that the following three conditions be added: Item one from Exhibit F, item four from Exhibit F, and item five from Exhibit F with the change that renovation of the stairway and appropriation for the walkways and paths shall be subject to the city engineer's prior approval. Item No. 4 in Exhibit F, the first sentence shall be changed to read, vehicle access from this project to Randall Street shall be prohibited in perpetuity.

T. Conser: Is there a second to the motion?

R. Crawford. I do.

T. Conser: Is there any discussion?

J. Hart: Just a clarification. The six-foot wooden fence then would run on the property line. The backs of the carports would still have a barrier and -- I'm satisfied with that.

T. Conser: Any further discussion? (There was none.) All those in favor of the signify by saying aye. (aye) Opposed? (No one was opposed.) Motion passes.

Mr. Conser moved onto the next item and that was the approval of the final order for the Mark Lane project.

Are there any corrections or additions to the findings?

P. Spir: Finding No. 13, on page 13, it says Willamette Falls Drive. That should be Willamette Drive.

T. Conser: Finding No. 27 is my area of concern. Joe would you like to explain what you meant by that.

J. Hart: The motion that I made contained the condition that the area between the apartments and the property line to the north along Mohawk would be landscaped in accordance with the landscape plan. Was there a landscape plan submitted?

P. Spir: Yes, there was. It was with the new plans.

D. Darling: Regarding the easement, why do we need that easement? I think you can eliminate that easement. I don't think you need one. The intent was for the developer to put in a 35-foot buffer strip, maintaining as much natural vegetation and trees as he could and build it up so it was nice pursuant to the plan and still allow pedestrian access over the 35-foot buffer. Is that it?

J. Hart: Yes.

D. Darling: Okay. I can work that out.

T. Conser: That should be subject to your approval and direction on that.

D. Darling: On No. 5 you need to put in the words "6-foot high".

J. Hart: I think it was agreed to a 6-foot high, wooden-slat fence -- chain link fence with wood slats.

D. Darling: That needs to be reflected then in condition No. 5.

T. Conser: Under conclusion on page 5, that should read 102 units. Under No. 3 in the conditions, that should be the open space west of the project, and there was a requirement that a condition be put on it that it be used for park area only. I think that should say, the open space area to the west shall be dedicated to the city for park use only.

J. Hart: On condition No. 5 let's change that wording to the northern property line.

T. Conser: Condition No. 12 says --

D. Darling: That should be under conclusions. That's not a condition.

T. Conser: -- unless you say shall be reduced to 102 units.

D. Darling: Then that would make it okay.

T. Conser: Any other corrections or additions?

D. Darling: I have one for condition No. 10. shouldn't the words, "prior to any cutting" be added?

T. Conser: Yes, they should.

D. Darling: Regarding condition No. 4, the language I would suggest is, a 20- to 35-foot landscape buffer on the north property line from Highway 43 to the open space area shall be developed pursuant to a landscape plan approved by the planning director. Said plan to contain all possible trees and vegetation. A pedestrian access easement across the 35-foot wide buffer strip shall be needed. The landowner shall maintain the buffer area. Does that take care of what you're wanting?

T. Conser: Yes, it does.

Is there a motion to approve this final order?

J. Hart: Mr. Chairman, I move we adopt the final order as corrected.

D. Zachman: I second.

T. Conser: It's been moved and seconded. Are there any questions? All in favor signify by saying aye. (aye) Opposed? (No one was opposed.)

Motion passes.

The next item is item five. I'd like to call to order the public hearing for tentative subdivision plan approval/variance request. Applicant is Barrington Development, Inc. The location is north of Barrington Heights subdivision. The file no. is SUB-88-02/VAR-88-07.

Do any members of the Planning Commission wish to abstain? Do any members of the Planning Commission wish to declare a conflict of interest? Do any members of the Planning Commission wish to report any significant ex parte contact? Have all members viewed the site? (everyone had viewed the site.) Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge any individual member of the Planning Commission? For all those wishing to testify please be aware that if you fail to raise an issue in person or by letter tonight you will be unable to raise that issue at any subsequent time on appeal. At this time I'd like to call for a brief staff report.

P. Spir: The applicable Chapters are 87, 93 and 75. The site is approximately 17 acres -- 16 acres. There are 24 lots. They range in size from around 23,000 square feet to 13,000 square feet. There are two areas of concern to staff: linking Imperial Drive to Land Circle area. This phase is a positive step towards that linkage. The slight problem that we have though is the choice of names. You'll note that we have Barrington Drive West and Barrington Drive East. Part of our Development Code speaks against this use of duplication. We are recommending that Barrington Drive West be named Barrington Drive, and Barrington Drive East be renamed to either Imperial or that they come up with another name. Tract A would be eliminated. There will be a 20-foot wide easement on both sides of the creek that runs through the area, and the wetlands ordinance will be in effect for that creek area.

Peter described the variance as explained in the staff report that all Commission members had before them. He stated that staff is supportive of the variance request. The staff recommends approval of the subdivision with the following conditions: condition 2, the street name shall be changed to conform with the Development Code, section 93.030.K and to the satisfaction of the city engineer; tract A shall be removed. In its place lots 11 and 13 each shall become flag lots each with a 15-foot wide access. I deleted the remaining sentences from that condition. Condition No. 4 should be a 5-foot utility easement shall be established on all interior lot lines. We are taking out condition No. 5 in its entirety and replacing it with this one: the applicant shall prepare a vegetation plan for the trees, wetlands area, and 40-foot protective easement identified as area U-5 in the wetland inventory study. Plan shall inventory the type, location, and map of the existing vegetation. Blackberry and other nuisance vegetation may be removed shall under the provisions of the vegetation requirements shall be replaced with plants selected by the criterion. The vegetation inventory and vegetation plan shall be submitted to the planning director and approved prior to site preparation, clearing, and grubbing. The area will be identified at that time. We have condition No. 6, which is verbatim the last paragraph on page 2 of the staff report. I think we should add to that that this configuration shall be approved by the city engineer. Condition No. 7 is verbatim the two sentences that come before that in the staff report. That concludes the staff report. We have received no correspondence on this matter.

T. Conser: Would the applicant like to come forward.

Brad Slaney: I'm representing the developer this evening. We are in agreement with all the items listed in the staff's recommendations and conditions of approval except for a few concerns. The applicant is adamant that the name Imperial Drive not be used in the development. He would like to have the whole street name changed. Something more traditional like Windsor Court or Windsor Drive.

Mr. Slaney asked the staff what exactly was their intent on the vegetation inventory being required. It was determined that they (the developer and staff needed to discuss this inventory further and would do so at a later time.)

Those were all the concerns that he had at this time.

T. Conser: I have no other requests for comments. Jon, do you have anything that you would like to add?

Jon Buckley: No. Just put an exhibit number on my letter for the record. (This was made Exhibit E.)

T. Conser: Is there any further testimony? Is there any further rebuttal or comments?

W. Wright: I move that the public hearing be closed?

C. Tryon: Second.

T. Conser: It's been moved seconded. Any further discussion? All in favor signify by saying aye. (aye) Opposed? (No one was opposed.) Okay. The public hearing is closed.

M. Riley: I move that we approve the tentative subdivision plan of Barrington Heights, Phase IV, file No. SUB-88-02/VAR-88-07. The said approval be as outlined in the Planning Staff's report of August 29, 1988, with the conditions as included and with the following changes: Item No. 2 at the end of the sentence it should read, and to the satisfaction of the city engineer; condition No. 3, change sentence two to read lots 11 and 12 shall be served by flag lots each with 15-foot wide access to Barrington Drive -- lots 11 and 12 shall be redesigned as flag lots. Tract A would be eliminated. Delete existing condition 5 and replace with the new condition No. 5 with the following changes: at the end of the first line add a comma (in the second paragraph). In addition, condition No. 6 shall be added and condition No. 7 also shall be added. Also add condition 8 which is the developer shall require CC&R's to restrict future subdivisions of lots.

J. Hart: Second.

T. Conser: It's been moved and seconded. Any discussion?

C. Tryon: Just for the record. I intend to vote in favor of the motion even though I do not believe that the variance criteria has been met.

T. Conser: All those in favor? (aye) Opposed? (No one was opposed.) Motion passes.

Mr. Conser explained the process of appeal at this time.

Staff discussed future meetings and the meeting was adjourned at 11:33 p.m.

WEST LINN PLANNING COMMISSION
REGULARLY SCHEDULED MEETING
OCTOBER 17, 1988

The regularly scheduled meeting of the West Linn Planning Commission was held October 17, 1988, with the following Commission members present: J. Hart, D. Zachman, T. Conser, C. Tryon, R. Crawford, and W. Wright. Staff present: P. Spir; D. Darling; J. Montgomery; M. Butts; and Pam Allen, hearings reporter.

Mr. Conser was chairman for the meeting.

MR. CONSER: Mr. Conser opened the meeting at 7:34 p.m. He explained the procedure followed for giving testimony and accepted forms from those wishing to speak this evening.

He then had an open period for anything that anyone would like to be discussed in the future or any questions that anyone had in general. (No one had any questions.)

Mr. Conser then went to the approval of the minutes of August 1, 1988.

Are there any additions or corrections? (There were none.)

MR. TRYON: I move that we accept the minutes of the August 1, 1988, Special Meeting.

MR. HART: Second.

MR. CONSER: All in favor signify by saying aye. (aye) Opposed? (No one was opposed.) Okay. The minutes are approved for August 1, 1988.

August 22, 1988, Planning Commission meeting. Any corrections or additions? (There were none.)

MR. CRAWFORD: I move that we accept the minutes for August 22.

MS. ZACHMAN: Second.

MR. CONSER: It's been moved and seconded to accept the minutes as written. All in favor signify by saying aye. (aye) Opposed? (No one was opposed.)

August 29, Special Meeting, any corrections or additions?

On page 2, about two-thirds of the way down where Mr. Conser speaks about an Exhibit B from Dan Jones, I believe that should be Exhibit D.

On page 4, there's a comment of mine where I stopped the testimony and encountered some comments being made from the audience and brought the meeting to order. I would like that to be noted. I was not stopping the testimony but the comments in the background.

Beyond that, they are very complete and thorough as far as I can see and we appreciate that very much.

MR. TRYON: One minor correction on page 28, about halfway down on a comment of mine, the word initial should be additional.

MR. CONSER: I'd also like to make a correction on page 29 on a comment of mine about three-quarters of the way down where it talks about the number of cars per hour. That should be 102. You have 502.

Any additional corrections?

MR. TRYON: I move that we approve the August 29, Special Meeting with the corrections and changes as noted.

MS. ZACHMAN: Second.

MR. CONSER: It's been moved and seconded. All in favor signify by saying aye. (aye) Opposed? (No one was opposed.)

Minutes approved.

The next item is the public hearing for Design Review/Conditional Use request to construct a library. The City of West Linn is the applicant. The location is Burns Street, between Hood Street and Willamette Drive.

I call to order the public hearing regarding application No. DR-88-24/CU-88-02 at 7:40. Do any members of the Planning Commission wish to abstain from this application? Do any members of the Planning Commission wish to declare a conflict of interest? Do any members of the Planning Commission wish to report any significant ex parte contact? Have all members viewed the site? (Everyone had viewed the site.) Does any member of the audience wish to challenge any individual member of the Planning Commission? For all those wishing to testify please be aware that if you fail to raise an issue, in person or by letter tonight, you will be unable to raise that issue at a subsequent time of appeal. In addition, if you do not speak tonight we need you to sign in back there to get standing for any future appeal. You must have standing to testify or to appeal any decisions that are made.

Mr. Conser then asked Peter Spir to give a brief staff report.

MR. SPIR: Planning Commission members, we will be looking at a Conditional Use permit application/Design Review for the public library which is going to be located on the north side of Burns Street between Hood Street and Highway 43. The zoning is a combination of an office business center (OBC) and R-10 residential. The office business center classification applies to the area closest to Burns Street and R-10 is in the area behind the OBC area.

The proposal is to build a 13,314 square foot library. Libraries are permitted outright in the OBC Zone, but do require a Conditional Use permit in the R-10 Zone. The applicable code sections are: 55,000 and 60,000.

MR. CONSER: There's additional information provided tonight by the applicant, I assume?

MR. SPIR: It's a combination of by the applicant and by the planning staff.

MR. CONSER: What I would like to do is define those and make those exhibits.

A letter to Pam Williams from Michael Butts dated September 7th will be Exhibit E. The map of where the existing sites are and how the tax lots fall, provided by staff, will be Exhibit F. The four pages, provided by the applicant, showing electrical plans, site plan, future planting plans will be made Exhibit G, and the future parking site I'll make Exhibit H.

Would the applicant like to come forward and give their application.

PAM WILLIAMS: My name is Pam Williams, and I'm the city librarian. I'm here tonight representing the Building Task Force in place of the chairman who couldn't be here tonight. I have with me tonight two people who can answer questions regarding the building plan and the landscape design.

Ms. Williams then asked Mr. McWilliams to come forward and talk about the plan design of the new library.

GORDON MCWILLIAMS: My name is Gordon McWilliams, Senior Associate, SRG Architects & Planners, 520 S.W. Yamhill Street, Portland, Oregon.

Mr. McWilliams explained the new library building using plans that he had on the wall. He explained that the building would be mostly brick with a metal roof. He explained that the building was designed to fit in aesthetically with the surroundings and to make it a nice public building that the City could be proud of.

Mr. McWilliams then explained the layout of the floor plans for the new library using the diagram on the wall.

The library will be approximately 13,000 square feet with 10,000 square feet being on the upper floor. This is so that the community meeting room could be used during the off hours of the library and could be shut off from the library if need be. The main entrance will be the primary entrance and exit from the building. There will be a staff entry at the back of the library.

Mr. McWilliams also explained where the reading rooms would be, the layout of the library, and that the library is being designed so it can be expanded, if needed, in the future. He stated that the main reading room will be the focus of the building. There will also be a basement.

PAM WILLIAMS: At this point, Ms. Williams addressed the parking issue. All of us, the Building Task Force, The Library Board, the architects, and the landscape designers are fully aware of all the city's requirements in regards to parking and to this particular building, its size, and its use. We do intend to meet all those requirements. We have a number of different options in order to meet them fully. The option that seems to be in the best interest of the City of West Linn is one that involves the Dujardin property located at Hood and Burn Streets. We have entered into negotiations with Carol Dujardin and are very confident that it will soon be settled agreeably. Carol Dujardin has given me a letter. She is out of town and will be back shortly. If it is okay with you, I'd like to read it to you. It's addressed to the West Linn Library Building Committee regarding parking. "This letter is written to express my intention to enter into a written agreement to allow the creation of up to 20 parking spaces on the property located on the southwest corner of Hood and Burn Streets, immediately across the street from the proposed library site. While the precise terms of the agreement need to be completed and the proper authorizations received, I have every reason to believe a mutually satisfactory document can be executed. It is my understanding that this letter will be submitted to the West Linn Planning Commission for purposes of Design Review approval. I look forward to finalizing this agreement after my return to West Linn on October 27, 1988. Sincerely, Carol Dujardin"

This letter was marked Exhibit I.

LARRY TOMIASE: My name is Larry Tomiase with Kurisu International in Portland, Oregon.

Mr. Tomiase stated that he would go over the landscape plans briefly. He had a copy of the plans that had been presented to the West Linn City Council and said that revisions had been made since that time. Mr. Tomiase used the plan to show how they had shifted the layout of the building and to show where certain items would be planted. He stated that the parking lot provides 37 spaces with two handicap parking spaces.

He stated that one of the reasons they moved the building was to preserve the existing oak tree.

Also, there are a couple of things on the plan being submitted tonight that will be changed. One was a planting shown on this plan design, which will be more dense than that indicated on the plan; and the other will be to save an existing tree on the property that we thought would have to be taken out.

MR. CONSER: Asked about plantings on the curb line and Mr. Tomiase addressed that issue using the plan to show where things would be planted.

MR. HART: Asked about emergency access to the building and Mr. Tomiase explained where they would be using the plan design on the wall.

MR. CONSER: I only have one request to speak this against this issue and that is from Mike Skee.

MIKE SKEE: My name is Mike Skee and my address is 1684 Dollar, West Linn. First things first, I would like to submit the following materials into the record: a cover letter from the property owner of the site referred to as the "Old School Site" giving me permission to submit this material; three letters from Safeco Title Insurance dated March 4, April 9, April 29; the city's appraisal of the property dated March 10, 1987 (these dates are all 1987 dates); a reply from the property owner dated

April 18. I would like to make a request for additional information, should it be needed. I would like to make the appraisal reports part of the record, along with any correspondence from the owners of those lands, as the Council should have this under executive order. I would like them to release this executive order on these because I believe citizen funds paid for these appraisal reports and they should be made available.

I am here tonight --

MR. CONSER: That stuff that you would like to have admitted, do you have extra copies or --

MR. SKEE: You can have these.

MS. DARLING: If you are going to accept those, you are going to have to mark them as exhibits. I'm concerned about what may or may not be covered by executive order. This body doesn't have the authority to release confidential information from the Council. But if you have it my guess is that it is no longer confidential.

If that information is in fact confidential information, we cannot now put it into public record.

MR. SKEE: You can't even make a request that it be put into a public hearing?

MS. DARLING: That's about all you can do, but we cannot accept it if it is confidential information.

MR. SKEE: But if they do lift the confidentiality off it then it could be accepted by request at this time?

MS. DARLING: Yes. Do you know whether it's confidential information?

MR. SKEE: I have no idea.

MS. DARLING: How did you come by it?

MR. SKEE: This was given to me by the person -- (inaudible)

MR. CONSER: My concern is if we don't have this information available --

MS. DARLING: You can't use it in your decision.

MR. SKEE: None of this is for discussion tonight. It's for possible future use. None of it's for discussion tonight.

MS. DARLING: It's not relevant to what we are deciding tonight?

MR. SKEE: At some point in time it will be germane to the case.

MR. CONSER: Mr. Conser stated that he would need to have more copies of this information if the commissioners feel they need to go through this information.

MR. SKEE: Like I said -- I believe I'm correct in being able to submit this as part of the record. This is for a possible appeal.

MR. CONSER: Help me out a little bit, Deanne. If this information is to be used in our decision process, then we need to look at it. If it's not going to be used in our decision process tonight then there's no reason to accept it.

MS. DARLING: That's correct. If it's relevant tonight, take it; if it's not relevant tonight, then it doesn't need to be in the record.

MR. WRIGHT: On appeals new evidence can't be submitted, can it?

MR. CONSER: That's true. Therefore, the only way this can be used in appeal is if we use it tonight in our decision process.

At this point in the hearing Mr. Conser took a consensus of the commission to ask if they wanted to accept this information this evening.

MR. HART: Mr. Chairman, with Mr. Skee's remarks to this material, it doesn't sound like this is relevant to the decision we are going to make tonight. If that is the case, I would prefer not to accept it.

MR. TRYON: Since the decision is not being based on this information, I don't think we need to accept it.

MR. CONSER: The point I'm trying to make here, this is a decision on application before us. If this information is pertinent to this decision and we need it to make our decision or influence our decision, we would utilize it. If we have no intent of dealing with this information, then we won't accept it as testimony.

MR. SKEE: Let me say one thing Mr. Chairman. This is the first public hearing process on this library. There's been no other forms offered to submit into evidence anything of this nature. Should this go forward, there will be no opportunity for a citizen, such as myself, to ask that this information be considered primarily by the Council. It is not information that can be taken under advisement by this commission, only by the Council.

MR. TRYON: This is not a public hearing on the site selection.

MR. SKEE: No. This is a public hearing on the site selection.

MR. TRYON: This is a land use hearing. If I understand correctly, this information would pertain to the site selection.

MR. SKEE: It would be, yes.

I would ask you again if you would consider this. It is of significant interest to the general public with regards to this process. Again, it is not, as you have stated, germane to your application tonight, but it is to the overall library decision. I'll have no problem if you do not accept this. I'll have to rethink how to get this into a public forum and for the council, should you not accept it.

MR. CONSER: Again, our decision has to be made on the application presented and the information pertinent to that application. However, if it is pertinent to the site selection, then it is not germane to this decision tonight. I will not accept it as part of our testimony this evening.

MR. SKEE: Let me first start by saying that I can't believe in the arrogance of some of the individuals, both elected and citizens, that have been involved in this process. Our able staff member, Pam Williams, said that there is an option that can address the parking for the library site. My statement to you, members of the commission, is that there is no option in the best interest of the citizens of West Linn, if it will cost one cent more than the approved \$1.2 million library bond for the purpose of building a complete library facility.

I think it was somewhat ludicrous at the outset of this project that it would be incumbent upon the Mayor to say that we believe we can enter into negotiations for additional parking with Lake Realty. To buy a site knowing it was going to be in violation of our codes and later ask this commission to extend the circumstances whereby we can comply at a future date is unbelievable, in my opinion. I think that the additional funds should be found. Keep in mind, the Council has yet to rule on where these funds would come from let alone approve these funds. All the availability within close proximity is held by one family. If there should be money found for a parking facility, we could use those funds to approve already owned city facilities making it accessible to the handicapped that exist with in our inventories now. It is within the authority of the Council and the Library Site Committee to modify or amend this structure still maintaining its primary use as made by the bond plans and come into compliance with the parking without asking the

citizens for one more cent. I believe for the commission to allow this to go forward with recommendation number one would be a serious error. At some point in time somebody has to take responsibility for the citizen's desires in this matter. I believe that is all I have. Are there any questions?

MR. CONSER: Have you received the October 6th revision of the recommendations?

MR. SKEE: Yes, I believe Mr. Spir provided me with everything that you have tonight.

VAL WEST: I'm Val West and I live at 4344 Cedar Oak Drive in the Robinwood area. I have a few questions of the commission. Have all conditions been met and approved and you feel are or will have been met prior to this request?

MR. TRYON: I didn't understand the question.

MR. WEST: Have all conditions been met and approved that you feel are or will have been met by this request?

MR. CONSER: This is an application before us. The application must meet the code and requirements and staff is recommending that it does meet the codes except for five conditions which they have requested. Are you asking if those conditions have been met?

I think our answer will be involved in our decision.

MR. WEST: I believe you have a right, along with Design Review approval, to be satisfied of any prior condition about the property that you may feel is necessary for you to approve. I believe in prior testimony it was stated that there was never opportunity to bring in any input prior to this meeting this evening.

There are conditions that have to be met prior to this approval --

MR. CONSER: Prior to the application being accepted by staff, there are conditions that must be met. Those conditions are that the property must be represented by either its owner or assignee, whoever is assigned to represent that property --

MR. WEST: Do you have that submitted to you in document form?

MR. CONSER: No, we do not. Staff is indicating by accepting this application that it is a proper application.

MR. WEST: The landscape architect made reference to some excavation work which was required on the site. With the landscape plan that has been presented to you would it present problems if there were problems found during the excavation of the site?

MR. CONSER: Most of the engineering approval, permit approval, and excavation requirements are done by staff. If during excavation were found to be inadequate, then I assume that the construction would be stopped.

MR. WEST: Somebody has been neglectful in the cost of the landscaping. How was the cost arrived at?

MR. CONSER: We are not concerned as a Planning Commission with the cost of excavating, landscaping, or the cost of the project. It is the applicant's responsibility to deal with those issues. If the Council finds that the project is over running and they shut the project down because of that, then that is within their power to do. That is not a land use or Commission

concern. We are concerned with the use, stages, textures and designs, and whether or not it is going to fit within that property. The cost of building construction is not a concern that will effect the decision of this body.

MR. SKEE: What we are trying to do is get some information on the record.

And finally, it is important that you ask the landscaper if this is his final plan for landscaping.

Those are all the questions that I have.

MR. CONSER: Called for the staff report on this application.

P. SPIR: When going through the approval criteria, it is evident to staff that this application meets the criteria adequately.

The main parking lot will offer 37 spaces. The requirement is for 52 spaces. Fifteen spaces will have to be picked up later on for the additional parking area. The requirement is broken down to 17 spaces for library use and 35 spaces for community room use. No loading facilities are required for libraries, although deliveries can be made from the parking lot, along a path in the rear garden to the basement service and delivery door. Mr. Spir then referred to Exhibit E which explained the parking facilities. All Commission members had this exhibit to follow.

The building and parking lot will be kept out of the drainage area and heavily treed area thus preserving the most vegetation on the site as possible. The library site is not subject to slumping or sliding.

There is adequate distance between the library and adjacent uses - 20 feet to the nearest structure -- to allow for adequate circulation of light and air and emergency access. The City of West Linn Fire Chief has reviewed and approved the accessibility of the site.

The proposed structure is very low profile and architectural features are compatible with adjacent offices. The extensive landscaping along the front of the library will further soften the views of the library.

The structure is oriented on an east-west axis and, with the architectural feature of skylights, should receive passive solar heating and natural light.

Regarding compatibility between adjoining uses, buffering and screening. This use will generate little in the way of impacts except traffic. That use will be screened in the parking lot by extensive landscaping. The library itself is an attractive structure and will have landscaping on all sides. The interior views will be positive. The parking lot will be broken up by six landscaped islands.

Speaking about privacy and noise, the area that will generate the most noise is the parking lot between the library and commercial offices to the west. This activity area will not adversely impact adjacent uses. The property across the Burns Street is protected from the glare of headlights by thick bushes along that street. The lighting plan for the library will not produce off-site glare.

Access and circulation are adequate. The two-way driveway dimensions meet code. The circulation pattern is clear. Pedestrian walkways are provided in front of the library and between the library and the parking lot.

This proposal offers about 40 percent of the site as landscaping including a large lawn and garden area at the rear of the library. The five- and ten-foot landscaped buffer strips have been provided around the parking lot plus the landscaped islands in the lot itself. The irrigation system will be adequate.

The approval criteria is contained in Section 60.070 and requires that the site size and dimension be adequate for the needs of the proposed use. Certainly, the site is large enough for the library, however, the limitations that the site and design impose upon parking means that it is inadequate for that element. The parking requirements will, however, be satisfied off-site.

The site must also be of adequate size to mitigate any possible adverse effects on surrounding uses. The only adverse effects will be associated with trip generation: noise, glare and fumes. The parking lot is adequately buffered for this purpose. The nearest home will be approximately 100 feet from the parking lot and screened by a hedge on Burns Street.

The characteristic of the site is suitable for the proposed use. The proposed building site is flat and well drained.

The granting of this proposal will provide a facility that

is consistent with the overall needs of the community. A bond measure has been approved through a city-wide vote for the construction of a library.

This particular use complies with the Comprehensive Plan specific policies 36 of the Public Facilities and Services Element. Policy 36 states "Where economically feasible, provide for library services which meet the user demand of City residents." To this end, the enabling bond measure has been approved and the proposed library is sized to meet user demand.

Staff recommends approval of the Design Review and Conditional Use Permit with the following conditions:

- 1) Within two years of the decision date, the City agrees to provide an additional 15 parking spaces on tax lot 3000, assessor's map 22.E 32.D. The final agreement for the additional parking lot shall be signed and approved by the city attorney's office prior to issuance of any building permits. If within two years of the final decision date the parking lot is not constructed to city code and standards, the community room will be closed until some time that those facilities are satisfactorily provided.
- 2) All drainage plans shall be prepared and built to the satisfaction of the City Engineer.
- 3) All abutting street and sidewalk improvements shall be made to the satisfaction of the City Engineer. These improvements will include half-street improvements on Burns Street, curb, sidewalk and drainage.
- 4) Wheel stops shall be installed in all parking stalls abutting landscaped areas and/or pedestrian walkways.
- 5) When the library is in use, the community room shall be limited to 40 persons until the additional parking space is provided.

That concludes the staff report.

MR. CONSER: Was this a complete application?

MR. SPIR: The application we received was deemed to be complete.

MR. CONSER: Do you feel comfortable that appropriate parties are being represented by this application?

MR. SPIR: Yes.

MR. CONSER: Are you aware of any excavation problems?

MR. SPIR: That was one of the approval criteria questions. We answered as we felt it applied.

MR. CONSER: Has staff looked at the security aspect along that east side?

MR. SPIR: We expect that those three basement windows will be properly secured.

MR. CONSER: In that parking proposal, does that plan go through the planning office?

MR. SPIR: No. That would be an administrative decision.

MR. HART: It is true that under the code the city is not exempt from these requirements.

MR. SPIR: Correct.

MR. HART: Do you know of any other similar attempts to accommodate an applicant such as this?

MR. CONSER: I do recall that the high school was allowed a time-phased parking plan.

MR. HART: Do you have any idea what kind of future expansion is planned for this building?

MR. SPIR: That hasn't been discussed with me. I'm not aware of any.

MR. HART: Are you familiar at all with the proposed agreement for the use of this separate piece of property for parking.

MR. SPIR: I've seen the document. I'm satisfied --

MR. HART: Is that a rental or lease-type agreement or does the city have to purchase that?

MR. SPIR: I'm not that familiar with the document. I'd have to look at it.

MR. HART: On that piece of property, what kind of public improvements would be required?

MR. MONTGOMERY: They'd have to meet city code. So there would have to be half-street improvements, sidewalks. As far as curbs coming up to the property line, that is something that the staff would have to look at for conditional use and is something that could be added as a condition tonight, of course.

This doesn't meet existing code right now because the driveway is too close to the intersection, so that would have to be changed. It's a very preliminary design at this point.

MS. DARLING: Typically, however, the street improvements end at the property line.

MR. HART: If the library was closed at the time the community room was being used there would be adequate parking on site.

MR. SPIR: That's correct.

MR. CONSER: What's the capacity of the community room?

MR. SPIR: The absolute capacity will be determined by the Fire Marshal.

MR. TRYON: Asked why they set a limit of two years and not five years. How did they arrive at that period of time?

MR. SPIR: We expect that the library will push ahead and move as rapidly as possible.

MR. TRYON: Is parking adequate with condition No. 5?

MR. BUTTS: The intent here is that the library is proposing an amount of use for the library. They are required to provide parking. They are unable to do that at this time. We try to give options so that they can provide this over a period of time. One of the options is that sometime in the future to provide for that parking. And the mechanism to force that to happen we came up with the idea of limiting the amount of use of the facility, at this point in time. We have not used that before. So the point is that the library is asking for a certain amount of facility, certain amount of community room, and they are required to provide the parking. The problem with this method is that there is no method of enforcement. The city is not going to go out there and count heads every night. It is very important that we tie down when that parking should be provided and why. And in the interim, what kind of limitations are placed on it. We felt that two years was a reasonable time limit. We felt that was adequate time for them to get right on the issue. Again, the limitation of use is simply an interim technique to allow them to open it up and still be short parking spaces.

MR. WRIGHT: Except Mike, in the other instances, the structures were already there.

MR. BUTTS: That's correct.

MS. DARLING: Not Bonnie Lynn. They added on.

I have a comment on recommendation for condition No. 1. I would suggest that you strike the word, on lot 3000, assessor's map 22.E 30CD, that makes no sense to require that the parking has to be in a specific location. If for some reason these negotiations with this property owner fell apart and they wanted to buy the property across the street instead, you'd have to come back and amend it. That makes no sense. You can merely require that they produce the 15 extra parking spaces. That's enough.
You don't have to say where.

MR. CONSER: Any other questions of staff? (There were none.)
Would the applicant like to come forward for rebuttal.

PAM WILLIAMS: Stated that cost is one thing that the Building Task Force is taking into consideration. If cuts have to be made, we will do that to meet the requirements for the parking as designated by the Planning Commission.

I would like to say that the application was signed by the City Administrator, John Buehl, who represents the city in this measure. So it was okayed.

MR. CONSER: The original bond was for a library, at what time did the planning or meeting room come into play?

MS. WILLIAMS: The bond measure specifies only the building of the library. From the very beginning we intended to have some space for library programs, which we hold now in the engine bay of the fire station. We knew we needed to have a program room. We call it a community room but it's main intent is to provide space for library programs. It will also be available for community use.

Regarding expansion, there are many ways in which the shape of the building provides for expansion. The community room is an obvious one.

MR. CONSER: Do you know what the capacity of that community room is intended to be?

MS. WILLIAMS: The fire marshal gave us between 50 and 60 people.

MR. HART: The children's library area --

MS. WILLIAMS: The children's area will be used for smaller children's programs. The reason we need the additional library program space is because we have more kids than can be accommodated. Up to 15 to 20 children can fit in the children's area and there will be a special area to hold all of the smaller programs.

MR. HART: So you're expecting that you will use the community room itself at least once a week?

MS. WILLIAMS: We don't have a schedule. During the summer months now we use it at least once a week for children's programs.

MR. HART: Are you familiar with the property agreement?
The agreement with Carol Dujardin?

MS. WILLIAMS: Yes. It is something that Carol Dujardin looks at favorably to help her as far as bringing business into her business in that area.

MR. HART: Do you know that you would be getting an exclusive right to that parking area?

MS. WILLIAMS: We do know that she has promised us up to 20 parking spaces on that site for library use.

MR. CONSER: Could I ask what the hours of the library will be?

MS. WILLIAMS: At the present time, the library is open about 48 hours a week. We are hoping to expand that in the future, and it would probably be -- Now we are not open more than nine-and-a-half hours a day. Right at the moment, we are open just two evenings. When we get into the new library we hope to open up an additional evening. With more space, we will be able to make use of volunteers. Right now we haven't been able to make use of the volunteers.

MR. CONSER: Is there any additional information desired by the Commission?

MR. HART: Just one more question of staff. If that community room space was converted to library, there would be adequate parking provided for on site?

MR. SPIR: I haven't made that calculation but certainly the parking requirements for library space are much lower than the parking requirements for the community meeting room with similar uses.

MR. WRIGHT: On the first page under the heading, "Community Room" what's that 65 square feet pertain to.

MR. SPIR: I believe that's the closet.

MR. WRIGHT: What about this 26 foot bench length. What's that mean?

MR. BUTTS: It's a window seat and had to be calculated different then square footage measurement.

MR. CONSER: Any additional questions of staff? Any additional information required by the Commission?

MR. WRIGHT: I move the public hearing be closed.

MS. ZACHMAN: I second.

MR. CONSER: Moved and seconded. Any discussion? (There was no discussion.) All those in favor signify by saying aye. (aye) Opposed? (No one was opposed.) The public hearing is closed at 9:00.

What is the interest of the Commission? We can either approve, approve with conditions so stated, add additional conditions, or deny this application. Walt, would you like to lead off.

W. WRIGHT: I have some concerns about where you stop the exceptions, the assisting, or the bending. You make exceptions for the schools because the schools are already there, and they are going to continue to be there and that sort of thing. But this is sort of blatant. I have a problem with the exceptions made in the past. To my knowledge, they were made for later utilization on the property already owned by those who were granted the exception. We were given an illustration for the proposed site for additional parking, and now Council is recommending that we ignore that particular site for where the City chooses to establish parking at some other time.

I remember we turned down a little lady on Rosemont for a driveway, and I'll bet you if that site right there was used you couldn't get a driveway within the distance of the intersection.

That's all I have to say.

MR. CONSER: Ron, would you like to go next.

MR. CRAWFORD: I'm still real concerned about condition No. 1: parking. There are several things that I don't like about condition No.

1. It's kind of an open-ended kind of thing. At this point in time I'm really not in favor of the proposal.

MR. CONSER: Mr. Tryon, would you like to give us your thoughts.

MR. TRYON: Well, I support the application. I share some of the concerns being expressed tonight. If you try to look at it narrowly from a land use point of view, I think it meets the code with the conditions set forth. I don't believe it's setting that drastic of a precedent, not anymore than some of the things that we have talked about.

I'm in favor of the proposal.

MR. CONSER: Deb, would you like to give us your thoughts.

MS. ZACHMAN: I'm also in favor of the application. I think with the recommendations set up by staff are good controls on the parking situation. And I think the library will move forward in good faith to try to provide additional parking. As far as the design mock-up, it would appear there are a number of alternatives in which to situate the driveway.

MR. CONSER: Joe, how bout you?

MR. HART: This particular application is different from the other examples where time has been granted to provide parking. The other examples were all existing businesses or existing institutions or structures that because of remodeling has to come up to code as far as the parking was concerned. This is a completely different type of situation. We've got a brand new proposal where no structure already exists.

I have some concerns about this particular proposal for extra parking. I tried to look at the proposal to see if they could find extra parking some place else. They could get into a situation where you don't know where they are going to end up getting the parking. Is it going to end up at the corner of Hood and Burns? Are they going to purchase the property or lease it?

Is it going to be a ten-year lease or could they possibly loose the lease after it expires? Say that the Thriftway store does some expansion and they need the parking, then you'd be in a shared arrangement with some of the other developers. I really have some reservations about allowing such a scheme for coming up with the required number of parking spaces.

The other concern I have is the pedestrian access from the extra parking to the library. I think that if public improvements called for sidewalks to the edge of the property, I think there would have to be some kind of crosswalk over to the library property. They aren't exactly opposite each other. If this proposal doesn't work out, the extra parking might end up even further away.

The other concern I have is that it is just my impression that staff is bending over backwards to try to accommodate this proposal.

MR. CONSER: What I would like is if it is difficult to look at this application with both sites included, then you then look at the application independently. Consider the options to restrict the use of that space. One of the things I would be real reluctant to do is to build a site and not plan for the future, not plan to where you are going to go or what kind of uses are going to be utilized for that site. Our parking

restrictions have come under fire several times and have been requested to be reviewed. That's one of our goals of possibly reviewing our parking requirements. That does not take precedent. That is a code requirement we have. I support most of the parties concerns that an application by the city should meet the code, because if you stretch it it isn't a proper application. Especially, when it is being done internally.

What would this site be if it was not a community room per se? I think the conditions that have been suggested here would limit that use. If, in two years, that parking had not been met and was not up to standard, it would be shut down for use other than the 40 persons that would be allowed for the parking that is available.

MS. DARLING: That's not the way the condition reads. The condition reads that if the additional parking isn't built in two years all use of the community room will cease, as opposed to use over forty.

MR. CONSER: What I am saying is that is an option. Taking the hard line or restricting to forty is another option. What I am saying -- Looking at the various options, I'm not personally convinced that the parking issue should be the total controlling factor in this application.

MS. DARLING: Another option you have available to you is to require the community room to be made smaller to comply with parking. At such time they have additional parking, they can come back and expand the structure.

MR. WRIGHT: Or if we are really looking hard for a way to allow the parking that they have just take the words "community room" out of the diagram, draw in some bookshelves and call it a library, and you don't have a problem.

MR. CONSER: Is there someone willing to make a motion?

MS. DARLING: I'd like to make one more point before you do that. If this is denied, they cannot reapply for a year. And there's been some indication by the applicant that if this is going to go denial, they may withdraw the application so they could come back and redesign it smaller. If redesigning the community room smaller takes care of the parking concerns, then you can take care of that here tonight. You need to think about that.

MR. WRIGHT: Sounds like a threat.

MS. DARLING: Absolutely not. That's not a threat at all. Every other developer has done the same thing when they didn't get what they wanted.

MR. CONSER: Well, another option is to require that it be smaller to meet the available parking on-site.

MS. DARLING: Yes. If the concern is delaying parking, that the place is too big, then make it smaller.

MR. CONSER: The other option is if the parking situation can be solved then they can apply for a change to approve the permit.

MS. DARLING: Continue it for a month and tell them to fix the parking lot, as you have done with other people when you've had a concern to address. You have all kinds of options.

MR. CONSER: Is there a motion?

MR. HART: I move that the Conditional Use and Design Review for a library be approved with the following conditions: first condition is that the uses within the library and the sizing of the library and the community room space be of such size that they can conform to code, in regards to parking, with the amount of parking that they have proposed on-site; that condition two would be the same; condition three would be the same; condition four would be the same; there would not be a condition five.

MR. WRIGHT: Second.

MR. CONSER: It's been moved and seconded. Is there any discussion?

MS. ZACHMAN: Clarification please on your first condition. You're saying to downsize the library to meet the parking requirements?

MR. HART: Right. Downsize the community room or partition it off in some way so that the fire department will place a limit of 40 on its use. Tear out the partitions at the time when more parking is provided.

I don't know how they are going to do it. I am suggesting that one way or the other when the library room and the community room are both in use, the community room would be of such a size or controlled in such a manner that the amount of capacity in that room be accommodated by the proposed on-site parking.

MR. CONSER: Any further discussion or clarification required? I have a motion, and it's seconded. All those in favor signify by saying aye. (aye) Opposed? (Nay)

MS. DARLING: Mr. Hart, yes; Ms. Zachman, no; Mr. Tryon, no; Mr. Crawford, yes; Mr. Wright, yes.
Motion passes, three to two.

MR. CONSER: Application approve with conditions as listed.

If there is a desire to appeal this decision, the appeal would go before the Council. It would require \$150 fee unless two or more of the Council members could be encouraged to pick this application up themselves, or unless a neighborhood association were to pick up the application and file an appeal. The appeal must be filed within 14 days of the final decision and proper notification will be made at that time.

Any questions? (There were none.) I'd like to call a five minutes break.

A five minutes break was taken at this time.

MR. CONSER: Next we go to the public hearing for a variance request for a 35-foot setback for driveway curb cuts from intersecting local streets.

Do any members of the Planning Commission wish to abstain from hearing this application? Do any members of the Planning Commission wish to declare a conflict of interest? Do any members of the Planning Commission wish to report any significant ex parte contacts? Have all members viewed the site?

MR. WRIGHT: No.

MR. CONSER: Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter? Does any member of the audience wish to challenge any individual member of the Planning Commission? For all those wishing to testify please be aware that if you fail to raise an issue in person or by letter tonight you will be unable to raise that issue at any subsequent time of appeal. Please sign in so that you will have standing in the record.

Would staff like to give a brief overview.

MR. SPIR: This case is a variance for access. The applicable code is Chapter 48. The owners of the property are Art and Debbie Valverde. The applicant is Tom Foushee.

Essentially, the applicant is building a home for the property owner at 5231 Nelco Circle. Access from the northern property owner at 5231 Nelco Circle. Access from the northern section of Nelco Circle is made difficult because there is this very steep embankment. The slope is well beyond the 12 percent that we allow for driveways. What they are purposing is to come off the Nelco Circle in the Nelco subdivision. (Mr. Spir was using a diagram that he had brought to help the Commission members understand this application.) This approach allows an at-grade driveway and garage. Therefore, the access variance request is for the 11.1 feet or the difference between the 35-foot standard and the proposed location at 23.9 feet.

MR. HART: Asked if once a property owner was allowed curb cuts are they allowed to put a driveway in that area.

MR. SPIR: Right.

MS. ZACHMAN: What if they were to flip flop the home?

MR. SPIR: We'd have a problem in lot 11 in that the Nelco subdivision owns this portion over here. (indicating) It is my understanding that they approach the owner of that lot in the subdivision and asked for an easement and were turned down.

MR. CONSER: Would the applicant like to come forward and make application.

TOM FOUSHEE: My name is Tom Foushee. I live at 17707 SE Oatfield, Gladstone, and I'm representing the owner's, Art and Debbie Valverde.

Mr. Foushee explained that the original proposal was to come in off of lower Nelco Circle. As they got out on the property and began to excavate they realized that there was no way they were going to be able to meet the City of West Linn's code requirement.

He stated they went back to the Planning Staff and explained the situation to them and a building permit was issued.

A surveyor staked the lot out for them, and he staked the wrong corner. It was all excavated according to that survey. A neighbor came by and informed us that that was his property corner. After surveyors came back out it was determined that that was his property.

It has been determined by the staff that this is going to be a corner lot and that is why we are here and how we have gotten to the point where we are now.

Mr. Foushee had pictures of the site for the Commission members to look at.

Mr. Foushee also stated that they are asking for something that has been previously granted to other owners in this area.

MR. CONSER: These pictures will all be made one exhibit. The site pictures will be Exhibit C, and we will make the other example of the variance Exhibit D. He final revision will be Exhibit E.

MR. HART: What kind of negotiations did you undergo for this piece of property?

MR. FOUSHEE: Myself and the Valverde's have talked to the owner or the person who represents the owner of this piece of land. When we originally started this there was some very active opposition to having this house face Nelco Circle.

MR. HART: Is there already a house on that piece of property?

MR. FOUSHEE: No, sir.

MR. CONSER: Okay. Those who wish to speak in favor of this application. Debbie Valverde would you like to speak now.

DEBBIE VALVERDE: My name is Debbie Valverde and my husband and I are the owner's of this piece of property. My address is PO Box 1646, Lake Oswego, Oregon.

We have tried to communicate with the owner of this adjacent property and tell him what we are trying to build there. Everything is opposed to us building there. We haven't even been able to talk to them and show them the plans or show them what's going on there. The only thing that I can see is that we are building this house and we don't belong there because it's part of Bridgeview. If this meets the requirements of both neighborhoods, then we belong there. And it does. In fact, it's just as big as those houses and just as nice. That's what we're trying to work with here.

MR. CONSER: Any questions? (There were none.) Art Valverde, would you like to speak.

ART VALVERDE: My name is Art Valverde. I am the owner, with my wife, of this property. There's not much to add to what she's said except that we would do the best we can to have a house with the standard of living that they have up there. That's what their concern was.

As far as the driveway is concerned, we are negotiable.

We want it built that way; we are going to build it that way. As far as the driveway is concerned, it's very hard to build a driveway from the bottom up. It's going to take a lot of money and a lot of excavation.

(Mrs. Valverde spoke behind her husband and her comments were inaudible.)

That's all I have.

MR. CONSER: Any questions of Mr. Valverde? (There were none.)

GALE NELSON: My name is Gale Nelson and I developed Nelco Estates. I reside in Jefferson County at 7265 N. Adams Drive, Madras. I'm a home builder/developer and sheep rancher. I prefer the latter because of this type of conversation.

For the record, I have had no verbal or written offer to meet in regard to this problem. What I have had is encroachment upon my private property without permission. There is a driveway built across the driveway and that disturbs me because of their apparent lack of respect for private property.

All the lots that were developed in Nelco Estates had to be lots that could be built upon. The same is true of Bridgeview Estates. The people that bought the lots in Nelco Estates bought the lot with the knowledge that they would have to live with the CC&R's. I think this is of primary concern to the residents of this development because they would like to see the integrity of the subdivision maintained.

I own lot 11 and lot 1. I've had no verbal or written offers to meet with them. I've had no communication with these people at all. I'm not an unreasonable man. I'd probably negotiate with them if they are interested; however, it disturbs me that people like Mrs. Dunford that had an existing situation turned down and then we have this come into a hearing like this. It really bothers me because I think the staff is bending things a little bit and that disturbs me. Because when I put this subdivision in I put temporary turn arounds in here to accommodate the City of West Linn, to accommodate your concern for safety and now we want to bend these requirements. I don't think it is necessary.

If you approve this I would like to have to have these people live under the CC&R's we have recorded in Clackamas County; however, I don't think you should approve this without them having an opportunity to try to buy this finger of land you are talking about and make it a legitimate situation rather than a variance. I have received no written offers to this effect.

I think they should have done that before wasting all your people's time.

You people approved the platting in Bridgeview Estates and in doing so I don't think you approved that subdivision with the intent to have someone come in for a variance.

That's all I have.

MR. CONSER: Thank you. Mr. Tourniey, would you like to speak.

JACQUES TOURNIEY: My name is Jacques Tourniey and I live at 5193 Nelco Circle. There are some other things here that we should consider.

Mr. Tourniey explained that with the legal description of the plot map as recorded with the County there is a difference from the ones that the planning staff had.

Mr. Tourniey addressed the sewer layout for this subdivision.

Mr. Tourniey also stated that there is a great difference in value of lots in Nelco Estates and lots in Bridgeview Estates and that he could understand why these people might want to turn their house around and become part of Nelco Estates. He stated that he thought the Valverde's were trying to raise their house on the lot and thus make necessary the steep driveway.

We hope that the Commission will not be shortsighted in granting something that could be very awkward to all of us in the future.

MR. CONSER: The plat description will be labeled Exhibit F. The sewer setup will be Exhibit G.

Would staff like to give their report.

MR. SPIR: After you look at the distances involved it boils down to an 11.9 foot variance, not 11.1, which is shown at the bottom of the

staff report. That's the difference between the 35-foot standard in the proposed location and the western edge of the driveway, which will be at 23.1

The approval criteria is contained in Section 48.070(B). It asks us whether or not it is possible to share access with adjacent properties. In this case we have heard testimony and it is staff's understanding that that access would not be forthcoming and has been denied.

The second point asks if there are other alternative access points. The use of the northern portion of Nelco Circle has been eliminated by the steep embankment and the 25-28 percent slope it would produce. Access to the west would involve crossing privately owned, undeveloped property and then swinging around to meet Nelco Circle. Access to the north is only possible on the 48-foot wide front owned by this property owner.

The access separation of 35 feet cannot be met. If the driveway were pushed back 35 feet from the future intersection, it could only be 3.9 feet wide since the front of the subject property is just 40 feet.

The fourth point is the request for minimum variance required to provide adequate access. The minimum curb cut width is 15 feet, which is what the applicant has requested. The 15-foot wide driveway abutts the eastern edge of the front property line so it is as far over as it can go.

The approved access will result in safe and level access.

The clear vision area requirements have been met. The line of sight will be adequate in all directions.

Staff recommends approval of the variance with the following conditions:

- 1) The driveway curb cut shall not exceed 15 feet.
- 2) The driveway curb cuts eastern edge shall abutt the eastern edge of the subject property.

All the deeds, legal documents, plat maps, and descriptions show that Bridgeview Estates is in fact contiguous to Nelco Circle. This particular lot that they are supposed to build on does have legal frontage on that 45.1 foot section and that it is not owned by lot 11.

In our investigation we were referring to the final plat maps, not ones provided by a title company or the like. We were very confident in our sources.

This is a double-frontage lot and can be developed equally in either fashion. We saw nothing in the development code that would prohibit them from developing a driveway on Nelco Circle.

MR. TRYON: Mr. Tryon asked about the sewer set up.

MR. SPIR: Replied that he was not familiar with that. He was not certain how this would apply to the variance request.

JIM MONTGOMERY: From what I can see here, the sewer line on lot 11 is outside of this application.

D. DARLING: The comments that Peter made regarding the CC&R's and ownership on the area to be accessed, I agree you cannot impose Nelco CC&R's outside of the platted Nelco subdivision. It's clearly in the deeds that the 45 foot strip is on the right-of-way of the upper Nelco Circle.

MR. CONSER: Is there any potential for temporary access?

MR. SPIR: That would put this person at the mercy of the developer to the west. We have no way of knowing when that land will be developed to the west and when that temporary cul-de-sac will be taken out.

MR. HART: Steep slopes would only occur if the driveway came from the north and attempted to come up to where the current excavation for the current plan --

MR. SPIR: Using the plan map on the wall, Mr. Spir showedw how the slopes would be graded down.

MR. HART: My other question has to do with the events that the applicant constructed for us -- Can you run through that again, the permit process that he went through.

MR. SPIR: I don't know that that is particularly germane, but there was the understanding that this particular street would not go through. If it were not going through then it would be fine to have access in this area. But when we were presented information by the Nims property, there was that 7-foot right-of-way that we had to come up with some way to deal with that problem.

MR. HART: What kind of permits have been issued up to this point?

MR. SPIR: I don't believe there have been any permits. The site plan was approved but actual work on the project has not begun beyond excavation.

MR. CONSER: Would the applicant like to come forward and make rebuttal.

TOM FOUSHEE: Just a few things. We are building a \$162,000 home. It's a very nice home and very comparable to other homes in the area. There's no problem of backing in and out of the driveway. I think it's important that there was no opposition to this before in the same subdivision. I think this is a point and something that the Commission should recognize. A variance was approved on something more substantial than what we are asking for. I think Mr. and Mrs. Valverde are entitled to the same set of rights as the other neighbors.

MR. CONSER: Any additional information required by the Commission? (No one asked for further information.)
Is there a motion to close the public hearing?

MS. ZACHMAN: I move we close the public hearing.

MR. HART: Second.

MR. CONSER: It's been moved and seconded. All those in favor signify by saying aye. (aye) Opposed? (No one was opposed.)

MR. HART: I would not be in favor of the variance. There is some room for negotiations over the portion of lot 11, barring that I think there's a possibility to change the design to access from the north.

MS. ZACHMAN: I agree with Joe.

MR. TRYON: I would be in favor of granting a variance.

MR. CRAWFORD: I would be in favor also.

MR. WRIGHT: I support granting the variance.

MR. CONSER: Is there a motion?

MR. TRYON: I move that we grant the access variance for file No. VAR-88-08 for the property at 5231 Nelco Circle, which is tax lot 1012, based on the findings in the staff report dated October 16, 1988, and subject to the conditions therein with the following clarification: that condition No. 2 be reworded to say
the driveway curb cut on the eastern edge shall abut the eastern edge of the subject premise frontage.

MR. CONSER: Is there a second?

MR. CRAWFORD: I second.

MR. CONSER: It's been moved and seconded. Any questions or clarifications? (There were none.) All those in favor signify by saying aye. (aye) Opposed? (Nay)

MS. DARLING: W. Wright, yes; R. Crawford, yes; C. Tryon, yes; Ms. Zachman, no; J. Hart, no.
Motion passes.

MR. CONSER: The appeal process is that the appeal of this decision will be made before the Council. That appeal would come with the requirement of \$150 fee. That fee would be waived if the neighborhood association were to take up the issue or two or more of the Council were to take up that issue. Appeal must be filed within 14 days of the final notice. Are there any questions? (There were none.)

At this point in the meeting Mr. Conser asked for business from the staff. Staff explained the upcoming issues and items that had been appealed to the City Council and also the role of the Planning Commission members in attendance at these meetings.

It was also brought up that LUBA had received the appeal for the Watertower.

MR. WRIGHT: I move that we adjourn.

MR. CRAWFORD: Second.

MR. CONSER: Moved and seconded. All in favor say aye. (aye)
Opposed? (No one was opposed.)

Meeting was adjourned at 11:17 p.m.

WEST LINN PLANNING COMMISSION
REGULAR MEETING
NOVEMBER 21, 1988

The West Linn Planning Commission regular meeting was held on November 21, 1988, with the following Commission members present: T. Conser; M. Riley; J. Hart; R. Crawford; D. Zachman; and C. Tryon. Members of the Planning staff present were: D. Darling; P. Spir; Earl Reed; and Pam Allen, hearings reporter.

T. Conser: Mr. Conser opened the meeting by explaining the public hearing process. He had an open period whereby any members of audience could make comments about general items or subjects they wish to have discussed in the future. (No one from the audience had any comments.)

Mr. Conser then called for approval of the September 19th minutes. He asked if there were any additions or corrections. (There were none.)

MR. HART: Mr. Chairman, I move that the minutes of the September 19th meeting be approved.

MR. TRYON: Second.

MR. CONSER: Moved and seconded. All in favor signify by saying aye. (aye) Opposed? (No one was opposed.) Okay. The minutes are approved.

The October 17, 1988, minutes, any additions or corrections? (There were none.)

MS. ZACHMAN: I move that we approve the October 17th minutes.

MR. CRAWFORD: Second.

MR. CONSER: It's been moved and seconded. All in favor signify by saying aye. (aye) Opposed? (There were none.)

The next item is a public hearing for a rezone/lot line adjustment and design review. The location is 18670 Willamette Drive. The applicant is George Powell and the file no is ZC-88-05/LLA-88-14/DR-88-26.

Mr. Conser called the public hearing to order and qualified the Commission members and audience by the public hearing process. He then called for a brief staff report.

MR. SPIR: Explained very briefly that they were looking only to rezone parcel A and would describe this more fully in his staff report later on.

MR. CONSER: Asked the applicant to come forward and make his application.

GEORGE POWELL: Explained why he was seeking a lot line adjustment. He said that he planned to maintain the large trees and pave around them. He explained that he thought this lot line adjustment would be to the advantage of the business district.

MR. CONSER: Mr. Conser asked questions of Mr. Powell regarding exactly what property he owned and what parking spaces would be affected by this adjustment.

Mr. Conser asked for anyone wishing to testify in favor of this application.

ROGER LORE: My name is Roger Lore. I live at 1524 Holly Street, West Linn, and I'm scheduled to be Mr. Powell's tenant as of January. Mr. Lore stated that he had been working with Mr. Powell for quite some time and found him to be extremely reasonable and pleasant to work with. Mr. Lore was very much in favor of the application.

MR. CONSER: Asked for any additional testimony in favor of this application. (There was no further testimony in favor.) Mr. Conser then asked for testimony in opposition. (There was no testimony in opposition.)

Mr. Conser then called for full staff report.

MR. SPIR: This property forms two distinctive halves, Parcel A and B, connected at a narrow point. Parcel A, abutting Mr. Powell's property, is well suited for the expansion of the parking lot and the necessary rezone to CG. Parcel B is on the east side of KinderCare with frontage on Shady Hollow Road. Parcel B would most appropriately be left in its current zoning classification: R-4.5.

The lot line adjustment would be used to shift Mr. Powell's current property line east to the narrow point between the two parcels. In addition to satisfying Mr. Powell's parking requirements, the extra land could be developed to accommodate about 21 parking spaces. This would allow other office buildings nearby to lease some of these spaces and attract medical and dental tenants who are currently restricted due to parking limitations.

The proposed rezone from R-4.5 to General Commercial also involved an amendment or minor revision to the Comprehensive Plan from Medium Density Residential to Commercial. The approval criteria is contained in Section 105.050 of the Development Code and in the Plan and Ordinance Revision Process Element of the adopted Comprehensive Plan.

Section 105.050(2)(a) requires proof 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 which is the subject of the development application.

Because of the way the adjacent parcels have developed and the peculiarity of this lot's shape, the only practical use for Parcel A, adjacent to Mr. Powell's property, is to accommodate expansion of commercial or related uses.

The parcel to the north is occupied by KinderCare Day Care, the parcel to the south is occupied by a dental and medical building, the parcel to the southeast is residential, Parcel B is to the east and northeast. Parcel B is zoned R-4.5. The City processed and approved a Design Review for a duplex on Parcel B so we can expect that kind of use in the future. To the west of Parcel A is Mr. Powell's office building. Parcel A is landlocked, except for access to Shady Hollow Road and of little value to anyone else but adjoining properties.

There has also been a change in the character of the area as the medical/dental building went in to the south and the KinderCare went in to the north. The parcel in question is now surrounded on three sides by commercial uses. Approval Criteria 105.050(3) requires conformance with the Comprehensive Plan policies and criteria. The main policies to be concerned with are in the Plan and Ordinance Revision Process Element, specifically policy number ten.

The rezone satisfies the locational criteria for commercial with access via a driveway to Willamette Drive and being adjacent to existing commercial. The locational criteria is also concerned with impact assessment. Impact assessment asks whether

the scale of the project is compatible with the surrounding uses. In this case, the parking area will be surrounded on three sides by commercial uses. Home on large lots to the east will be buffered by fencing, landscaping and distance. The site configuration and characteristics shall be such that the privacy of adjacent noncommercial uses can be maintained. The access point to the parking is on the west side of the parcel. The parking lot is 70 feet from the nearest home. A six-foot high masonry wall will be required along the southeast property line to acoustically buffer the parking lot noises from homes. Except for trees, which will be incorporated where possible into landscape buffers and islands, there are no unique site features. Lights, noise and activities associated with parking lots will not materially interfere with adjoining residential and nonresidential uses. Since customer parking will be limited in this area, the turnover of vehicles will be limited. All parking lot use would occur during normal business hours so the impact of headlights would be limited to a brief period after work and should be mitigated by the fence. Noise impacts would be similarly handled. By responding to these locational criteria, the general policies of the commercial element are also satisfied.

The residential element also applies. General policy number one requires that existing residentially developed areas be protected from incompatible land uses. As has been explained, the site will have a wall on its southeastern boundary to protect adjacent residential property with additional fencing and landscaping around the remainder. The hours of use will limit impacts. Because the parking lot would be an overflow or employee parking area, it will be less frequently used than spaces in front of the buildings on Willamette Drive.

General Policy 5 asks that removal of a communities natural amenities, vegetation and views be minimized. No significant community natural amenities or views exist at this site. The groundcover and bushes will be removed as part of site preparation. Trees will be incorporated where possible into landscape buffers and islands.

The housing element applies. Specific Policy 4 requires buffers between low-density and high-density development and residential and commercial/industrial developments. These buffers are being provided as noted earlier. Specific Policy 1 requires that adequate buildable lands be zoned in a manner that meets State requirements including the 50/50 single-family/multi-family mix and the 8.0 units per net acre requirements. A recent rezone from R-10 to R-7.5 more than compensates for the loss of .24 acres of R-4.5.

The proposal is to shift the lot line at the rear of George Powell's property to the east so that Parcel A is incorporated in his lot. This adjustment will not create an additional lot and the dimensional requirements of the underlying zone are satisfied.

This application is in two phases. The first phase will involve the construction of nine space at the rear of the existing offices. This parking area will satisfy the parking code's requirements and allow occupancy of the newly built office spaces on the bottom floor. The second phase will involve construction of 21 spaces on the remainder of Parcel A and will take place within one year of the decision date. The Planning Director may approve an extension beyond that date pursuant to Section 55.030(B)(C).

The approval criteria for Design Review is contained in Section 55.100. In addition to these provision, the following Chapter of the Development Code must be reviewed: 33, 34, 38,

40, 42, 44, 46, 48, and 52. The staff feels that all the Design Review Criteria has been met.

Staff recommends approval of the proposed rezone, lot line adjustment and Design Review of this application.

MR. HART: Mr. Hart asked if there were any public improvements associated with this plan.

P. SPIR: Explained that improvements will be mostly in Highway 43 and perhaps some sidewalk improvements or curbs.

MR. CONSER: Asked Mr. Reed questions regarding the storm drainage in that area and also about the clear vision problem.

MR. REED: Stated that he thought the pedestrians would be more at risk on the ramp than the concern about fender benders.

MR. RILEY: Asked about rezoning of Parcel B.

P. SPIR: Explained that that could be a possibility at a later date.

MR. TRYON: Asked about a lighting plan and if that could be a condition of approval for this application.

P. SPIR: Said that that would be a good one to add for a condition of approval.

D. DARLING: You are being asked to approve the lot line and Design Review, but to recommend to the City Council approval of the rezone and the amendment to the Comprehensive Plan. If you were to add an addition then you would need to make it subject to City Council's approval and Comprehensive Plan amendment and rezone.

MR. CONSER: Would the applicant like to make rebuttal?

MR. POWELL: None.

MR. CONSER: You have received the staff report and understand all the conditions that the staff would like?

MR. POWELL: One question that I have. The lighting that I'm required to put in there, is that for phase I or phase II?

P. SPIR: You will have to put in lighting for phase I, as well as phase II, when that comes around.

MR. POWELL: Okay.

MR. CONSER: Does the Commission have any questions of that applicant? (There were no further questions.)

MR. RILEY: I move we close the public hearing.

MS. ZACHMAN: Second.

MR. CONSER: Moved and seconded. Any questions or discussion at this time? (There were no questions or discussions.) All those in favor of closing the public hearing signify by saying aye. (aye) Opposed? (No one was opposed.) The public hearing is closed at 8:21. At this point we have an option to entertain a motion to either approve, approve with conditions or deny the lot line adjustment and Design Review and to approve a recommendation for a zone change for further consideration by the council for a change in the Comprehensive Plan.

MR. RILEY: Was concerned about the idea of conditional zoning. (inaudible)

MS. ZACHMAN: I agree with Mike on the rezoning change. I also think we need to add something in here about off site glare from the lights.

MR. HART: I'm in favor of the approving the rezone without the conditions. I'm concerned about sidewalks. I'm concerned we'll have a section in there without adequate sidewalks. I would like to consider full length sidewalks.

MR. TRYON: I agree with Mike and Deb on conditions to a zone change in the parking lot. I agree with Joe's application of sidewalks and (inaudible)

MR. CRAWFORD: I'm in favor of the proposal. I agree with the Commissioners on their views.

D. DARLING: I'd like to suggest some language on the rezone. "On the rezone of the parcel designated as phase II, it shall be conditioned upon the development of the parcel for parking." That would allow the space that's going to be rezoned general commercial to be general commercial.

MR. RILEY: I move that we approve the lot line adjustment and Design Review and recommend to City Council the approval of the rezone and Comprehensive Plan amendment of file no. ZC-88-05/LLA-88-14/DR-88-26 as specified November 1, 1988, Planning Staff recommendation with the condition itemized on page 9 with the addition of the following conditions:

6) That the rezoned of the parcel designated as phase II shall be a condition of the development of this parcel as a parking lot.

7) Adequate lighting shall be installed in the parking area and shall be subject to not produce glare off the property.

8) Full width sidewalks be installed across the entire frontage lot.

9) Desire to build a lot line adjustment on it is conditioned upon the City Council approval of the Comp Plan amendment rezoning.

Condition number five should read 21 spaces and not 20 spaces.

On condition three we will add that said fence to be installed during phase II construction.

MR. CONSER: There's a motion, do I have a second.

MR. TRYON: Second.

MR. CONSER: It's been moved and seconded. Is there any discussion? All those in favor signify by saying aye. (aye) Opposed? No.

D. DARLING: Mr. Hart, no; Ms. Zachman, yes; Mr. Riley, yes; Mr. Tryon, yes; Mr. Crawford, yes.

MR. CONSER: Okay. Motion passes. Approval of course subject to the council's review.

Mr. Conser then explained the appeal process of this decision to the audience.

At this point in the meeting a short break was taken.

MR. CONSER: I'd like to call to order the public hearing for a Design Review/Conditional Use approval request for commercial development: day care facility, car wash, automotive & retail space. The applicant is Tom Devlin and Narda Barton. The location is southwest corner of Hidden Springs Road and Willamette Drive.

Mr. Conser then qualified the Commission members to hear this matter and explained the public hearing process.

He asked Peter to give a brief overview of this plan.

P. SPIR: The applicant is proposing to develop a commercial center to include a car wash, daycare facility, two retail spaces, two auto spaces and a lube shop. This total approximately 28,000 square feet. Conditional use permits are required for the daycare, for the auto service facilities and the car wash. The Design Review is applicable to the entire project. This is part of a plan and development that was approved in 1987 and one of the points of approval at that time was that it establish specific points of access to the site. Tonight we are only concerned with reviewing how the points of access conform to the conditions of approval of 1987.

TOM DEVLIN: My name is Tom Devlin and I'm involved in the development of the project. I have the architect with me tonight to explain the issues. I believe we have met all the criteria. We have met several times with the City trying to resolve the issues. We did not vary any of the egress points from the 1987 plan.

Mr. Devlin then deferred to Mr. Mulvanny.

DOUG MULVANNY: My name is Doug Mulvanny. I live at 12200 Northup Way, Bellevue, Washington.

Mr. Mulvanny used drawings that he brought to explain his plans.

Mr. Mulvanny offered the Commission several ways in which to lessen the square footage amount of this project. He used the drawings he had set up to show these reductions.

He showed the style of the project and explained the different types of construction and explained the parking spaces that would be available. He also explained the number of children allowed in the daycare facility. He also discussed the position of the dumpsters on the facility.

TIM ROTH: My name is Tim Roth and I'm involved in this project as general contractor/advisor to Tom and Doug. Mr. Roth explained the dimensions of a typical car wash facility.

He stated that all requirements for zoning have been complied with.

HARVEY HAINS: My name is Harvey Hains. I live at 4084 Cedar Oak Drive, West Linn, Oregon. Mr. Hains was concerned with the length of the driveway turning into the project and the signs and the amount of space taken up by the trees in the landscaping. He stated that he is in favor of the shopping complex but explained that he is concerned about entrances to the highway.

MR. CONSER: Testimony against this application.

CAROL BILYU: My name is Carol Bilyou and I live at 3711 Mapleton Drive, West Linn. Her concern is how traffic is going to get in and out of the center. She was also concerned about people that should have been notified about this meeting tonight in regards to the distance of their property in relationship to this proposed complex. She said that she was not informed by city of this meeting. She also wanted to know if the fence for the daycare is at street level.

VIKI NODURFT: I'm Viki Nodurft and I live at 3708 Mapleton Drive, West Linn. So stated that she was very concerned about the traffic flow into exit across from Mapleton Drive. It's going to be a dangerous situation.

MR. CONSER: Called for staff report.

P. SPIR: Peter addressed mainly the car wash and issues surrounding it. After discussing with other jurisdictions and DEQ, the recommended course of action is to conduct an ambient noise study. This will entail checking decibel levels at the site and vicinity under current conditions at various times of the day. The study will identify decibel levels at similar car washes and project the noise levels at the proposed car wash. DEQ will review the study and establish a noise threshold and is expect to approve the project with the required mitigating measures. The city would be responsible for the enforcement of those noise levels, if there were any problems with the noise levels.

We didn't feel that there were any problems with the daycare.

The applicant has submitted plans that indicate they are at the 20% requirement for landscaping, conforming to the Development Code. We thought the structures fit well with the site, and they met all points of the Design Review.

Staff recommends approval of the CUP and Design Review with the following conditions:

- 1) The developer shall prepare a noise study for the car wash. The study shall inventory ambient noise levels at the site at 7 a.m.; 9 a.m.; 12 p.m.; 5 p.m. and 9 p.m. The study shall inventory noise levels generated by facilities comparable to the type proposed at this site. The study shall offer a mitigation plan, prepared by a qualified engineer, which may include sound insulation, barriers, berms, and other measures. The study shall be submitted to Department of Environmental Quality Noise Pollution section for review and approval. DEQ shall be responsible for enforcement. The study format may vary with the approval of the Planning Director and DEQ.

- 2) The landscaped areas shall accounts for at least 20 percent of the site.

- 3) A public water main shall be installed from Mapleton Drive to Hidden Springs Road to the approval of the City Engineer.

- 4) All conditions imposed on the site by ZC-87-04/MIP-87-12 shall apply to this application.

D. DARLING: Two issues that need to be addressed. Peter is recommending impliedly in the report that you grant a reduction of 20% landscaping. There's no finding in the staff report to support that. If you are going to do that we need to adopt some rational as to why you have done that and specify that. The other issue is the square footage issue. I disagree with Peter that if you have close to 28,000 it will comply with the condition. That's not what the condition says. Without an

amended PUD, it says there shall be 28,000 square feet. Now, if you want to interpret that 28,428 as 28,000, you can do that. I think you leave yourself open for some trouble. If they take out the things they mentioned to meet that square footage requirement, then you're okay. I think you need to say that the square footage shall be reduced to meet the condition of 28,000 square footage.

Mr. Conser, Mr. Hart, and Mr. Riley asked questions regarding this reduction in the landscaping and held discussions with Ms. Darling. They also addressed the square footage issue and the possibility of amending the PUD and what ramifications that would have on this application.

Mr. Tryon asked Mr. Spir to explain the landscaping and why he thought it was a exceptional plan.

MR. CONSER: Asked if the applicant would like to rebut or offer any additional information.

TOM DEVLIN: Mr. Devlin addressed the 28,000 square feet requirement and said that they could comply with that based upon with what Peter said.

MR. CONSER: Asked if the Commission needed any additional information. (No one asked for additional information)

MS. ZACHMAN: I move that we close the public hearing.

MR. HART: Second.

MR. CONSER: Moved and seconded to close the public hearing. All in favor signify by saying aye. (aye) Opposed? (No one was opposed.) The public hearing is now closed.

MR. CRAWFORD: Basically, I'm very happy with the application and the conditions that are set forth. I'm in favor of the application.

MR. TRYON: I also support the application with the addition of the condition that (inaudible).

MR. RILEY: I wasn't too wild about the car wash before; I'm not too wild about it now. One change I would like to make on the landscaping is to require some larger trees around the north end area.

MS. ZACHMAN: I think they meet pretty well all the conditions and that they should meet the 28,000 square foot requirement. Do we need to take a look at the fence issue at this time?

D. DARLING: I think with what's given in the code you can design around that. If they can't redesign it to satisfy staff they will have to come back.

MS. ZACHMAN: Basically, I'm in favor of the application.

MR. HART: I think it would have been interesting to see what this project would have looked like with the buildings along the highway with parking behind. Another concern is safety along Highway 43. The other issue that I'm not really pleased with is the amount of auto-related services in this proposal. It does turn out that this is a good location for auto-related services.

MR. CONSER: I'm really please with how this is layed out. I think it's a good design and should work real well.

Is there someone who would like to make a motion?

MR. TRYON: I move that we approve the application for Design Review/Conditional Use permit, file no. DR-88-04/CU-88-29, located on the southwest corner of Hidden Springs Road and Willamette Drive. The legal description is Tax lots 6200 and 6300, assessor's map 2-1E-23AD. Based on the findings in the staff report dated November 7, 1988, and the additional findings that the applicant will be allowed a 20% landscaping instead of 25% due to an exceptional landscape plan and subject to conditions contained in the staff report dated November 7, 1988, and with the following additional conditions:

1) that the total square footage on the site shall not exceed 28,000 square feet.

2) that the applicant shall be responsible for installing storm drainage pipe from the development site to Highway 43 (inaudible)

3) that the street trees along the northern boundary of the development be 3" in diameter.

4) changes to condition one will be to eliminate the DEQ responsibility from enforcement and that study for the car wash shall include (inaudible) areas and that the study and the plan will be submitted to the Department of Environmental Quality and that the developer shall comply with the approved plan.

MR. HART: Second.

MR. CONSER: It's been moved and seconded. Any questions? Any discussion?

All those in favor signify by saying aye. (aye) Opposed? (No one was opposed.)

Application is approved.

Mr. Conser then explained the appeal process for the benefit of the audience.

At this point in the meeting Mr. Conser asked for any business from staff.

Staff informed the Commission of upcoming meetings and business that will be conducted at those meetings.

The meeting was adjourned at 10:52 p.m.

WEST LINN PLANNING COMMISSION
REGULARLY SCHEDULED MEETING
DECEMBER 19, 1988

The West Linn Planning Commission held its regularly scheduled meeting on December 19th, beginning at 7:30 in Council Chambers with the following Commission members present: M. Riley; W. Wright; T. Conser; and C. Tryon. Staff members present: D. Darling; M. Butts; J. Buckley; J. Montgomery; E. Reed; and Pam Allen, hearing reporter. T. Conser was chairman for the meeting.

Mr. Conser opened the meeting with an open period from the audience, asking for any new items that anyone would like to see placed on the agenda. (There were no new items offered by the audience.)

Approval of the minutes from the last meeting were held over to the January meeting, as they had just received the minutes before the start of this meeting.

MR. CONSER: Called to order the public hearing for Comprehensive Plan and Community Development Code Amendments. The location is city wide. The applicant is the City of West Linn; the file no. is MISC-88-27. The applicable code sections that apply are 99.000 and others as specified on each amendment.

Mr. Conser then qualified the Commission members and members of the audience to hear this matter. Mr. Wright stated that he had talked with a Mr. Schumacher regarding these matters in the general course of their conversations, as they are in the same business and talk quite often.

Mr. Butts was called to give a staff report regarding issue no. 1.

MR. BUTTS: Basically, he stated that under Section 48.020.(1) direct individual access onto arterial streets from single family dwellings and duplex lots, established after December, 1983, is prohibited. The City Council has asked staff to review this standard. He stated that until this last year this provision hadn't really been a problem, but with individual homeowner's coming forth wanting to divide their parcels, we need to look at this more closely. Mr. Butts explained that the staff looked at other jurisdictions from the surrounding areas, and West Linn seemed to have one of the tougher provisions.

Mr. Butts stated that they came up with the following provision: Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the Transportation Element of the Comprehensive Plan, is prohibited for lots created after the effective date of this code where an alternate access is either available or is expected to be available. Evidence of alternate or future access may include

temporary cul-de-sacs, dedications or stubouts on adjacent parcels or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question. In the event that alternate access is not available as determined by the Planning Director and City Engineer, access may be permitted after reviewing certain criteria. Major partition and subdivision lots established for single-family and duplex development, and created after the effective date of this Code, are prohibited from direct access to arterials as designated in the Transportation Element of the Comprehensive Plan. If no satisfactory access from a public street to a development is available, the city shall require postponement of development until such time as a satisfactory access becomes available. Exhibit C in the matter is a letter from Dr. and Mrs. William J. Pyrch. Exhibit A is a letter from the Traffic Safety Commission, and Exhibit B is a letter from Mr. Russell.

MR. CONSER: Steve Russell, would you like to come forward and speak.

MR. RUSSELL: My name is Steve Russell, 3500 First Interstate Tower, Portland, Oregon 97201. I represent Mrs. Luella Dunford. Mr. Dunford's application in 1987 was denied on the basis that current Section 48.020(1) prohibited any additional direct access onto either Rosemont or Summit Streets from newly created residential lots. On behalf of Mrs. Dunford, we endorse the proposed revision to Section 48.020(1).

I'd like to, on behalf of myself and Mrs. Dunford, to express our appreciation to the City and to staff for the work that was done on this ordinance.

Both Mrs. Dunford and myself, would urge you to adopt this proposed revision.

PADDY PYRCH: My name is Paddy Pyrch and I live at 2935 Rosemont Drive, West Linn, Oregon 97068.

Mrs. Pyrch stated, as she had previously stated in her letter, that she and her husband have 420 feet of frontage on Rosemont and they would like to build a smaller house on this property for retirement. They would like to have access to this part of their land.

Mrs. Pyrch asked the Commission members to read and consider their letter very carefully.

MR. CONSER: Explained to Mrs. Pyrch that if approval of the revision is recommended to the City Council that they(City Council) still has the option of saying yes or no or altering the recommendation, and once that process is done that she would still need to make an application for her individual property. Mrs. Pyrch indicated that she understood this.

RANDY SEBASTIAN: My name is Randy Sebastian, 3400 Riverknoll Way, West Linn. Mr. Sebastian stated that he is a local homebuilder in West Linn. He feels that the current provision is very unfair to the local homeowners along Highway 43 that wish to subdivide their parcels.

MR. CONSER: Then asked for a motion closing the public hearing on this issue, with the understanding that the public hearing was still open on the remaining issues.

MR. RILEY: Asked about temporary access points on driveways, and stated that he certainly could see some problems with, if allowed.

MR. BUTTS: Said that staff had discussed this as a possibility, and was not absolutely certain of what the staff's conclusion was on this type of solution.

MR. RILEY: I move we close the public hearing on Issue No. 1.

MR. CONSER: Moved and seconded. Any questions or discussions?

All in favor signify by saying aye. (aye) Opposed? (No one was opposed.)

The public hearing on Issue No. 1 is closed.

Walt, would you like to give us your feeling on this matter, what your recommendation would be for this matter.

MR. WRIGHT: If you're dealing with an individual homeowner this is a little formal. It looks like the wordage here is intended to be for someone dividing a parcel that will include more than one house. It just looks cumbersome to me. It looks like they are killing a fly with a sledgehammer. I'm in favor of recommending approval of this.

MR. TRYON: I support the staff's recommendations.

MR. RILEY: I support the recommendation also. I can certainly see that conditioning it on temporary access can cause problems.

MR. CONSER: Is there a motion? Would someone like to make a motion?

MR. TRYON: I would move that we recommend approval of staff's proposal on Issue No. 1: Arterial Access Requirements.

MR. RILEY: Second.

MR. CONSER: Moved and seconded. All in favor signify by saying aye. (aye) Opposed? (No one was opposed.)

Okay. That recommendation will be forwarded to City Council. Now, the Council will review this information and make their decision the 2nd Wednesday in January. There will be public notice issued in the papers.

Mrs. Pyrch asked Mr. Conser to explain what process they had just completed by this motion and recommendation that the Planning Commission had just made. Mr. Conser explain to her and to the audience what procedures had been followed and what would happen after their (Planning Commission) recommendation.

MR. BUTTS: Requested that the Planning Commission proceed to the Public Facilities Plan for approval, at this time.

Mr. Butts explained that this proposal had been submitted to LCDC before without adoption, only by resolution. LCDC has had time to review and give us their comments, which we have not received any. Our schedule is to adopt this in January. We are simply coming to you with the anticipation that this is going to the Council in January.

EARL REED: Mr. Reed explained that he had met with LCDC representatives in Portland to obtain a format required for this document and put it together in that format, which is very, very similar to what the Planning Commission had before them.

He met with individuals in Salem who did a more detailed reviewed of the format. Some of the material in the appendix moved to the individual chapters, and that is what the Planning Commission had before them tonight.

Mr. Reed explained that he had not received a request from LCDC for additional information.

MR. BUTTS: Explained that the Planning Staff had planned that this would be sent to City Council for approval at their January meeting; however, if the Planning Commission needed more time to review this, that they could do that.

MR. CONSER: What bothers me is that their are the ones who give the time line to get these matters done, and they haven't followed through with the paperwork necessary to review it.

MR. WRIGHT: Since this is a plan, and if the Council approves the plan, you can always anticipate the possibility of revisions to the plan.

MR. BUTTS: Yes.

MR. TRYON: The Public Facilities Task Force has approved this document?

EARL REED: Yes.

MR. TRYON: When did they do that?

EARL REED: I believe it was November 6th.

MR. WRIGHT: I move that we recommend approval to the City Council.

MS. DARLING: You need to close the public hearing first.

MR. CONSER: Any other questions of staff?

MR. WRIGHT: I move we close the public hearing on this issue.

MR. CONSER: Is there a second?

(There was no second to this motion.) Okay. Motion dies for lack of a second.

MR. RILEY: Asked if they could approve only portions of this plan, as he was opposed to the Watertower plan. I would like to go on public record that I was opposed to that plan.

MS. DARLING: You can approve only certain portions if you would like.

MR. TRYON: I'm not entirely satisfied with the amount of time that we have had to review this document, and it wasn't on the agenda as being discussed tonight.

MR. BUTTS: It was in the public hearing notice but did not get on the agenda. That's correct.

MR. CONSER: Is there a motion to either approve or carry the public hearing on this to a later date to give us time to absorb more of the information?

MR. RILEY: I move that we recommend that the City Council continue the public hearing which they will hold on the Facilities Plan on their December meeting to their second meeting in January, and that we continue the public hearing on this issue at the Planning Commission meeting in January.

MR. TRYON: I second.

MR. CONSER: Okay. It's been moved and seconded. Any discussion? All those in favor signify by saying aye. (aye) Opposed? (No.)

MS. DARLING: Mr. Riley, yes; Mr. Tryon, yes; Mr. Wright, no. Passes 2 to 1.

MR. CONSER: Let's just go through the remaining Issues.

MR. WRIGHT: I want to talk about Issue No. 4.

MR. BUTTS: Mr. Butts explained that different departments had different dates for filings and this simply made all them consistent.

MS. DARLING: Explained the differences on the two filing times as listed in Section 99.240(B) and Section 99.130. She explained why these two sections were dealing with different processes and time lines.

She explained that this looks more confusing then it really is because Issue No. 4, as shown on these few pages, is only showing the particular concerns that are being dealt with. In reality, these sections fit into pages and pages of document that are not shown here. In the Code book, they are clearly labeled different things for different places and it wouldn't look so confusing.

MR. CONSER: Let's go back to Issue No. 2. Give us the run through on these.

MR. BUTTS: Staff is recommending that you delete Issue No. 2.

Issue No. 3. The important thing here is that the main floor be required to be built at one foot above the 100-Year Flood Plain level. This allows cheaper insurance premium.

Issue No. 4 we have just discussed.

Issue No. 5 has to do with restrictions on retaining walls. What we are trying to do here is put together a fence requirement and wall requirement. We are just trying to set some standards here that will work for all parties.

It was pointed out that there was a typographical error on page 6, Issue No. 5. It should be Section 44.020, and not 44.420 as shown.

Issue No. 6. LCDC has adopted policy saying that you cannot adopt design standards that would reduce this density. You can't just say because of the design requirements that you can change the density on that property. That this what No. 6 deals with. I'm not certain whether this meets the requirements of the Comprehensive Plan, and I think we could be challenged on this.

MR. CONSER: The intent of the Code was to create a buffer between land use or a density buffer and this will still allow that.

MR. BUTTS: It allows for transition. A very prescribed standard by which you reach that transition. It still leaves open design review. This doesn't really allow that much flexibility. The new proposal offers more flexibility.

MR. CONSER: No. 7. Any questions on this issue?

MR. BUTTS: This is such that the allowable sign square footage applies to only one side of double-faced signs.

MR. WRIGHT: Mr. Wright asked about signs that the City was putting in right on the curb less than 30 days ago.

MR. BUTTS: Explained that those are City signs and most be placed in the public right-of-way, they cannot be placed on private property.

MR. CONSER: Issue No. 8.

MR. BUTTS: Okay. Issue No. 8. It never specified duplexes so we put it in there. We set up a separate category for day care or pre-school.

MS. DARLING: I have a question about that one. On all other issues you refer to employees and on this one you refer to full-time employees and there is no definition in your code of full-time employee. If you are going to stick with the words "full-time employee" you will have to adopt a definition for it. Was your intent to leave those words "full-time employee"?

MR. BUTTS: I'm not sure. I think we should remove the word full-time.

MR. DARLING: Right now I think that is fine, but I think in the future someone may call you on the definition of full-time employee.

MR. BUTTS: Issue No. 9. Our standard right now is pretty strict. What this does is give a minimum width of 14 feet and gives us the option to add additional width as needed, up to 20 feet so two cars could pass.

MR. BUTTS: Issue No. 10. This is just miscellaneous stuff that is left over.

Section 27.120 simply removes his name out of there.

Section 27.130.000 is the same thing.

Page 28-5, Section 28.070 is simply limiting the number of copies needed for applications.

MR. CONSER: Pointed out that the word "and" was omitted on the last line of page 28-5, Section 28.070. It should read, original scale and [7] 2 copies reduced...".

MR. BUTTS: Page 55-7, Section 55.100(A)(2)(d). This simply deals with scale. We needed different wording to work with the

minimizing of scale. There is no way you can meet the scale and this allows you ways to work with that problem.

Page 55-18: Section 55.100(A)(15). This is simply here to make reference to it. They are now part of the Comprehensive Plan so we needed to have it in there to show that it also applies.

The words "in compliance" were deleted and the word "consistant" replaced them.

Page 66-3: Section 66.080(B)(1&2)(a&b). This is simply moving "a & b" to under No. 2. They were simply out of place.

Page 68.1: Section 68.040(A)(1). This is making exception to the R-4.5 and R-2.1 Zones in which case the minimum lot sizes shall be 4,500 and 4,000 square feet.

Page 99-35: Section 99.240(A). This is to delete "C" from this section.

MR. TRYON: I move we close the public hearing on all the remaining issues.

MR. WRIGHT: I second.

MR. CONSER: Moved and seconded. All in favor. (aye) Opposed? (No one was opposed.)

Mr. Conser pointed out that on Issue No. 3 it should read, page 27-14 not 27.4.

MR. WRIGHT: I make a motion that accept the proposed changes in the Community Development Code as submitted, discussed, and corrected Issues 3 through 10 and recommend they be approved to the Council.

MR. TRYON: I second.

MR. CONSER: Any discussion? All those in favor? (aye) Opposed? (No one was opposed.)

Mr. Conser then asked for business from staff.

Planning Commission members discussed some of the things they would like to see brought up in the future with the Planning Staff.

MR. WRIGHT: Acknowledged his appreciation of the print out of the cases prepared by Peter Spir.

All the Planning Commission members agreed that it was excellent and would like to see it continued in the future.

MS. DARLING: Announced that January would be her firm's last meeting as City Attorneys for the City of West Linn. She

expressed her appreciation and enjoyment in working with the City Planning Staff and Planning Commission members and thanked them for a job well done.

The Planning Commission meeting was adjourned at 10:22 p.m.

C O M P R E H E N S I V E P L A N

W E S T L I N N O R E G O N

B A S E D O N R E C O M M E N D A T I O N S O F T H E

W E S T L I N N G E N E R A L C O M P R E H E N S I V E P L A N N I N G C O M M I T T E E

1 9 7 4

GENERAL COMPREHENSIVE PLANNING COMMITTEES

Transportation & Facilities Group

Frank Schumaker, Chairman
Carol Geldaker
John Hooley

Bob Green
Les DeJardin
Stanley Urbigkeit

Land Use

Walter Nutting, Chairman
Richard Buse
Dexter Forbes
James Lynch
Lorene Lindas
Max Strickler

Chet Tunnell
Lauren Aimonetto
James Pickus
William McAnlis
Hal Scofield
William Tripp

Parks, Open Space & Amenities

Allen Pynn, Chairman
Joyce Anicker
Dave Rood

John Harrison
Lee Winner
Bert Smith

General Coordinator

Cyrus Nims

City Staff

Clifford L. Sanders, City Administrator
Kenneth L. Hubbard, Engineer/Planner
Robert Winkel, Fire Chief
Arthur Enderlin, Police Chief
Ernest L. Sisson, Public Works Supvr.
Raelynn Morse, Secretary
Dennis Koellermeier, Draftsman
Alice Benski, Former Councilwoman
Dr. John Stuckey, Principal West Linn
High School
Wally Falkenstien, West Linn High School
George Churchill, State Dept. of
Transportation
Members of the Recreation Committee
Members of the Bicycle Committee

Additional assistance

C I T Y O F W E S T L I N N

CITY COUNCIL

Mayor Donald McIntosh

Robert Bourn

Alan Brickley

James Jennings

Irvin Koellermeier

Donald Myers

Harold Winkel

CITY PLANNING COMMISSION

Frank Allen, Chairman

Rosemary Ferguson

David Gray

Kenneth Kuehn

Alan Lewis

Walter Nutting

Max Strickler

TABLE OF CONTENTS

	<u>PAGE NO.</u>
FOREWARD	
I. GENERAL PRINCIPLES	
General Concepts and Objectives	2-4
General Conditions and Assumptions	5-6
Adoption and Use of the Plan	7-9
Neighborhood Unit Planning Principles	10-11
II. TRANSPORTATION	
Street System	12-14
III. LAND USE	15-17
IV. PUBLIC FACILITIES	
Fire Protection	18
Schools	19
Civic Buildings	20
Library	21
Public Works Center	22
Utilities, General	
Sewer System	23
Water System	23
Underground Utilities	24
V. PARKS, OPEN SPACE, AND AMENITIES	
Parks	25-29
Open Space	30-31
Amenities	32-33

F O R E W A R D

Comprehensive planning in West Linn began with the establishment of the City Planning Commission in March of 1949. The first plans for West Linn were embodied in "Guide for Growth," "Part I City Background," May 1954, and "Part II Elements of the Plan," February 1955. During this period, zoning and subdivision regulations were also adopted. In the years which followed, the city experienced moderate growth and a minimum of serious problems.

In the late 1960's, a new Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance were prepared with the assistance of a citizens' planning committee, and a plan was drawn for the central area. These were necessitated by the expansion of the Portland Metropolitan Area; construction of the I-205 freeway; new post office and bank; utility extensions and annexations. Further growth and change required that the Comprehensive Plan, adopted in 1971, be revised, and this document is the result.

I GENERAL PRINCIPLES

I

GENERAL PRINCIPLES

GENERAL CONCEPTS AND OBJECTIVES

It is intended that the West Linn of the future will be a group of seven or eight closely knit neighborhood units bound together by common pride into one ideal suburban community. Geographical features, such as the rivers, will tend to provide the city with natural boundaries which will make for compactness. These will also limit expansion and help to establish local identity.

Citizens of all economic levels will be able to find a choice of housing and other conditions which suit their preferences in style of living. Home sites will vary from those which offer a view from the uplands of Marylhurst, Willamette Heights, and Rosemont to those which are adjacent to the broad Willamette and the peaceful winding Tualatin River. Building sites will vary from the usual city lot to large tracts and farmsteads which provide a spacious, semi-rural way of life.

With the new freeway, residents will have convenient access to Portland, Salem, and the recreational attractions of ocean beaches, mountains, and skiing areas. While an increasing percentage of residents will work in other locations within the metropolitan area, a substantial number of city residents will find employment within the city.

The city will include over 17 miles of Tualatin and Willamette River frontage. These waterways will be preserved and taken full advantage of. Together with parks, wilderness areas, and connecting trails, they will provide our citizens with the continual enjoyment of a

beautiful natural environment within the community.

All of the separate communities or neighborhoods within West Linn should be unified sufficiently so the entire city functions as a whole.

The health of future residents is important. Wherever practicable, provision should be made for the establishment in West Linn of hospitals, clinics, and medical offices.

It is important that property values and municipal tax revenues keep pace with growing population in order that a satisfactory level of city services and facilities can be maintained. The requirement of sound financial resources, however, does not justify the establishment in West Linn of new industries which would have a deteriorating effect on the environment or the quality of residential living.

The natural endowments and unique qualities of the city lend themselves to the creating here of a well-rounded "good place to live." If this objective can be achieved, it will make for stable property values and adequate municipal revenues even though industrial valuations provide a smaller proportion of total revenues.

Plans for West Linn should be prepared and carried out in such a way that the residents of the city can feel that their needs and desires have been carefully considered and that they have had a role in making vital decisions concerning their future.

The plan should allow for the establishment of a civic and commercial "center" for West Linn as a whole. In addition, there should be "centers" at the neighborhood and community level. These "centers" will be suitable locations for public and semi-public functions, shopping, services, and professional offices. Vehicular access to them should be convenient, and pedestrian circulation within them should be safe and pleasant.

GENERAL CONDITIONS AND ASSUMPTIONS

The planning area covers territory extending from the Willamette River to Stafford Road and from Bergis Road to the crest of Pete's Mountain along Shaffer Road. This is an area within which West Linn can conveniently and economically provide services and facilities through annexation.

The study of areas outside the city does not imply an intent on the part of West Linn to actively promote municipal expansion. The city will consider requests for annexation of properties within the planning area which meet legal requirements. This will be done in such a way that large unincorporated areas are not encircled. However, as development takes place, small or isolated strips or pockets should not remain without the advantages of full municipal services. Preference will be given to areas that are adjacent, rather than at some distance from the city. Also, annexation will be an orderly and contiguous progression rather than a spotty or scattered process.

School attendance provides a strong and valuable element of local identity and loyalty. For this reason the boundaries of the West Linn School District should have a close relationship to the area included in the West Linn plan and to areas which may pass into municipal jurisdiction.

There are still large, undeveloped and partially unserved areas within the existing city limits. Because it is desirable that such areas be served and fully developed, programs devoted to newly annexed areas should be carried on in such a way as not to be a burden or detriment to older parts of the city.

It is expected that virtually all of the land within the planning area will in time be developed as a result of the gradual expansion of the metropolitan area. This local growth will occur regardless of whether the city does anything to stimulate, plan, or encourage it. The time, location, type and density of this development will be influenced by accessibility to other areas, and by the availability of schools, fire stations, and other community facilities. Development will usually occur only after sewer and water services are available.

It is an important responsibility of the city to guide and direct its growth. The city will try to anticipate when and where development might take place and will extend water, sewer, roads, and other facilities so that orderly growth and the objectives of this plan can be realized.

In West Linn there are natural limitations upon the amount of industrial expansion which may be expected. However, there are large areas suitable for residential growth. Many residents of the city will work elsewhere but will consider environmental living conditions important.

Additional business, industry, and employment will occur when they can be properly related to other activities.

ADOPTION AND USE OF THE PLAN

The West Linn Plan consists of two major parts as follows:

1. A plan text; containing the written portion of the plan and consisting primarily of policies or objectives which the plan seeks to achieve. The plan text will be changed from time to time through amendment.
2. A colored plan map entitled "Comprehensive Plan, West Linn, Oregon," which shows elements which can be indicated graphically. The map is also susceptible to amendment to suit new conditions or policy decisions.

Together, these two parts of the plan constitute an official statement of city policy. By June 1 of every third year, the plan will be completely reviewed for timeliness and adequacy by the Planning Commission and suitably amended by the City Council.

Insofar as possible, the implementation and amendment of the plan will involve citizens, clubs and organizations so that the kind of city which results is a reflection of local desires.

The city favors the existence of clubs and organizations which improve social living and provide opportunities for cooperative action. It is also important for the future of West Linn that its people have a feeling of loyalty and pride in being members of this community, that they identify strongly with it and wish it to be made a better place to live. This kind of spirit needs to be fostered toward the entire city.

The plan will help in making sound decisions on city growth and development by:

1. Providing a clear picture of the way the city should grow.
2. Clarifying the relationship which a particular improvement or development will have upon other elements of the city growth.
3. Making possible a positive and constructive response to development proposals by providing a framework within which they may be evaluated.
4. Facilitating many kinds of active public programs to improve the city.
5. Permitting various projects and expenditures to be given priorities and programmed to make the best use of limited financial resources.
6. Permitting an evaluation of the adequacy of municipal finances to meet future as well as current needs.

The primary means by which the city can implement the West Linn plan will be the zoning ordinance, subdivision ordinance, building code, fire code, and other regulations over private development. The acquisition of land and easements for public access, streets and public facilities will also help to realize the plan.

Another important device for guiding city growth will be capital improvement programming.

Many public agencies at the local, state, and national levels will affect the way the city grows. West Linn's future growth is not a matter which can be managed by the city alone. Planning for the future will therefore require close working relationships with agencies such as Clackamas County, Oregon City, Lake Oswego, West Linn School District, Columbia Region Association of Governments, and the Oregon State Highway Department, MSD, Boundary Review Commission, and Tri-Met.

The "Planned Unit Development" procedure will be utilized to allow large scale, mixed-use development projects and also to realize other objectives of the plan such as the establishment of open space and arterials.

NEIGHBORHOOD UNIT PLANNING PRINCIPLES

A distinguishing characteristic of West Linn is that it is divided into somewhat separate, isolated and distinct neighborhoods and communities. One of the advantages of a neighborhood is that it gives residents a feeling of belonging within a limited community of interest. The geography of the land adjacent to West Linn lends itself to the delineation of future neighborhoods of appropriate size.

The "neighborhood" concept has been utilized in the plan to enhance the quality of social living throughout West Linn and to help integrate various elements of the city into an orderly pattern of development. The special peculiarities and needs of existing neighborhoods and the desires of people within them will be reflected in the plan.

Too great an emphasis upon local neighborhoods can also have the effect of inhibiting identification with the city as a whole. It is important that citizens of all areas consider themselves an important part of the entire city as well as their own neighborhood. Emphasis will be given to those aspects of neighborhoods which foster feeling of community loyalty and identity in order to minimize the disadvantages of too great an isolation and conflicting provincialisms. A new West Linn central civic center will help to provide a focus for city-wide consciousness.

Some of the things which can be accomplished through the neighborhood concept are:

1. To help in integrating the physical elements of the city at the local level for the greatest general benefit.
2. To enhance the intimacy of city life and create greater opportunities for common social experiences.
3. To make possible a more orderly pattern of growth, as in planned unit developments.
4. To aid in accounting for the special attitudes, tastes, and needs of the people in each part of the city.
5. To permit people in all areas of West Linn to participate in planning where feasible. This will result in a better plan and give people a greater sense of belonging and pride in their neighborhood.
6. To provide a method for the spacing of arterials so that neighborhoods can be free of the hazard and noise of through traffic. Wherever possible, streets within the neighborhood should discourage through traffic and thereby create a safer condition for children walking to school and others walking or driving within the neighborhood.
7. To create neighborhood trade areas of such size that each can support its own convenient neighborhood commercial and service center.

Each neighborhood should have a multi-function, joint-use center, to meet the educational, social, recreational, and leisure time needs of the neighborhood. To effect economy, schools, parks and fire halls should be utilized to their fullest extent.

A group of "neighborhoods" can make up a "community." The City of West Linn is divided into four communities: Holly-Bolton, Willamette, Rosemont-Sunset, and Robinwood.

II TRANSPORTATION

TRANSPORTATION

STREET SYSTEM

The arterial road plan will assist in establishing an adequate street system because:

1. A critical time for the establishment of a good road, pedestrian way-bike path system is when an area is being developed. Rising land costs will make later right-of-way acquisition difficult or impossible.
2. The normal process of suburban development cannot be relied upon to produce by itself a satisfactory arterial system. Successive subdivisions shall be laid out with sufficient recognition of their inter-relationships and the need for special routes adequate for circulation of through traffic.
3. West Linn has much steep terrain. Because of this, locations suitable for major arterials are limited and they must be carefully located and engineered.
4. A proper arterial system should be established to prevent local streets from being subjected to heavy traffic.

One important objective of the local street system is to enable fire equipment to travel as directly as possible to the scene of a fire.

The arterial road plan should be coordinated with the plans of Clackamas County and adjoining cities, the Portland-Vancouver Metropolitan Transportation Study, CRAG, and other local and regional planning organizations.

Some arterial streets may ultimately require four lanes or two lanes with left turn lanes in order to accommodate traffic when the area is built up.

For these, additional rights-of-way for the roads and the incorporation of walk-bike paths will be needed.

The City subdivision regulations are designed to assist in the establishment and control of future streets and arterials. These and other applicable regulations shall be reviewed for standards on the proper design, layout, and dedication of streets.

The establishment of needed future arterials is essential to the realization of the city plan.

The accomplishment of a good future arterial system for West Linn requires a high level of engineering and vigorous program of administration and enforcement. New arterial links are needed across Rosemont Hill between the West Linn-Cswego Highway, Rosemont Road, and Johnson Road. These arterials should provide ready access to the freeway so that residents can also reach other parts of the metropolitan area easily. West Linn should have convenient access to mass transit. This should include the development of major parking facilities at local transit terminals. Arterials should also provide for an adequate walk-bike way system. The Master Bikeway Plan is to be implemented as funds and right-a-way is available.

Sidewalks are needed in residential areas for the convenience of all citizens, as well as to enable children to walk safely to school. Improving the sidewalk system in West Linn should be an on going project for the city.

III LAND USE

L A N D U S E

The purpose of the land use element of the plan is to indicate the the most appropriate use for all areas of the city. It also provides a means for effectively guiding new private and public development in West Linn. It can help the city lead or guide development along the lines most beneficial to the entire community.

The function of the land use plan is to see that all residential, commercial, and industrial projects are properly located. The Comprehensive Plan also insures that these activities are suitably related to each other and to other features of the city, such as streets and highways, schools and parks, rivers, views, terrain, floodland, and existing development.

The land use plan is also a means for insuring that new developments bring about and maintain the kind of community which the people of West Linn want, both for themselves and for those who will reside here in future years. To accomplish this, the Planning Commission will be concerned with "planning" on a continuing basis and will not routinely approve zone change proposals which are presented.

The plan, being susceptible to amendment, can be accommodated to different development from that originally contemplated. Alternative development proposals will be evaluated to determine whether they meet the objectives of the plan and offer equal or superior advantages for the community.

The Neighborhood Unit Plan, Page 10, should be considered a part of this section.

The present plan provides for four community shopping centers. It would be desirable for the residents of West Linn and nearby areas to be able to obtain a wider variety of commercial goods and services within establishments situated in West Linn. The plan allows for the development of commercial centers in each major area of the city: Willamette, Rosemont, Holly-Bolton, and Robinwood. These community commercial centers should be compact, efficient, properly related to surrounding development, and should not result in highway congestion. They should be adequate in size to accommodate all local demands for business and service.

The growth of the four commercial centers will depend upon the economic growth and needs of the city.

The suitable location for the civic center is at the intersection of Rosemont and Parker Road. This new location is outside the city at the present time. Under annexing procedure, it will certainly be within the city by the time that a complete civic center is needed. This location should be large enough to accommodate all civic services as well as a community shopping center.

Along Highway 43 and other major arterials, regardless of whether it is commercial or multi-family residential, maximum effort shall be made to preserve the existing esthetics of the area.

In general, suitable locations for apartments include: Districts close to the center of subcenters of the city where commercial activities and other public services and conveniences are concentrated and should be referred to Design Review Committee to guard character of buildings; areas in the vicinity of freeway interchanges so long as these do not create traffic hazards; areas along freeways and major arterials, which, because of development costs and other factors, may be less suitable for single-family development. Areas along important arterials may also be suitable locations for apartments in combination with professional and office uses which do not generate large volumes of traffic.

Ravines and hillsides may be places for multi-family development, as well as for permanent green space linked to a system of recreation areas. Apartment projects on steep sites, however, must be capable of adequately handling traffic and parking. Also, the view and general low density character of adjacent single-family areas should be preserved.

Changing living patterns are creating a greater demand for apartments and mobile homes throughout the Metropolitan area. These can create problems, such as: A concentration and congestion of vehicles which the adjoining streets cannot accommodate. Adequate areas should be designated for Mobile Home Parks and they should be developed to a standard which is harmonious with the kind of residential environment which the city seeks to achieve and should be in accordance with the Mobile Home Park Ordinance.

IV PUBLIC FACILITIES

I V

P U B L I C F A C I L I T I E S

FIRE PROTECTION

Fire-fighting skills are becoming more specialized, volunteers are more difficult to recruit, the freeway has increased the fire risk, and expanding city size makes small neighborhood fire protection system serving a four-mile radius more difficult to coordinate. For these reasons, the city should include in the 1975-76 budget amounts for a person on duty twenty-four hours a day at each fire station. After this is done, fire service areas and station locations will need to be studied.

S C H O O L S

Schools are one of the most important public facilities in helping to establish neighborhood identity and common interest in various areas of the city. School buildings and grounds with adjacent parks also provide a place for a variety of community activities besides education which enrich the possibilities of neighborhood life. With these ideals in mind, the school board has undertaken a study of school development procedures which will be completed in March 1975. The Comprehensive Plan should reflect the results of this study upon its completion.

C I V I C B U I L D I N G S

One of the purposes of the plan is to predict where and how much land will be needed for various public buildings and other public facilities. The present city hall site is not satisfactory. Needed land should be acquired soon. Prospective developers should be encouraged to set aside, reserve or donate land for public purposes at the time that development takes place.

A new city hall should become an administrative center for efficient municipal services. The site should be ample in size for all future requirements. Additional land adjacent to a city hall would be an ideal arrangement for a park.

L I B R A R Y

A city library will enrich the cultural, aesthetic, and intellectual lives of all the people of the city. The library should be designed and managed to serve all ages, and the reading and reference tastes and requirements of as many people as possible.

Library location requirements may or may not be the same as for a city hall. Nevertheless, the library could provide one of the important features of a civic center, helping to give the city a central place for all residents.

PUBLIC WORKS CENTER

A central city shops site, with dispersed location for storage of equipment and materials, is important. The present site is quite central to the entire existing city, and its access will be improved with development of Cornwall Street as an arterial. The size of the existing city shops site appears adequate for the foreseeable future, although new buildings and consolidation of storage areas will be required.

The Robinwood water office site, five existing reservoir sites, and two sewage plant sites can serve as remote locations for materials storage. All public works sites which are used for storage or maintenance purposes should have ample grounds and should be adequately landscaped, fenced and screened to protect surrounding residential values.

UTILITIES, GENERAL

As areas around the city are developed, essential utilities and services should be provided through annexation to the city, not by the establishment of special service districts.

Utility planning performed by engineering consultants for the city constitutes the utility "element" of the city's comprehensive plan. These plans will be suitably integrated with other elements of the plan, such as streets and land use. The city plan will also be refined by including utility planning principles and objectives derived from the utility plans.

Sewer System:

Sewage collection and disposal in the Tualatin Basin for West Linn and for areas upstream must be integrated with long range plans of the region.

Water System:

An adequate water distribution system is important to maintain proper fire protection. Future improvements to the water system should include covered storage reservoirs adequate for domestic, fire, and emergency purposes for the expected ultimate population. Serious consideration should be given to contemporary Board of Health regulations including fluoridation of domestic water supply.

Underground Utilities:

The placing of all utilities underground is a desirable objective for West Linn. As a first step, all new developments should be provided with underground service. This could be accomplished through administration of city subdivision regulations and a special underground utility ordinance.

V PARKS , OPEN SPACE and AMENITIES

P A R K S, O P E N S P A C E A N D A M E N I T I E S

PARKS

Parks, open spaces, and a variety of natural amenities are among the important qualities that make West Linn unique. It is the objective of the plan to enhance these qualities and thereby to keep West Linn a "desirable city."

West Linn now has a good variety of special parks and playfields as follows:

1. Willamette Park

This semi-wooded 9.15-acre developed park is located at the confluence of the Tualatin and Willamette Rivers south of the Willamette area of West Linn. The park contains the following facilities: Parking, restrooms, drinking fountains, wading pool, tables, fireplaces, baseball diamond, a variety of playground equipment, access to the river, and a boat ramp.

2. Sunset Park

This wooded 2.44-acre park located adjacent to the Sunset Fire Hall in the Sunset area contains the following facilities: Parking, restrooms, drinking fountains, wading pool, tables, fireplaces, and a variety of playground equipment.

3. Hammerle Park

This semi-wooded 5.81-acre park, located adjacent to the Bolton School on Portland Avenue, contains the following facilities: Parking, restrooms, drinking

fountains, wading pool, tables, fireplaces, covered kitchen area, baseball diamond, tennis court, and a variety of playground equipment.

The proximity to population, grade schools and fine facilities characterize the splendid nature of the above mentioned parks.

4. Interstate Tractor Property

This recent acquisition of the city is an unimproved 8.8-acre tract of wooded and rugged terrain located in the Marylhurst Heights area and for the most part is quite steep and access is difficult.

5. West Bridge Park

An undeveloped 8.9-acre park located adjacent and below the I-205 Bridge. The outstanding characteristics of this park are the location on river frontage, a fine old 15-room house, and beautiful grounds.

6. Wilderness Park

This wooded 51.4-acre park borders Skyline Drive and extends up into the Sunset area. The property is self-improved by nature of a bisecting roadway, two paved parking areas and the beginning of a trail system. The outstanding characteristics of this park are its natural setting, central location, and topography which would make it ideal to develop as a city-wide wilderness park.

7. Goat Island

A 23.3-acre brush covered island in the Willamette River that lies adjacent and parallel to River Street in the Holly Gardens area. During the low water time of year, a sandy beach can be found; however, during high water most of the island is submerged.

8. Burnside Park

This is an unimproved wooded 10-acre parcel of land bordering the Willamette River in the Bolton area. The park was dedicated for the purpose of preserving the natural beauty of the land along the river frontage.

9. Mary Young State Park

This 130-acre day use state park is located between Highway 43 and the Willamette River, south of the Cedaroaks area. The park provides the following facilities: Parking, restrooms, drinking fountains, picnic areas, bicycle and foot paths, river-related activities. Much of the natural environment has been preserved.

10. Robinwood Boat Landing

This county boat launch facility is located along the shore of the Willamette River at the end of Elmran Drive in the Cedaroak Park area. Facilities now provided are: Parking, boat ramp, and temporary restrooms.

11. Camassia Conservancy Area

This 22.5-acre natural area is located southerly of Wilderness Park and West Linn High School. It is a preserved natural area leased by Lewis and Clark College for study and observation of the very numerous, unique rock formations, vegetation, and unusual biological items found there.

The major types of parks can be classified into three catagories:

Parks and Playgrounds:

Willamette Park

Sunset Park

Hammerle Park

Neighborhood Parks:

Interstate Park

West Bridge Park

Special areas:

Wilderness Park

Goat Island

Burnside Park

Mary S. Young

Robinwood Boat Landing

Camassia Conservance area

Within residential areas, small tot lots would be valuable as play spaces for preschool children from the immediate vicinity, where mothers could gather and oversee their play. The standards of the National Recreation Association provide a useful guide for the evaluation and projection of needed park and recreation facilities.

Additions to the city park system should be planned so that they will be adequate for the population which will eventually reside in various areas of the city. Each school plant and playground should have a neighborhood park adjacent to it. The Bolton, Sunset, and Willamette Parks each illustrate this ideal situation. Close coordination should be maintained with the school district to accomplish this in future neighborhoods and for new schools outside the city, some means must be found to acquire an adjacent park site while vacant land is still available.

An actively pursued long-range program for the development of parks and open spaces is needed so that projects can be scheduled on the basis of priority and so that needed parks can be acquired before vacant lands are built up. This will insure that needed sites can be obtained while land is still available and at prices the city can afford to pay.

O P E N S P A C E

The West Linn Plan (see map) includes a system of strips of open space or greenways which connect public parks, playgrounds, and other points of interest and within which are trails for hiking, horseback riding, and cycling. Portions of the city which are on steep hillsides, within narrow ravines, or subject to high water should be oriented toward public use. These areas could be preserved as parts of the city-wide greenway system, providing all West Linn residents with outstanding opportunities for outdoor experiences.

West Linn has a serious responsibility and should play an active role in the realization of the State's Willamette Greenway system because of the great amount of river frontage within the city. The city will work with the State to establish connecting links between the five existing river parks to make this section of the greenway a reality. Wherever possible, public access should be secured for a trail along the Tualatin and Willamette Rivers, utilizing land below flood level. The recreation potential of the Tualatin River could be greatly enhanced by the construction of a dam near its confluence with the Willamette River.

Multipurpose trails should be constructed within the greenway on easements, special rights-of-way and existing unused street rights-of-way. Trail locations along the bluffs should be varied in altitude so as to cause minimal inconvenience or interference with property developments. Connecting trails along steep hillsides in Rosemont extend from Marylhurst to the Wilderness Park and Conservancy Area, providing connections with the state park, high school, and Sunset Park. It then proceeds along the bluff parallel to the Willamette Falls Road (Highway 212), tying in with a hillside greenway along the southwest side of Rosemont and also with a riverside greenway along the Willamette and Tualatin Rivers. Connections to the river front are provided along the ravine between

Robinwood and Marylhurst College, and through Mary Young State Park. Additional sections of the trail system cross Rosemont itself, connecting Tualatin River and Willamette River frontage and many parks along the way. A pleasant horseback riding trail system might be accompanied by establishment of stables, riding facilities, and tack shops.

AMENITIES

West Linn has many attractive environmental features and assets such as rivers, open spaces and natural areas. These are an important heritage which should be protected for future residents of the city to enjoy and not spoiled or destroyed by the process of development. The environment in which all citizens live is an important part of the plan. "Environment" includes the quality of air and water, noise and visual appearance.

The plan places great value upon the pleasant, rolling, natural rural landscape of Rosemont. Residential development will eventually occupy most of the upper levels. It is intended, however, to preserve as much as possible of the area's appealing charm.

The visual environment is affected by the manner in which residents, businesses and industries maintain their premises. Everyone must help to prevent the city's appearance from deteriorating as it grows. The development of the city should not be accompanied by a growing number of billboards. This is important because of the great numbers of persons who pass through the city on the freeway. These persons should be presented with vistas of a pleasant and attractive residential community and not be subjected to an onslaught of advertising.

Because of its hills and scenic views, the city is suited for the development of a scenic drive system. This will be identified later and integrated with the arterial street plan.

Throughout the city small left over areas not suitable for private uses could be acquired, beautified and made into attractive public places or landscaped areas.

RECOMMENDATIONS FROM TRANSPORTATION & PUBLIC UTILITIES
GROUP

Adoption and use of the plan:

1. Develop a capital improvement program. This will provide for a six-year schedule of needed projects for which revenues can be foreseen.

Transportation:

1. Keep abreast of Tri-Met plans. Notify them when more runs are needed, possible addition to the existing routes, where bus shelters are needed, and where park & ride stations could be located.
2. Implement the West Linn Master Bikeway Plan.
3. Improve the sidewalk system in West Linn, especially major routes to parks, schools and shopping areas.

Public Facilities:(Fire Protection)

The street names in the Willamette area should be improved, and numbering throughout West Linn should be made uniform so that the people can be served more efficiently by the police and fire depts.

Public Utilities:

1. A study to begin immediately on the change of similar street names.
2. A uniform numbering system in the City of West Linn.
3. The Comprehensive Plan brought up-to-date concerning schools after the completion of the 1974-75 study of the West Linn School District.

4. A committee to be formed to make recommendations on the location of a new city hall. After the location has been agreed upon, definite steps begun toward the acquiring of such property.
5. Keeping up-to-date with the Board of Health regulations regarding water.
- . Designated easements, alleys, roads, or walkways leading to the river are meant to provide public access to the river and they should be so marked so that they can be used.

LAND USE COMMITTEE

RECOMMENDATIONS:

The committee feels that PUD or Planned Unit Development would be desirable especially where large tracts are to be divided and perhaps thought should be given to encourage cluster-type development. This type of development has become highly desirable for people who like to travel and are not confined to maintaining large yards. This also helps the developer in reducing his cost, making it possible for him to improve open spaces with perhaps a golf course, etc.

Consideration should be given to open space but individual lot size should be kept small.

The committee feels the City should discourage the R-2 acre zone or large zones because in future years when these areas annex to the City, the costs would be prohibitive for the city services (sewer, water, etc).

On zone applications, the committee recommends an application to amend the Comprehensive Plan be made first, then the zone change would become two separate actions.

The committee finds the Zoning ordinance should be amended to more zone lines so that zones divide individual lots.

All maps of Comprehensive Plan shall be revised or updated to show any changes or corrections made since their inception. After amending the Zoning ordinance to adjust all zone lines to either tax lot or lot lines, move same line, whichever way is practical, so that no one lot is half in one zone and half in another zone.

In conclusion, the Land Use portion of this Comprehensive Plan must be kept flexible enough to keep abreast of the economic growth of the City of West Linn.

SPECIFIC RECOMMENDATIONS

The Comprehensive Planning Committee recommends that specific action to implement a park and open space program should include:

1. A long-range capital and program improvements policy should be developed for West Linn parks. It should probably be a minimum of a five-year program and include proposals for funding, improvement of existing park properties and funding of various recreational programs to use those facilities.

2. The Willamette River Greenway Park system (state and federally funded) should be aggressively pursued within the city limits. Rights-of-way and easements should be obtained between Lake Oswego and the Tualatin River to provide trail connections in as close proximity to the river as possible.

3. Short-term directions for city funding for parks and open spaces should be directed in the main toward improvement of existing facilities and programs rather than acquisition, with the exception of the Willamette River Greenway system.

4. Subcommittee recommends that council appoint a standing committee with general authority over parks, open spaces, amenities and recreation, as well as revising the Comprehensive Plan within those categories. All existing committees formed by the city which bear on these particular areas should function as subcommittees of the standing committee. The basis of this proposal is to give a broader view of

specific interests and assist the council in developing priorities and alternatives. Some of the subcommittees that should be considered are:

A. A West Linn Integrated Trail System Committee should be created by the city composed of people interested in hiking, horseback riding, bicycling, youth activities, etc. The committee should be charged to initiate an active program to develop the trail along the bluffs of Highways 43 and I-205. To accomplish this, it should explore ways to obtain rights-of-way and easements; develop programs for construction and maintenance; investigate federal and state assistance; develop community interest and support; establish methods of marking trails; and prepare ordinances for council adoption to regulate trail use.

B. A West Linn Historic Sites and Buildings Committee should be appointed. It should investigate possible historic places in the West Linn area and determine appropriate ways to mark and commemorate these locations. Possibilities would include: a) the construction of the boat locks at the falls in 1872; b) early ferry crossings to Oregon City; c) the first suspension bridge in 1888; d) the early settlement of Linn City, which was washed out in the flood of 1862; e) preservation of the Moehnke house in Willamette.

C. Recreation Committee. An excellent committee on recreation is presently formed and operating, and its report to the city council dated January, 1974, has been of value to the Comprehensive Plan Committee.

BACKGROUND INFORMATION NEW SUBDIVISION ORDINANCE NEW COMPREHENSIVE PLAN

I. Subdivision Ordinance

1. Need for revision called to attention of Planning Commission and Council in summer of 1973 due to new legislation.
2. In December of 1973 Sanders presented copies of "model" ordinance from League of Oregon Cities with recommendation that this be used as guide.
3. Planning Commission studied model ordinance and recommended revision during winter and spring of 1974 with final draft being approved by Planning Comm. in May, 1974.
4. Planning Commission held public hearings on June 17 and July 8, 1974 and approved new ordinance.
5. Reported to Council on July 10, 1974 with Plan. Comm. & Staff recommendation for approval.
6. Council held public hearing on Aug 21, 1974 with main hang-up being on dedication or donation of land. - Hearing continued to Sept 18, 1974.

II Comprehensive Plan

1. Need for revision noted at Plan Comm. meeting in early summer of 1973.
2. Planning Commission asked for recommendations for citizens to

serve on Comprehensive Plan Review Committee. These names were subsequently submitted to Council. Council received nominees and requested that inquiry be sent to all members of original committee to determine if they wanted to serve again.

3. Citizens Committee appointed on December 12, 1974. Consisted of 25 citizens, Plan Comm Chairman and staff assistance.

Cy Davis, Professional Planner, was named as General Coordinator.

4. Committee met throughout winter and Spring of 1974 with results and recommendations going to Plan Comm in May, 1974.

5. Planning Commission reviewed revised Plan and held public hearings on June 24 and July 8, 1974. Recommended that Council app.

6. Council received report and recommendation on July 10, 1974 and held a public hearing on August 21, 1974. Public Hearing continued to Sept 18, 1974.



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

December 10, 1974

Clackamas County Commission
County Courthouse
Oregon City, Oregon 97045

Gentlemen:

We are enclosing herewith, for your information, a copy of our recently updated Comprehensive Plan.

Sincerely,

A handwritten signature in cursive script, reading "Clifford L. Sanders".

Clifford L. Sanders
City Administrator

CLS:rjm
Enclosure



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261


December 10, 1974

Mr. George Poppen
County Clerk
Clackamas County Courthouse
Oregon City, Or 97045

Dear Mr. Poppen:

We are enclosing herewith, for your information and filing, a copy of our recently updated Comprehensive Plan.

Sincerely,


Clifford L. Sanders
City Administrator

CLS:rjm
Enclosure



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

October 16, 1974

WEST LINN CITIZENS
COMPREHENSIVE PLANNING COMMITTEE

Dear Friends:

I am enclosing herewith a copy of the recently adopted Comprehensive Plan, West Linn, Oregon, 1974.

This pamphlet is the end result of the many hours of effort that you donated for the development of this guide for the growth of our city.

The City Council has directed that I extend to each of you their sincere appreciation for your help and assistance in this matter.

Very truly yours,

Clifford L. Sanders
Clifford L. Sanders
City Administrator

CLS:rjm
Enclosure



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

September 12, 1974

TO: The Honorable Mayor & Common Council
FROM: Clifford L. Sanders, City Administrator
SUBJECT: SUPPLEMENTAL REPORT ON PROPOSED COMPREHENSIVE
PLAN (RESPONSE TO EMMONS' PRESENTATION)

Upon my first reading of the Emmons' presentation, my initial response was to reject it out of hand due to its being ridiculous and completely out of touch with reality. Further consideration, however, led me to the conclusion that a detailed response could point out the fallacy of his ramblings and hopefully cast doubt on his credibility.

Starting on page one of the Emmons' treatise, I will proceed through and address certain points in order.

Page 1 "will be closely scrutinized by the courts...."

I do not understand the reasoning behind this allegation, the Comprehensive Plan is clearly a Legislative act of the Council and the only probable instance requiring "Court scrutiny" would be in the event of a challenge to a Zone Change where the court might review the proceedings to determine if the Zone Change is in conflict with the Plan.

Page 2 "Plan will be precise -- However this is not to say that it cannot be general in nature...."

This is obviously inconsistent. We cannot be precise AND general at the same time.

Page 3 (Add) "or the changing of zoning from residential or agricultural to commercial or P.U.D....."

This would obviously prohibit any zone change to a use other than residential and would lock us in as a strictly residential community with traditional "run of the mill" subdivisions.

THE HONORABLE MAYOR & COMMON COUNCIL

Page 2

Sept. 12, 1974

RE: SUPPLEMENTAL REPORT ON COMPREHENSIVE PLAN

Page 3 (Delete) "Because it is desirable that such areas be served and fully developed."

This suggested deletion, together with its accompanying amplification, would seem to indicate that no vacant land should be improved. While Emmons says that "it is presumptive for the Plan to state that these areas should be developed at all", I maintain that it is presumptive for Emmons to deny any property owner the right to make use of his own property. Development of vacant land is going to occur as time goes by and the only way to prevent it would be for the City, or some other agency, to buy the land for parks, etc. It should also be obvious, to even the most uninformed, that funding for such land purchase is impossible to obtain.

Page 4 (Add) ".... And when not in conflict with planning objectives....."

The addition of such a restriction would really open a "can of worms." With such wording included in the Plan text, we would be wide open to various interpretations of the intent of the statement.

Pages 5 and 6 (pertaining to amendments)

The requirement for review every third year is intended to be mandatory but does not necessarily require amendment. If the review does reveal the necessity or desirability of amendment such amendment would, of course, be implemented. The proposed Comprehensive Plan Text does provide for citizen input in the revision process in essentially the same manner as the existing Plan. There are no statutory requirements for public hearings and neither the present or proposed Plan specifically requires public hearings. It should be noted, however, that we have held public hearings at both the Planning Commission and Council levels on this proposed Plan.

The allegation that the plan is at the "mercy of any developer" is, of course, completely invalid and constitutes an insulting slur on the integrity of the Council and Planning Commission. Emmons remarks to the effect that a Plan amendment, preceding a possible zone change, is illegal, has no basis in fact or law and indicates a lack of knowledge of land use concepts and procedures.

THE HONORABLE MAYOR & COMMON COUNCIL
Page 3
Sept. 12, 1974

RE: SUPPLEMENTAL REPORT ON COMPREHENSIVE PLAN

Page 6. (Regarding P.U.D.'s)

The proposed text does not conclude that P.U.D.'s are the best way to develop a particular area. The text merely states that P.U.D.'s will be utilized for large scale mixed projects. This in no way specifies that P.U.D.'s "are the only way provided for in the Plan."

Page 7 "Specific definition should be given in the Plan text so one can, from the text alone, know where the boundaries of these communities are...."

Here again we are getting back to lengthy legal boundary descriptions and they have positively no place in the Text. General areas are specified on the map and it is again emphasized that map designations are GENERAL. The inclusion of multi-page legal descriptions in the text cannot be justified under any circumstances.

Page 8 The reference to "serving nearby areas" cannot really be considered as being in conflict with "accommodating local demands." While Emmons maintains that he is not "nit picking" this particular statement would appear to be a classic example of such.

Page 8 "On Page 16, paragraph 3 should be deleted in its entirety...."

Another example of deliberate mis-interpretation. The paragraph referred to states - "The growth of the four commercial centers will depend upon the economic growth and needs of the City." Emmons then goes on to say that this "is clearly in conflict with the Fasano decision." He is positively wrong in this regard. The subject paragraph does refer to "need." This paragraph is perfectly satisfactory as stated and should not be deleted.

Page 10 "This is not desirable, insofar as it would encourage low cost housing...."

This seems to imply that low cost housing should be prohibited in West Linn. I must call to your attention that any attempt to prohibit or restrict low cost housing, or to impose any other type of "exclusionary" zoning, is clearly in violation of law and would constitute an arrogant and reprehensible contempt of those who are not in the upper, or upper middle, income bracket.

Sept. 12, 1974

RE: SUPPLEMENTAL REPORT ON COMPREHENSIVE PLAN

Page 10"Paragraph 3 makes little, or no sense...."

This recommendation from the Land Use Committee is as follows:

"The Committee feels that the City should discourage the R-2 acre zone or large zones because in future years when these areas annex to the City, the costs would be prohibitive for the City services (sewer, water, etc)."

The statements^s made by Emmons in support of the above contention are a positive indication that he is absolutely and abysmally ignorant of even the most rudimentary aspects of the economic factors involved in providing for sewers, water mains, streets, etc. It should be quite obvious that it requires more pipe to serve ten properties, each with a 200 foot frontage, than it does to serve ten properties, each with a 100 foot frontage. We have an excellent example of this in the recently adopted Portland Avenue Sewer L.I.D. where one particular property with about 275 feet of frontage and an average 300 foot depth (1.9 acres) has an estimated \$5,260 assessment while another particular property which is 100 x 100 feet has an assessment of \$1,600. This same ratio, quite naturally would apply to water mains, streets, storm sewers, and other utilities.

It is practically axiomatic, in the Public Works field, that sparsely settled areas cannot bear the price tag on local improvements.

Page 10"Paragraph 4 is illegal...."

This bald, flat out statement has not the slightest validity in fact or even in theory. Planning Commission and Council clearly have the authority to amend the Comprehensive Plan. The adoption of the Plan, and amendments thereto are a legislative action.

Page 10 and 11"specific wording in the text should define the areas designated as Commercial"....and "Each of the four Commercial areas should be defined so that a person could read the text and know exactly where the boundaries are...."

THE HONORABLE MAYOR & COMMON COUNCIL

Page 5

Sept. 12, 1974

RE: SUPPLEMENTAL REPORT ON COMPREHENSIVE PLAN

Positively Not. It has been repeatedly shown that designated use areas are to be general in nature and are not to define specific boundaries. The Comprehensive Plan Map is an integral part of the Plan and cannot be eliminated. Even a Zoning Ordinance, which is a specific and detailed Law makes use of a map to define actual boundaries.

In summation, I wish to emphasize that not one valid or constructive recommendation has been made in the Emmons proposal and that no credence should be given to the statements contained therein.

I once again recommend that the revised Comprehensive Plan and Map, as developed and approved by the Committee and Planning Commission, be adopted in accordance with Planning Commission and staff recommendations.

Respectfully submitted,


Clifford L. Sanders

CLS:rjm



City of West Linn

August 21, 1974

CITY HALL
WEST LINN OREGON
97068

PHONE 656-4261

MEMORANDUM

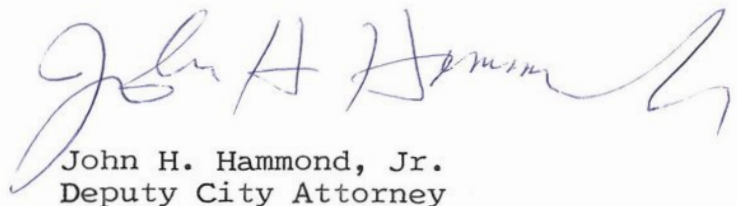
TO: Mayor and Common Council of the City of West Linn
FROM: John H. Hammond, Jr., Deputy City Attorney
SUBJECT: Specificity Required of Comprehensive Plans

At the public hearing before the Planning Commission concerning the proposed revision of the West Linn Comprehensive Plan a question was raised as to the necessary specificity as to both the policy statement in the text of the plan and the accompanying land use map. The assertion was made that both the policy statement and the land use map should be couched in very specific terms. The Comprehensive Plan text and map, as presently constituted, are both in rather general terms and the boundaries on the land use map are by intention somewhat imprecise.

Senate Bill 100 appears to be dispositive of this question. At Section 2 Comprehensive Plans are defined as: "... expressions of public policy in the form of policy statements, generalized maps and standards and guidelines." The Section goes on to say that Comprehensive Plans: "Shall be the basis for more specific rules, regulations and ordinances which implement the policies expressed through the comprehensive plans ...". Section 3 of the act is even more on point when it defines Comprehensive Plan to be a generalized, coordinated land use map and policy statement containing a "... summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activities or use."

A cursory review of the statutory authorities clearly supports the generalized textual format and land use policy map of the revised West Linn Comprehensive Plan.

Respectfully submitted,


John H. Hammond, Jr.
Deputy City Attorney

JHH/he



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

August 21, 1974

TO: The Honorable Mayor & Common Council
FROM: Clifford L. Sanders, City Administrator
SUBJECT: REVISED COMPREHENSIVE PLAN

Gentlemen:

Reference is made to Planning Commission Chairman Frank Allen's letter of July 10, 1974 conveying the Planning Commission's recommendation for approval of the Revised Comprehensive Plan.

In addition to the recommendations contained in this letter the Planning Commission, at its regular meeting of August 19, 1974 approved of the insertion of the corrections as specified below. These items were discussed and approved of during formulation of this document but were not included in the final draft.

Page 7 - Item No. 2

1. Insert word "Map" following "Comprehensive Plan" and insert "1974" following "West Linn, Oregon."
2. Add sentence at end of paragraph, Item No. 2 as follows: "The land use designations indicated on the Comprehensive Plan Map indicate general areas only and are not to be construed as defining precise boundaries."

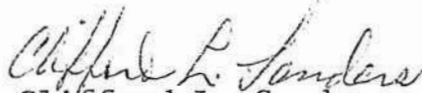
This reference to the general nature of land use designations is in strict compliance with the provisions of Senate Bill No. 100 as adopted by the 1973 Legislature (copies of Preamble attached). Particular emphasis is being given to this specific matter since several people addressed the Planning Commission at the hearing of July 8, 1974 insisting that the Comprehensive Plan Map MUST reflect positive and precise zones. This con-

The Honorable Mayor & Common Council
Page 2
August 21, 1974
RE: REVISED COMPREHENSIVE PLAN

tention obviously has no merit nor any factual basis whatsoever. It is clearly established that a Comprehensive Plan provides guidelines and policies only, while it is the function of the Zoning Ordinance and the Zoning Map to define precise land use boundaries.

It is the recommendation of the undersigned that the Comprehensive Plan Text and Map, as herewith presented, be approved and adopted by the Council.

Respectfully submitted,


Clifford L. Sanders

CLS:rjm

Affidavit of Publication

State of Oregon, }
County of Clackamas } ss.

I, Denise Moak, being first duly sworn, depose and say that I am the principal clerk of the owner, of ENTERPRISE-COURIER, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Oregon City in the aforesaid county and state; that the

Notice of Public Hearing-Comprehensive Plan
a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 2 successive and consecutive weeks in the following issues:

August 7, 14, 1974

Denise Moak

Subscribed and sworn to before me this 14th

day of August, 1974

Donald R. Hughes

Notary Public of Oregon

4th
My commission expires February, 1978

CITY OF WEST LINN NOTICE OF PUBLIC HEARING COMPREHENSIVE PLAN

Notice is hereby given that the Common Council will hold a public hearing starting at 8:30 p.m. (or as soon thereafter as possible) on Wednesday, August 21, 1974, in the Council Chambers at City Hall, on the matter of the proposed, revised, and updated Comprehensive Plan for the City of West Linn.

This plan has been prepared by the West Linn Planning Commission following development by a Citizens' Comprehensive Plan Review Committee and was the subject of public hearings held by the Planning Commission on June 24 and July 8, 1974. The revised Comprehensive Plan has been submitted to the Common Council

with the Planning Commission recommendation for approval as presented.

Copies of the proposed Comprehensive Plan are available for examination at the office of the City Recorder or may be purchased at a cost of \$2.00 per copy.

WAYNE L. PATERSON
CITY RECORDER
(Wed., 8/7, 14, 1974)

CITY OF WEST LINN

NOTICE OF PUBLIC HEARING

COMPREHENSIVE PLAN

Notice is hereby given that the Common Council will hold a public hearing starting at 8:30 p.m. (or as soon thereafter as possible) on Wednesday, August 21, 1974, in the Council Chambers at City Hall, on the matter of the proposed, revised, and updated Comprehensive Plan for the City of West Linn.

This plan has been prepared by the West Linn Planning Commission following development by a Citizens' Comprehensive Plan Review Committee and was the subject of public hearings held by the Planning Commission on June 24 and July 8, 1974. The revised Comprehensive Plan has been submitted to the Common Council with the Planning Commission recommendation for approval as presented.

Copies of the proposed Comprehensive Plan are available for examination at the office of the City Recorder or may be purchased at a cost of \$2.00 per copy.

WAYNE L. PATERSON
CITY RECORDER



City of West Linn

July 10, 1974

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

TO: THE HONORABLE MAYOR AND COMMON COUNCIL
FROM: WEST LINN PLANNING COMMISSION
SUBJECT: REVISED COMPREHENSIVE PLAN

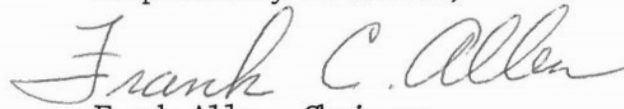
In accordance with your instructions, and the guidelines provided in the current Comprehensive Plan of the City of West Linn, the Planning Commission has completed its review and revision of the Plan and herewith submits it to you for your consideration.

This revised Comprehensive Plan was the subject of a public hearing held on June 24, 1974 and a continued public hearing held on July 8, 1974.

The Plan represents a vast amount of work on the part of the "Citizens' Comprehensive Plan Review Committee," as appointed by the governing body and the Commission wishes to express its appreciation and extend its thanks to this fine group of dedicated citizens who gave so generously of their time, effort, and expertise.

It is the recommendation of this Commission that the City Council give its favorable consideration to the adoption of this revised Comprehensive Plan and map as submitted.

Respectfully submitted,


Frank Allen, Chairman

FAA:rjm

Attachments: Revised Comprehensive Plan Text
Minutes of Planning Commission
Hearings of June 24, and July 8, 1974

West Linn Bike Path Committee Meeting: July 9, 1974

Those in attendance: Mr. Gieble—in charge of Maintenance for this area for the State Highway Dept., Mr. Spisla—regional office of the State Highway Division, Dr. and Mrs. Gay Weeks, Mr. Don McKay and Bruce McKay, Mr. Joe Graw, Mrs. Connie Wood, Mr. Ken Hubbard—West Linn city engineer, Mr. Cliff Sanders—West Linn City Administrator, and Carol Geldaker (11)

1. First itemized projects to try to have completed by the end of the summer by the City of West Linn:

- a. obtain stencil from State Highway to mark "Bike Route" on the road in locations where "Bike Route" signs have been taken.

(1) *one needed area = on Right side of Old River Road going south (just past the Trillium Way intersection

on Right side of Old River Road going north (just past the Trillium Way intersection to the north)

***this route is traveled by many "guests" to the area and so it should be marked very carefully.

- b. Discussion of the foot path easement between Kenthorpe & Cedar oak:
Olie Olson needs to put in a retaining wall next to the path before it is to paved.

When path is paved—Signs will be needed at both Kenthorpe & Cedar oak sides. These signs need to be two-sided.

Wording is being worked out by Cliff Sanders (noting it is an easement the public can use)

- c. Paving of Davenport & Randall Sts.:

This should begin soon. As of this meeting date, the city had not started any city street paving projects for this summer.

(Because a daycare nursery is located in this area, besides the roads serving as an alternate bike route, the need for improvement increases.)

- d. Discussion of a walk-way on Rosemont:

It was asked if a study be made of the cost involved for putting in a "walk+bike way" on Rosemont on the east side —from the north city limits to Summit Rd.

This would probably be worked on this fall and winter.

2. Reports from the State Highway people:

- a. Mr. Giebel (in charge of maintenance on #43)

- (1. explained what they planned to do:

put cement culvert in the open ditch from Mark Lane to where the sidewalks to the S. on the west side of #43

improve some of the drain problems where the sidewalk begins cover the cement culverts with gravel

- (2. they said it may be Sept. before this project can be started

****Discussion: The committee urged the State Highway to please consider paving over the gravel—since the job would be 3/4th complete at that point.

This would make the road safer and in keeping with the Highway development just north of Mary S. Young Park

b. Mr. Lew Spisla, representing the regional office on McLoughlin Blvd.

- (1. The plans were reviewed for the possible development of the bike-walk path from Mary S. Young Park to Hammerlee Park to the south.

Problems that will have to be dealt with: retaining wall in some places, finding the center line of the right-a-way, possible purchase of additional right-a-way to allow for an 8' path on east side of #43.

- (2. Details of the project:

- (a. project length = 1.1 miles (from MSY Park to Hammerlee Park)
- (b. path to be separated from cars by 6" curbbing
- (c. path to run on east side of highway, it would be 2-way for walk-bike traffic
- (d. Detailed reconnaissance study to begin the week of July 15, 1974
- (e. When this study is completed, it will be submitted to the State Highway Division for their review
- (f. Then it would be presented to the Governor's Advisory Committee on Bicycle Paths
- (g. If their reaction of the project is favorable, it would then go to the Transportation Commission for review.

****Point in favor of this project:

1. there is a bikeway further north on Highway #43 that comes to an end in a bad location
 2. This route connects 2 grade school and improves part of the route to the highschool
 3. The road is heavily traveled by walk-bikers, especially in good weather, besides the heavy daily use of motorized vehicles.
 4. At present, the amount of room to travel on the road is very narrow!
- (3. The regional office will keep in touch with us, so we will know how the study is coming.
 - (4. If all areas okay the project, the path could possibly be constructed during the summer of 1975.
3. Gay and Anne Weeks agreed to turn in a report on how things are going in MSY Park in regards to the new south side entrance. They will be checking with the park ranger.
 - a. one point brought up: need for a phone in the park for emergency calls.
- At our next meeting the results will be discussed.
4. Anne Weeks reported that she has not received a reply as yet from Schwinn Co. on our suggestion for an improvement on their leg lights.
 5. Updating of #212 Bike Path project report:
 - a. Crown Z. will be sending a map to Allen Pynn. We are to draw on the map--the route the path would take. There are various property ownerships that may be involved with the proposed route.
 - b. After the route is realized, it is hoped that the various owners will each submit a letter of intent to allow the path to be built--pending on funds available.

6. Correspondence was read from the West Linn Willamette Fair Parade Committee—
(wondering if our committee would like to submit a representation in the parade,
and — or, having a booth on information on biking, bike registration etc.—)
- a. It was felt rather than be involved as an organization, we would give support
by publicity to encourage bicycles to enter the parade.
 - b. No one offered to head up a booth. Being small in numbers, we are kept pretty
busy all year long. The idea is good. The people to do it are missing.

BY SIGNATURE HEREUNDER I SIGNIFY MY SUPPORT OF THE FOLLOWING POSITIONS CONCERNING REVISION OF THE WEST LINN, OREGON COMPREHENSIVE PLAN.

1. I SUPPORT THE PREMISE THAT DEVELOPMENT WITHIN THE AREA COMPRISING THE CITY OF WEST LINN, OREGON SHOULD FOLLOW THE GENERAL PRINCIPALS AND GUIDELINES OF THE "APPROVED WEST LINN COMPREHENSIVE PLAN!" THE COMPREHENSIVE PLAN SHOULD REFLECT THE GOALS OF THE MAJORITY OF THE CITIZENS, AND SHOULD BE REVIEWED AND UPDATED PERIODICALLY TO REFLECT CHANGE. HOWEVER, THE PRESENT APPROVED PLAN SHOULD ONLY BE MODIFIED AFTER COMPLETE REVIEW AND PROPER VALID PUBLIC INPUT TO SUPPORT ANY EFFORT TO ALTER OR ELIMINATE PARTS OF THE APPROVED COMPREHENSIVE PLAN.
2. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD ALLOW COMMERCIAL DEVELOPMENT IN THE ROBINWOOD AREA BEYOND THE EXTENT OF THE LONG ESTABLISHED COMMERCIAL ZONES, INCLUDING THE APPROXIMATELY 4 ACRES LOCATED ON THE NORTHEAST CORNER OF INTERSECTION OF CEDAROAK DRIVE AND PORTLAND AVENUE.
3. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH PROMOTES OR ALLOWS ADDITIONAL STRIP OR SPOT COMMERCIAL ZONING ALONG PORTLAND AVENUE BEYOND THAT WHICH ALREADY EXISTED PRIOR TO JANUARY 1, 1973
4. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD WEAKEN ITS INTENT AND PURPOSE AS AN ENFORCABLE GUIDELINE FOR DEVELOPMENT IN THE COMMUNITY, ALLOW FOR CHANGE OF THE PLAN WITHOUT PROPER VALID PUBLIC INPUT, OR MAKE IT NOT CONFORM TO GUIDELINES FOR SUCH PLANS AS SET DOWN IN 1972 BY THE OREGON SUPREME COURT.

<u>NAME</u>	<u>ADDRESS</u>	<u>DATE</u>
Robert H. Dichtel	18950 S. Walling Circle	2 July 74
Roger H. Smith	18951 Walling Circle	2-7-74
Margaret F. Smith	" "	2-7-74
May Grace McAnisett	18976 Walling Cir	July 6, 1974
John A. Williams	2515 Mark Lane	7-7-74
Susan Waldimer	2515 Mark Lane	7-7-74
Patricia Simon	19641 White Cloud Circle, West Linn Ore	7-8-74

BY SIGNATURE HEREUNDER I SIGNIFY MY SUPPORT OF THE FOLLOWING POSITIONS CONCERNING REVISION OF THE WEST LINN, OREGON COMPREHENSIVE PLAN.

1. I SUPPORT THE PREMISE THAT DEVELOPMENT WITHIN THE AREA COMPRISING THE CITY OF WEST LINN, OREGON SHOULD FOLLOW THE GENERAL PRINCIPALS AND GUIDELINES OF THE "APPROVED WEST LINN COMPREHENSIVE PLAN" THE COMPREHENSIVE PLAN SHOULD REFLECT THE GOALS OF THE MAJORITY OF THE CITIZENS, AND SHOULD BE REVIEWED AND UPDATED PERIODICALLY TO REFLECT CHANGE. HOWEVER, THE PRESENT APPROVED PLAN SHOULD ONLY BE MODIFIED AFTER COMPLETE REVIEW AND PROPER VALID PUBLIC INPUT TO SUPPORT ANY EFFORT TO ALTER OR ELIMINATE PARTS OF THE APPROVED COMPREHENSIVE PLAN.
2. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD ALLOW COMMERCIAL DEVELOPMENT IN THE ROBINWOOD AREA BEYOND THE EXTENT OF THE LONG ESTABLISHED COMMERCIAL ZONES, INCLUDING THE APPROXIMATELY 4 ACRES LOCATED ON THE NORTHEAST CORNER OF INTERSECTION OF CEDAROAK DRIVE AND PORTLAND AVENUE.
3. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH PROMOTES OR ALLOWS ADDITIONAL STRIP OR SPOT COMMERCIAL ZONING ALONG PORTLAND AVENUE BEYOND THAT WHICH ALREADY EXISTED PRIOR TO JANUARY 1, 1973
4. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD WEAKEN ITS INTENT AND PURPOSE AS AN ENFORCABLE GUIDELINE FOR DEVELOPMENT IN THE COMMUNITY, ALLOW FOR CHANGE OF THE PLAN WITHOUT PROPER VALID PUBLIC INPUT, OR MAKE IT NOT CONFORM TO GUIDELINES FOR SUCH PLANS AS SET DOWN IN 1972 BY THE OREGON SUPREME COURT.

NAME	ADDRESS	DATE
Gladys L. Dunmore	5493 River Street W.L.	July 3, 1974
Colores L. Atkinson	5496 River St, W.L.	July 3, 1974
Ralph E. Duddles	19370 Old River Dr. W.L.	July 7, 1974
Carolyn L. Duddles	19370 Old River Dr W.L.	July 7, 1974
John M. Foreman	6710 Portland Ave. W.L.	July 7, 1974
Jean S. Seensen	6710 Portland Ave.	W.L. July 7 1974
Linda M. Bevins	1980 S. Hillcrest Drive	W.L. July 8, 1974

BY SIGNATURE HEREUNDER I SIGNIFY MY SUPPORT OF THE FOLLOWING POSITIONS CONCERNING REVISION OF THE WEST LINN, OREGON COMPREHENSIVE PLAN.

1. I SUPPORT THE PREMISE THAT DEVELOPMENT WITHIN THE AREA COMPRISING THE CITY OF WEST LINN, OREGON SHOULD FOLLOW THE GENERAL PRINCIPALS AND GUIDELINES OF THE "APPROVED WEST LINN COMPREHENSIVE PLAN" THE COMPREHENSIVE PLAN SHOULD REFLECT THE GOALS OF THE MAJORITY OF THE CITIZENS, AND SHOULD BE REVIEWED AND UPDATED PERIODICALLY TO REFLECT CHANGE. HOWEVER, THE PRESENT APPROVED PLAN SHOULD ONLY BE MODIFIED AFTER COMPLETE REVIEW AND PROPER VALID PUBLIC INPUT TO SUPPORT ANY EFFORT TO ALTER OR ELIMINATE PARTS OF THE APPROVED COMPREHENSIVE PLAN.
2. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD ALLOW COMMERCIAL DEVELOPMENT IN THE ROBINWOOD AREA BEYOND THE EXTENT OF THE LONG ESTABLISHED COMMERCIAL ZONES, INCLUDING THE APPROXIMATELY 4 ACRES LOCATED ON THE NORTHEAST CORNER OF INTERSECTION OF CEDAR OAK DRIVE AND PORTLAND AVENUE.
3. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH PROMOTES OR ALLOWS ADDITIONAL STRIP OR SPOT COMMERCIAL ZONING ALONG PORTLAND AVENUE BEYOND THAT WHICH ALREADY EXISTED PRIOR TO JANUARY 1, 1973
4. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD WEAKEN ITS INTENT AND PURPOSE AS AN ENFORCABLE GUIDELINE FOR DEVELOPMENT IN THE COMMUNITY, ALLOW FOR CHANGE OF THE PLAN WITHOUT PROPER VALID PUBLIC INPUT, OR MAKE IT NOT CONFORM TO GUIDELINES FOR SUCH PLANS AS SET DOWN IN 1972 BY THE OREGON SUPREME COURT.

<u>NAME</u>	<u>ADDRESS</u>	<u>DATE</u>
Irene Dodds	18931 S. Old River Dr.	July 6, 1974
Edward C. Lind	18940 S. Old River Dr.	7-7-74
Betty A. Lind	18940 S. Old River Dr.	7-7-74
Gregory J. Lind	18940 S. Old River Dr.	July 7, 1974
D. M. Cray	18833 S. Old River Dr.	7/7/74
Rosalyn A. Gump	18705 Robinwood Dr.	7/7/74
Martin Warner	18725 Old River Dr.	7-6-74
Margaret E. Warner	18725 Old River Dr.	7-6-74

BY SIGNATURE HEREUNDER I SIGNIFY MY SUPPORT OF THE FOLLOWING
POSITIONS CONCERNING REVISION OF THE WEST LINN, OREGON
COMPREHENSIVE PLAN.

1. I SUPPORT THE PREMISE THAT DEVELOPMENT WITHIN THE AREA
COMPRISING THE CITY OF WEST LINN, OREGON SHOULD FOLLOW THE GENERAL
PRINCIPALS AND GUIDELINES OF THE "APPROVED WEST LINN COMPREHENSIVE
PLAN!" THE COMPREHENSIVE PLAN SHOULD REFLECT THE GOALS OF THE MAJORITY
OF THE CITIZENS, AND SHOULD BE REVIEWED AND UPDATED PERIODICALLY TO
REFLECT CHANGE. HOWEVER, THE PRESENT APPROVED PLAN SHOULD ONLY BE
MODIFIED AFTER COMPLETE REVIEW AND PROPER VALID PUBLIC INPUT TO
SUPPORT ANY EFFORT TO ALTER OR ELIMINATE PARTS OF THE APPROVED
COMPREHENSIVE PLAN.
2. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN
WHICH WOULD ALLOW COMMERCIAL DEVELOPMENT IN THE ROBINWOOD AREA BEYOND
THE EXTENT OF THE LONG ESTABLISHED COMMERCIAL ZONES, INCLUDING THE
APPROXIMATELY 4 ACRES LOCATED ON THE NORTHEAST CORNER OF INTERSECTION
OF CEDAROAK DRIVE AND PORTLAND AVENUE.
3. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH
PROMOTES OR ALLOWS ADDITIONAL STRIP OR SPOT COMMERCIAL ZONING ALONG
PORTLAND AVENUE BEYOND THAT WHICH ALREADY EXISTED PRIOR TO JANUARY 1, 1973
4. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN
WHICH WOULD WEAKEN ITS INTENT AND PURPOSE AS AN ENFORCABLE GUIDELINE
FOR DEVELOPMENT IN THE COMMUNITY, ALLOW FOR CHANGE OF THE PLAN WITHOUT
PROPER VALID PUBLIC INPUT, OR MAKE IT NOT CONFORM TO GUIDELINES FOR
SUCH PLANS AS SET DOWN IN 1972 BY THE OREGON SUPREME COURT.

NAME

ADDRESS

DATE

Albert A. Nickel

19110 Kanters Way

7-6-74

Catherine R. Nickel

19110 Kanters Way

7-6-74

BY SIGNATURE HEREUNDER I SIGNIFY MY SUPPORT OF THE FOLLOWING POSITIONS CONCERNING REVISION OF THE WEST LINN, OREGON COMPREHENSIVE PLAN.

1. I SUPPORT THE PREMISE THAT DEVELOPMENT WITHIN THE AREA COMPRISING THE CITY OF WEST LINN, OREGON SHOULD FOLLOW THE GENERAL PRINCIPALS AND GUIDELINES OF THE "APPROVED WEST LINN COMPREHENSIVE PLAN" THE COMPREHENSIVE PLAN SHOULD REFLECT THE GOALS OF THE MAJORITY OF THE CITIZENS, AND SHOULD BE REVIEWED AND UPDATED PERIODICALLY TO REFLECT CHANGE. HOWEVER, THE PRESENT APPROVED PLAN SHOULD ONLY BE MODIFIED AFTER COMPLETE REVIEW AND PROPER VALID PUBLIC INPUT TO SUPPORT ANY EFFORT TO ALTER OR ELIMINATE PARTS OF THE APPROVED COMPREHENSIVE PLAN.
2. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD ALLOW COMMERCIAL DEVELOPMENT IN THE ROBINWOOD AREA BEYOND THE EXTENT OF THE LONG ESTABLISHED COMMERCIAL ZONES, INCLUDING THE APPROXIMATELY 4 ACRES LOCATED ON THE NORTHEAST CORNER OF INTERSECTION OF CEDAROAK DRIVE AND PORTLAND AVENUE.
3. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH PROMOTES OR ALLOWS ADDITIONAL STRIP OR SPOT COMMERCIAL ZONING ALONG PORTLAND AVENUE BEYOND THAT WHICH ALREADY EXISTED PRIOR TO JANUARY 1, 1973
4. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD WEAKEN ITS INTENT AND PURPOSE AS AN ENFORCABLE GUIDELINE FOR DEVELOPMENT IN THE COMMUNITY, ALLOW FOR CHANGE OF THE PLAN WITHOUT PROPER VALID PUBLIC INPUT, OR MAKE IT NOT CONFORM TO GUIDELINES FOR SUCH PLANS AS SET DOWN IN 1972 BY THE OREGON SUPREME COURT.

NAME

ADDRESS

DATE

Paul W. Bellante

1905 S. Old River Dr

7/8/74

Jane Bellante

1905 S. Old River Dr.

7/8/74

BY SIGNATURE HEREUNDER I SIGNIFY MY SUPPORT OF THE FOLLOWING POSITIONS CONCERNING REVISION OF THE WEST LINN, OREGON COMPREHENSIVE PLAN.

1. I SUPPORT THE PREMISE THAT DEVELOPMENT WITHIN THE AREA COMPRISING THE CITY OF WEST LINN, OREGON SHOULD FOLLOW THE GENERAL PRINCIPALS AND GUIDELINES OF THE "APPROVED WEST LINN COMPREHENSIVE PLAN". THE COMPREHENSIVE PLAN SHOULD REFLECT THE GOALS OF THE MAJORITY OF THE CITIZENS, AND SHOULD BE REVIEWED AND UPDATED PERIODICALLY TO REFLECT CHANGE. HOWEVER, THE PRESENT APPROVED PLAN SHOULD ONLY BE MODIFIED AFTER COMPLETE REVIEW AND PROPER VALID PUBLIC INPUT TO SUPPORT ANY EFFORT TO ALTER OR ELIMINATE PARTS OF THE APPROVED COMPREHENSIVE PLAN.
2. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD ALLOW COMMERCIAL DEVELOPMENT IN THE ROBINWOOD AREA BEYOND THE EXTENT OF THE LONG ESTABLISHED COMMERCIAL ZONES, INCLUDING THE APPROXIMATELY 4 ACRES LOCATED ON THE NORTHEAST CORNER OF INTERSECTION OF CEDAROAK DRIVE AND PORTLAND AVENUE.
3. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH PROMOTES OR ALLOWS ADDITIONAL STRIP OR SPOT COMMERCIAL ZONING ALONG PORTLAND AVENUE BEYOND THAT WHICH ALREADY EXISTED PRIOR TO JANUARY 1, 1973
4. I STAND OPPOSED TO ANY MODIFICATION OF THE COMPREHENSIVE PLAN WHICH WOULD WEAKEN ITS INTENT AND PURPOSE AS AN ENFORCABLE GUIDELINE FOR DEVELOPMENT IN THE COMMUNITY, ALLOW FOR CHANGE OF THE PLAN WITHOUT PROPER VALID PUBLIC INPUT, OR MAKE IT NOT CONFORM TO GUIDELINES FOR SUCH PLANS AS SET DOWN IN 1972 BY THE OREGON SUPREME COURT.

<u>NAME</u>	<u>ADDRESS</u>	<u>DATE</u>
<i>Dennis J. Anders</i>	<i>2587 Mark Ln.</i>	<i>July 2, 1974</i>
<i>Bill Nelson</i>	<i>1745 Buck St.</i>	<i>July 2, 1974</i>
<i>Gladys J. Anders</i>	<i>2587 Mark Ln.</i>	<i>July 5, 1974</i>

Affidavit of Publication

State of Oregon, }
County of Clackamas } ss.

I, Kathy Smith, being first duly sworn, depose and say that I am the principal clerk of the owner, of ENTERPRISE-COURIER, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Oregon City in the aforesaid county and state; that the

Notice of Public Hearing

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 2 successive and consecutive weeks in the following issues:

June 14, 21, 1974

Kathy Smith

Subscribed and sworn to before me this 21st

day of June, 19 74

David O. Puck
Notary Public of Oregon.

My commission expires 4th day of

February, 19 78

CITY OF WEST LINN NOTICE OF PUBLIC HEARING

Notice is hereby given that the West Linn Planning Commission will hold a public hearing at 8:00 p.m., Monday, June 24, 1974, in the Council Chambers at City Hall, on the matter of revisions and amendments to the City of West Linn Comprehensive Plan of 1971.

Copies of the revised plan are available and may be examined at the office of the City Recorder during regular office hours, or copies may be purchased at a cost of \$2.00 per copy.

WAYNE L. PATERSON
City Recorder
(Fri., 6/14, 21, 1974)

CITY OF WEST LINN

NOTICE OF PUBLIC HEARING

Notice is hereby given that the West Linn Planning Commission will hold a public hearing at 8:00 p.m., Monday, June 24, 1974, in the Council Chambers at City Hall, on the matter of revisions and amendments to the City of West Linn Comprehensive Plan of 1971.

Copies of the revised plan are available and may be examined at the office of the City Recorder during regular office hours, or copies may be purchased at a cost of \$2.00 per copy.

WAYNE L. PATERSON
CITY RECORDER

(Publish 6-14-74 and 6-21-74)



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

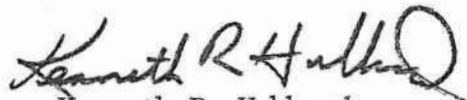
June 11, 1974

Cyrus Nims, General Coordinator
Walter Nutting, Land Use Chairman
Frank Schumaker, Transportation & Facilities Chairman
Allen Pynn, Parks, Open Spaces & Amenities Chairman

This is to inform you that a special Comprehensive Plan Review Committee meeting will be held on Thursday, June 13, at 7:30 p.m. in the conference room at City Hall.

The purpose of this meeting is to finalize the rough draft of the revised Comprehensive Plan so that it can be typed up and copies made available for public hearing scheduled on June 24, 1974.

If you have any questions regarding this, please call this office.


Kenneth R. Hubbard
Engineer/Planner

KRH:rjm

STEERING COMMITTEE

COMPREHENSIVE PLAN

CY NIMS	224-9190
FRANK ALLEN	228-5154
ALLEN PYNN	636-8451
F. SCHUMAKER	656-1651
W. NUTTING	656-5331

STEERING COMMITTEE

COMPREHENSIVE PLAN

Cyrus Nims
5494 Linn Lane
West Linn, Or
224-9190

Walter Nutting
6555 NE Failing St.
West Linn, Or
656-5331

Allen Pynn
949 SE 7th Ave.
West Linn, Or 97068
636-1651

Frank Schumaker
5088 Linn Lane
West Linn, Or
656-1651

COMPREHENSIVE PLAN REVIEW COMMITTEE

JOHN ANICKER ✓
2880 ROSEMONT DR.

RICHARD BUSE ✓
2496 SUNSET AVE.

LES DE JARDIN ✓
1514 NE HOLLY ST.

DEXTER FORBES ✓
4138 ELMRAN DR.

CAROL GELDAKER ✓
18525 TRILLIUM WAY

ROBERT GREEN ✓
4711 ALDER ST.

JOHN HOOLEY ✓
6404 NE FAILING ST.

LORENE LINDAS ✓
1486 MARYLHURST DR.

JAMES LYNCH ✓
5627 NE RIVER ST.

WILLIAM MC ANLIS ✓
1988 SW OSTMAN DR.

CY NIMS ✓
5494 LINN LANE

WALTER NUTTING ✓
6555 NE FAILING ST.

JAMES PICKUS ✓
19580 MIDHILL DR,

ALLEN PYNN ✓
949 SE 7TH AVE.

DAVID ROOD ✓
4121 CALAROGA CIRCLE

FRANK SCHUMACHER ✓
5088 LINN LANE

E. M. SMITH ✓
19090 NIXON AVE

WILLIAM TRIPP ✓
5290 WEST A ST.

CHET TUNNELL ✓
1542 NE HOLLY ST.

LEE WINNER ✓
1351 MARYLHURST DR.

HAL SCOFIELD
4114 CALAROGA DR.

MAX STRICKLER
2229 SW MICHAEL DR.

STANLEY URBIGKEIT
6948 NE LOWELL DR.

JOHN HARRISON
1900 VALLEY VIEW DR.

LAUREN AIMONETTO
4738 MAPLETON DR.



City of West Linn

May 10, 1974

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

Mr. Allen Pynn, Chairman
Parks, Open Spaces & Amenities Group
Comprehensive Plan Review Committee
18654 Pacific Highway
West Linn, Oregon 97068

Dear Mr. Pynn:

Congratulations to you and your committee on the excellent manner of conducting meetings and proposing revisions to the Comprehensive Plan pertaining to Parks, Open Spaces and Amenities.

I have reviewed the material submitted by your group on April 9th and find it a most informative and realistic approach to the revision of the Comprehensive Plan.

However, inasmuch as pages 1, 2 and 3 were taken from the January, 1974 report of the West Linn Recreation Committee, I have taken the liberty of changing the order of park listings and of deleting certain sentences which would not be applicable for inclusion in the Comprehensive Plan. Also added are brief statements relating to Mary Young State Park, Robinwood Boat Landing and the Camassia Conservancy area. Pages 4 through 11 are found to be very appropriate.

Enclosed then for your review and further comments are the changes made pertaining to pages 1 and 2 of your report.

If you have any question regarding this matter, please call this office.

Sincerely yours,

Kenneth R. Hubbard
Engineer/Planner

krh rf
encs

PARKS, OPEN SPACE and AMENITIES

PARKS

Parks, open spaces, and a variety of natural amenities are among the important qualities that make West Linn unique. It is the objective of the plan to enhance these qualities and thereby to keep West Linn a "desirable city."

West Linn now has a good variety of special parks and playfields as follows:

1. Willamette Park

This semi-wooded 9.15-acre developed park is located at the confluence of the Tualatin and Willamette Rivers south of the Willamette area of West Linn. The park contains the following facilities: Parking, restrooms, drinking fountains, wading pool, tables, fireplaces, baseball diamond, a variety of playground equipment, access to the river, and a boat ramp.

2. Sunset Park

This wooded 2.44-acre park located adjacent to the Sunset Fire Hall in the Sunset area contains the following facilities: Parking, restrooms, drinking fountains, wading pool, tables, fireplaces, and a variety of playground equipment.

3. Hammerle Park

This semi-wooded 5.81-acre park, located adjacent to the Bolton School on Portland Avenue, contains the following facilities: Parking, restrooms, drinking fountains, wading pool, tables, fireplaces, covered kitchen area, baseball diamond, tennis court, and a variety of playground equipment.

The proximity to population, grade schools and fine facilities characterize the splendid nature of the above mentioned parks.

4. Interstate Tractor Property

This recent acquisition of the city is an unimproved 8.8-acre tract of wooded and rugged terrain located in the Marylhurst Heights area and for the most part is quite steep and access is difficult.

5. West Bridge Park

An undeveloped 8.9-acre park located adjacent and below the I-205 Bridge. The outstanding characteristics of this park are the location on river frontage, a fine old 15-room house, and beautiful grounds.

6. Wilderness Park

This wooded 51.4-acre park borders Skyline Drive and extends up into the Sunset area. The property is semi-improved by nature of a

bisecting roadway, two paved parking areas and the beginning of a trail system. The outstanding characteristics of this park are its natural setting, central location, and topography which would make it ideal to develop as a city-wide wilderness park.

7. Goat Island

A 23.3-acre brush covered island in the Willamette River that lies adjacent and parallel to River Street in the Holly Gardens area. During the low water time of year, a sandy beach can be found; however, during high water most of the island is submerged.

8. Burnside Park

This is an unimproved wooded 10-acre parcel of land bordering the Willamette River in the Bolton area. The park was dedicated for the purpose of preserving the natural beauty of the land along the river frontage.

9. Mary Young State Park

This 130-acre day use state park is located between Highway 43 and the Willamette River, south of the Cedaroaks area. The park provides the following facilities: Parking, restrooms, drinking fountains, picnic areas, bicycle and foot paths, river-related activities. Much of the natural environment has been preserved.

10. Robinwood Boat Landing

This county boat launch facility is located along the shore of the Willamette River at the end of Elmran Drive in the Cedaroak Park area. Facilities now provided are: Parking, boat ramp, and temporary restrooms.

11. Camassia Conservancy Area

This 22.5-acre natural area is located southerly of Wilderness Park and West Linn High School. It is a preserved natural area leased by Lewis and Clark College for study and observation of the very numerous unique rock formations, vegetation, and unusual biological items found there.

The major types of parks can be classified into three categories:

Parks & Playgrounds:

Willamette Park

Sunset Park

Hammerle Park

Neighborhood Parks:

Interstate Park

West Bridge Park

Special Areas:

Wilderness Park

Goat Island

Burnside Park

Mary S. Young

~~Robinwood Boat Landing~~

Camassia Conservancy Area

Within residential areas small tot lots would be valuable as play spaces for preschool children from the immediate vicinity, where mothers could gather and oversee their play. The standards of the National Recreation Association provide a useful guide for the evaluation and projection of needed park and recreation facilities.

Additions to the city park system should be planned so that they will be adequate for the population which will eventually reside in various areas of the city. Each school plant and playground should have a neighborhood park adjacent to it. The Bolton, Sunset and Willamette Parks each



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

May 3, 1974

TO: Transportation & Facilities Group
Comprehensive Plan Review Committee

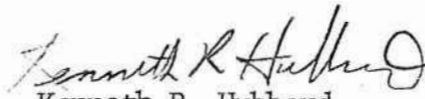
FROM: Kenneth R. Hubbard, Engineer/Planner

This is to inform you that a Comprehensive Transportation and Facilities meeting will be held on Thursday, May 9, at 7:30 p.m. at the City Hall.

It is imperative that you complete individual projects by May 9th in order that a rough draft of the revisions can be presented to the Planning Commission on May 13th.

If you cannot attend this meeting, please submit your material to this office by 4:00 p.m., May 9th.

If you have any questions, please contact Mr. Frank Schumaker, Chairman, or this office.


Kenneth R. Hubbard

KRH:rjm



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

May 3, 1974

TO: Land Use Group
Comprehensive Plan Review Committee

FROM: Kenneth R. Hubbard, Engineer/Planner

This is to inform you that a Comprehensive Land Use meeting will be held on Thursday, May 9, at 7:30 p.m. at City Hall.

It is imperative that you complete individual projects by May 9th in order that a rough draft of the revisions can be presented to the Planning Commission on May 13th.

If you cannot attend this meeting, it is requested you submit your material to this office by 4:00 p.m., May 9th.

Enclosed for your study and review are copies of previously submitted material.

If you have any questions regarding this matter, please contact Mr. Walter Nutting, Chairman or this office.


Kenneth Hubbard

KRH:rjm
Enclosures

West Linn is blessed with one of the most beautiful natural environments of any city in the state. This same condition requires that we encourage optimum land use on our remaining undeveloped land in order to (1) accommodate our growing population with the least amount of damage to our natural surroundings; (2) keep the cost of this housing from rising disproportionately so that families with moderate and medium incomes will have housing within their means; and (3) preserve more open space around our housing, both for our ecological and psychological well being.

How can we best accomplish these goals?

There is no easy answer to this question. One of the most promising approaches is that of the planned unit or cluster development.

If handled with sensitivity and regard for the community around it, the P.U.D. offers some definite advantages over the customary gridiron or curvilinear subdivision such as: (1) P.U.D.'s clustered houses create common areas of open land that can run through the entire project. (2) The P.U.D.'s higher densities reduce land and development costs such as street and utility runs, which may reduce prices and rents. Higher densities also mean less land consumed for a given number of housing units, thus reducing inflationary pressure on the city's land prices. (3) The P.U.D. can in many instances bring in tax revenues in excess of the cost of the municipal services it requires. (4) The P.U.D. can provide housing for families of a wide range of incomes, and thus help create a less stratified population. (5) The P.U.D. allows a variety of land use and housing types to be combined initially so that both the resident and the city know the future of the community.

In order to make the P.U.D. or cluster concept attractive to land owners and developers, the city should make some changes in its zoning ordinance. Some suggested revisions would be:

1. Reduce the minimum 5 acre site to a lower number.
2. Base the underlying zone on R-7.5 (7500 sq. ft. per res. unit) in a pd zone.
3. Base the street allowance on actual area used.
4. Eliminate the non-residential use deduction.

The city should not encourage or use the P.U.D. or cluster as a substitute for obtaining or buying park land. The city should require either ownership or permanent easement over all city wide bike, pedestrian, bridle, etc., trails, but the remaining open space should belong to the homeowners who in reality are paying for it and should be able to enjoy it.

City of West Linn - Land Use Group

Mr. Walter Nutting, Chairman

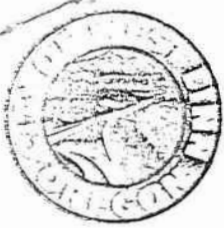
Underdeveloped areas within and adjacent to the City must be thought of as future growth for the City confines. Therefore, any use of the land in these areas must be developed on the lines of ascetic and useful purposes for judgments by the needs in which they are to serve. It is proposed, therefore, that wherever needs arise for the most beneficial use, social and serviceable, units be generated to fulfill the needs and wants of the local citizenry in the confines of the respective areas and the City as a whole.

Housing and service units--such as shopping centers, health care centers--must be required to relate to contemporary standards wherever the established norms prevail. These norms for land use availability are to be determined by design and practical economic climes.



Dexter R. Forbes

Dated: May 2, 1974



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

May 3, 1974

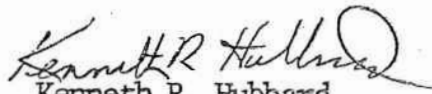
Mr. Allen Pynn, Chairman
Parks, Open Space & Amenities Group
Comprehensive Plan Review Committee
949 S. E. 7th Ave.
West Linn, Or 97068

Dear Mr. Pynn:

Enclosed for your information is a report pertaining to Mary S. Young State Park, Camassia Natural Area, including brochure, and Public Boat Launch area.

If you have any question, please call this office.

Sincerely,


Kenneth R. Hubbard
Engineer/Planner

KRH:rjs
Enclosure

MARY S. YOUNG STATE PARK

This 130 acre state park is located between Highway 43 and the Willamette River and bounded on the north by Mapleton Drive and on the south by Mark Lane. The State Parks and Recreation Division in developing this as a day-use park has provided parking areas and rest room facilities, picnic areas, bicycle and foot paths and have preserved various natural areas. Also, in the continual development system, a seasonal area has been established along the edge of the Willamette River providing for picnic facilities and river related activities.

CAMASSIA NATURAL AREA

Lewis & Clark College, lessee of Camassia Natural Area, have been contacted and are to submit information regarding Camassia area. Also see attached brochure.

PUBLIC BOAT LAUNCH

The Clackamas County Park Department was contacted regarding the Public Boat Launch area located by Cedar Island and information will be forthcoming.

Minutes of Meeting of Parks, Open Spaces and Amenities Subcommittee,
April 25, 1974, 7:30 P.M., West Linn City Hall.

Members were given copies of minutes of previous meetings for examination.

Where do we go from here?

Get down with some ideas of what we want to do.

Ideas from Stuckey's report such as hire a park director - park funding as a separate vote.

Have a committee to be a steering committee approved by council.

All suggestions are talking about implementing, not revising or recommending changes or improvements to Comprehensive Plan.

It was suggested that parks and recreation program be allowed to attempt to stand on its own merits and stand independently.

Think about our ideas, read Comprehensive Plan again and make lists of what should be deleted and what is liked.

Should not adopt Recreation Committee report totally, but incorporate it as a foot note or extract from the report in a revised plan.

Short term possibility that West Linn does not need more parks, with the exception of Greenways. City money should be put into developing existing land and improving existing parks.

Have a standing committee and subcommittees that request and report to standing committee, letting all ideas have equal representation - bike paths, horse paths, pool, etc.

Set up a park program -

1. The money should go to existing parks rather than acquisition.
2. City council shouldn't appoint any more special interest committees without forming a standing committee with general responsibility over total area. Special interest committees should act as subcommittees of standing committee.

Any shortcomings in Comprehensive Plan?

Page 39, first paragraph, last sentence doesn't read right. Should be amended to read, "It is the objective of the plan to enhance these qualities and thereby 'keep' West Linn a 'desirable city'.

Page 39, last paragraph should be eliminated.

Page 40, first complete paragraph, regarding Kenthorpe Way. Property is already sold and built on. Paragraph should be eliminated.

Page 40, second full paragraph, first sentence should be changed to read, "An actively pursued long-range program for the 'capital improvement' and development of parks and open spaces...".

Discussion regarding suggestions -

It was suggested that because the suggestions were regarding implementation rather than revising the plan, that the committee do a cover letter with revised Comprehensive Plan, listing the implementation suggestions.

Development of existing property should have priority.

There should be a call for establishment of a capital improvement program. Financing movement should take place to start things moving.

A definite need to get something rolling - start getting money together to do it.

Definitely need a committee with overall authority (general governing committee).

Greenway should be excluded from capital improvement - it is not city's money. City money should be put into improvements of existing property.

Committee should read Comprehensive Plan and make list of revisions. Meet Thursday, May 2, 1974, to discuss revisions - probably last meeting until meeting with land use committee.



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

April 12, 1974

TO: Comprehensive Plan Review Committee
 Land Use Group
 Park, Open Spaces & Amenities Group
 Transportation & Facilities Group

FROM: Kenneth R. Hubbard, Engineer/Planner

This is to inform you that a Comprehensive Plan Review meeting is scheduled for Thursday, April 18, 1974 at 7:30 p.m. at City Hall. Meeting areas for individual groups are as follows:

Land Use Group - Library
Transportation & Facilities - Conference Room
Park, Open Spaces & Amenities - Library Lounge

Enclosed for your information are the results of the Land Use meeting held April 11, 1974.

If you cannot attend the meeting, would you please notify this office.


Kenneth R. Hubbard

KRH:rjs
Enclosure



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

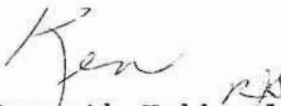
April 12, 1974

TO: Police Chief Enderlin
Fire Chief Winkel

FROM: Kenneth R. Hubbard, Engineer/Planner

This is to remind you that the Comprehensive Plan Review, Transportation and Facilities Group will be meeting Thursday, April 18, at 7:30 p.m. in the Conference Room of the City Hall.

Your attendance has been requested so that the committee can evaluate the future needs of your departments and incorporate them into the revised Comprehensive Plan.


Kenneth Hubbard

KRH:rjs

April 12, 1974

RESULTS OF THE LAND USE COMPREHENSIVE PLAN REVIEW COMMITTEE
MEETING HELD 4-11-74 AT 7:30 P.M. til 11:30 P.M.

MEMBERS PRESENT: Walter Nutting, Lauren Aiminetto,
James Pickus, Max Strickler, Lorene Lindas and City Staff
member, Ken Hubbard.

It was agreed that the Holly-Bolton Neighborhood (designa-
tion given to existing central core area of present Compre-
hensive Plan) Commercial Center shall be completed.

Recommended that in multi-family developments, duplexes,
fourplexes, and sixplexes be encouraged instead of "contoma"
type of apartment complexes.

Lorene Lindas

RESULTS OF THE LAND USE COMPREHENSIVE PLAN REVIEW
COMMITTEE MEETING HELD 3-28-74 at 7:30 p.m. to 10:30 p.m.

Members present: Walter Nutting, Dexter Forbes, Bill McAnlis,
James Pickus, Richard Buse, Max Strickler, and Lorene Lindas.

Those present agreed that there is a need for a Civic Center
in West Linn.

LORENE LINDAS



City of West Linn

April 5, 1974

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

To: LAND USE GROUP
COMPREHENSIVE PLAN REVIEW COMMITTEE

From: Kenneth R. Hubbard, Engineer-Planner

This is to inform you that a Comprehensive Land Use meeting will be held on Thursday, April 11, at 7:30 p.m. in the conference room of the City Hall.

Enclosed for your information are the results of the meeting held April 4, 1974.

If you cannot attend this meeting, would you please notify this office.

A handwritten signature in cursive script that reads "Kenneth R. Hubbard". The signature is written in dark ink and is positioned above the printed name.

Kenneth R. Hubbard

KRH rf
enc

CITY OF WEST LINN

April 4, 1974

RESULTS OF THE LAND USE COMPREHENSIVE PLAN REVIEW COMMITTEE MEETING
HELD 4-3-74 at 7:30 p.m. to 10:30 p.m.

Members present: Walter Nutting, Richard Buse, Dexter Forbes, Hal Scofield and Lorene Lindas.

The members agreed that no buildings shall be built below the 100-year flood plain.

Also agreed that any persons identifying themselves as representing some organization or group shall present proper credentials.

Lorene Lindas



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

March 29, 1974


To: TRANSPORTATION AND FACILITIES GROUP
COMPREHENSIVE PLAN REVIEW COMMITTEE

From: Kenneth R. Hubbard, Engineer-Planner

This is to inform you that a Comprehensive Transportation and Facilities meeting will be held on Thursday, April 4, at 7:30 p.m. in the conference room of the City Hall.

Enclosed for your information and study are the results of the March 28th meeting.

If you cannot attend this meeting, please notify this office.


Kenneth R. Hubbard

KRK:krh

TRANSPORTATION

STREET SYSTEM

The arterial road plan will assist in establishing an adequate street system because:

1. A critical time for the establishment of a good road system is when an area is being developed. Rising land costs will make later right-of-way acquisition difficult or impossible through areas which have been built up with houses. Also, future major arterials must be located properly now so that development can accommodate itself to them rather than the other way around.
2. The normal process of suburban development cannot be depended upon to produce by itself a satisfactory arterial system. Successive subdivisions ^{shall} ~~will tend to~~ be laid out without sufficient recognition of their interrelationships ^{and} ~~or~~ the need for special routes adequate for ^{circulation} ~~considerable~~ volumes of through traffic.
3. West Linn has much steep terrain. Because of this, locations suitable for major arterials are limited and they must be carefully located and engineered. ~~Cummings Hill Road and Upper Skyline Drive are examples of routes which connect the lower and upper portions of the city but which are unsatisfactory for arterial use.~~
4. ~~Until~~ a proper arterial system ^{should be} ~~is~~ established, ^{to prevent} various local streets ^{from being} ~~will be~~ subjected to ~~unduly~~ heavy traffic. ~~This is serious when these streets are not adequate for arterial use.~~

~~and should not be so used because they serve residential areas.~~

5. ~~Streets which are inadequate for their traffic and are poorly improved will be expensive and unsatisfactory in the long run, requiring continual repair and maintenance. The plan indicates which roads can be expected to receive heavy use.~~
6. ~~It is usual for a developer to provide the kind of streets which will serve his own property, but not to plan for through traffic requirements. He may also wish to limit costs by providing a minimum level of road improvement, expecting the city or property owner to upgrade them at some future time. The plan will help to insure that streets, as initially built, will suit their function and use.~~

One important objective of the local street system is to see that fire equipment does not have to detour but can travel as directly as possible to the scene of a fire.

Use thought
later

{ The arterial road plan will be coordinated with development plans of Clackamas County and adjoining cities, and with road planning being carried out by the Portland-Vancouver Metropolitan Transportation Study.

? { Major arterial standards such as grades, curves, and widths are critical, for these streets will attract large volumes of traffic and must be used by school buses, fire trucks and other service vehicles. Grades on arterial streets should be six percent or less whenever possible. Some arterial streets will ultimately require four lanes in order to accommodate traffic when the area

? (is built up. For these, rights-of-way up to 120 feet in width will be needed, although it would be possible to develop four lanes within 80 feet under certain circumstances.

? { Whenever a zone is changed or a subdivision approved along an arterial or a street of inadequate width, the property owner may be required to dedicate the land needed for widening of the right-of-way. Also at the time building permits are issued, the setback for buildings along such streets will be such that streets can be widened without taking buildings or encroaching upon front yards.

The city subdivision regulations are designed to assist in the establishment and control of future streets and arterials. These and other applicable regulations ~~should be~~ ^{shall} ^{reviewed} ~~consulted~~ for guidelines and standards on the proper design, layout and dedication of streets.

Re-work
paragraph

{ City regulations requiring a uniform and adequate level of street improvement and the establishment or setting aside of needed future arterials are essential to the realization of the city plan. The plan explains and justifies the street requirements. It is an assurance to those affected that the city is not being arbitrary or unreasonable in these matters. It indicates that an adequate street system is being created in a way which is economical and fair to all concerned.

~~New streets which are dedicated as part of the subdivision process will be required to be improved to an acceptable standard as a condition to the acceptance of the plat by the city. Means have also been adopted to guarantee performance of the improvement~~

~~when construction cannot be completed prior to filing of the plat.~~
~~Minimum required improvements include establishment of proper~~
~~grade, laying down of adequate base rock, proper paving and~~
~~curbs.~~ [The accomplishment of a good future arterial system for
West Linn requires a high level of engineering and a vigorous
program of administration and enforcement.] (Perhaps use later)

The basic system of major arterials includes West Linn-Oswego
Highway/^{West A,} Rosemont Road, Johnson Road, Willamette Road] to Wankers
Corner, Stafford Road, Shaffer Road, and Pete's Mountain Road.
(see what areas "land use" committee involves first)

~~Existing major streets have a number of inadequacies: Arterial~~
~~connections at the east end of Rosemont Road are not satisfactory.~~
~~Skyline Drive is too steep below its connection with Rosemont~~
~~Road and the route passes by the high school, which is hazardous.~~
~~The Sunset Avenue-Cornwall route through Sunset is also unsatis-~~
~~factory because it bisects the neighborhood and would be difficult~~
~~to widen.~~

Re-work
perhaps it could
tie in with
para. 3 Pg.18

New arterial links are needed across Rosemont Hill between the
West Linn-Oswego Highway, Rosemont Road, and Johnson Road. These
new arterials will tie different areas of the city together so
that residents can get from one part of town to another more
directly. They are also needed so that the citizens in separate
neighborhoods will not continue to be isolated from each other.

Arterials should provide ready access to the freeway so that
residents can also reach other parts of the metropolitan area
easily. West Linn should have convenient access to mass transit.
~~if a satisfactory metropolitan system is developed.~~ This ^{should} ~~could~~

include the development of major parking facilities at local transit terminals. Arterials should also provide for an adequate walk-bike way system.

*Between now and next meeting (April 4th, 7:30, City Hall), study PUBLIC FACILITIES section.

Those present at the March 28, 1974 "Transportation-Public Facilities Comprehensive Plan Review Committee" were: Stan Urbigkeit, Les DeJardin, Ken Hubbard, and Carol Geldaker. Met from 8PM-10PM

It was felt a need to have the fire chief in on the discussion of "Fire Protection" and to have the police chief present to discuss their needs in regards to building facilities.

It would also be beneficial to have someone from both tri-Met, and CRAG share ~~future~~ planning of these two groups in regards to how it would effect West Linn.

Carol Geldaker



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

March 29, 1974


To: LAND USE GROUP
COMPREHENSIVE PLAN REVIEW COMMITTEE

From: Kenneth R. Hubbard, Engineer-Planner

This is to inform you that a Comprehensive Land Use meeting will be held on Thursday, April 4, at 7:30 p.m. at the City Hall.

Enclosed for your information are the results of the March 28 th meeting.

If you can not attend this meeting would you please notify this office.


Kenneth R. Hubbard

KRH:krh

RESULTS OF THE LAND USE COMPREHENSIVE PLAN REVIEW
COMMITTEE MEETING HELD 3-28-74 at 7:30 p.m. to 10:30 p.m.

Members present: Walter Nutting, Dexter Forbes, Bill McAnlis,
James Pickus, Richard Buse, Max Strickler, and Lorene Lindas.

Those present agreed that there is a need for a Civic Center
in West Linn.

LORENE LINDAS

RESULTS OF THE LAND USE COMPREHENSIVE PLAN REVIEW
COMMITTEE MEETING HELD 3-28-74 at 7:30 p.m. to 10:30 p.m.

Members present: Walter Nutting, Dexter Forbes, Bill McAnlis,
James Pickus, Richard Buse, Max Strickler, and Lorene Lindas.

Those present agreed that there is a need for a Civic Center
in West Linn.

LORENE LINDAS



City of West Linn

March 29, 1974

FILE
CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

To: Donald J. McIntosh, Mayor
Clifford L. Sanders, City Administrator
Frank Allen, Planning Commission Chairman
Cyrus Nims, General Coordinator

From: Kenneth R. Hubbard, Engineer/Planner

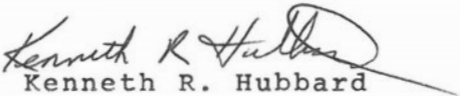
RE: COMPREHENSIVE PLAN REVIEW

This is to inform you of the following scheduled meetings
pertaining to the review of the Comprehensive Plan.

Land Use - Thursday, April 4, 7:30 p.m. - City Hall

Transportation & Facilities - Thursday, April 4,
7:30 p.m. - Conference Room

Parks, Open Spaces & Amenities - Tuesday, April 9,
7:30 p.m. - Conference Room


Kenneth R. Hubbard

KRK:krh

PARKS & OPEN SPACES COMMITTEE

1. Thursday, March 28, 1974, 7:30 P.M. Meeting discussed general goals and objectives and agreed to all study the old comprehensive plan regarding parks, open spaces, etc.

2. Saturday, March 30, 1974, 9:00 A.M. Committee looked at parks.

3. Tuesday, April 9, 1974, 7:30 P.M. Heard recreation committee chairman John Stuckey, and George Churchill regarding greenways.

4. Thursday, April 18, 1974, 7:30 P.M. Combined meeting with all other subcommittees:

- a. Wally Falkenstein on school district;
- b. Bob Winkel on future growth of fire department and comments on comprehensive plan.
- c. Carol Geldaker on bike committee report.

5. Feelings and questions of committee that have come to light to date:

a. A standing committee on parks and recreation, open space and amenities may need to be formed to constantly review the comprehensive plan and give citizens and organizations year round input into city planning (coordinate all requests).

b. Council should consider budgeting for and hiring of a full time individual to staff the committee and run the city park and recreation committee. Doubtful if such position should take priority over a planning or zoning official, however.

c. Existing task force type committee (bikes, recreation, etc.) should probably report to the standing committee so priorities can be looked at prior to council action and alternatives developed for council review.

d. Should West Linn emphasize an aggressive acquisition program of parks or easements or balance acquisition with development to provide a more rounded program?

e. Is West Linn's comprehensive plan too idealistic? Does it in fact set goals that are so high that little is achieved? If so, should it be scaled down? Should this be done in the comprehensive plan?

f. Should emphasis be changed from easement acquisition from developers to maximum greenway acquisition while funding is available for the latter?

g. Should incentives be given developers to encourage their participation in trail developments?

PUDS

Conventional Subdivisions

h. What incentives will work?



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

March 15, 1974

TO: Donald J. McIntosh, Mayor
Clifford L. Sanders, City Administrator
Frank Allen, Planning Commission Chairman
Cyrus Nims, General Coordinator

FROM: Kenneth R. Hubbard, Engineer/Planner

RE: COMPREHENSIVE PLAN REVIEW

This is to inform you of the following scheduled meetings pertaining to the review of the Comprehensive Plan.

Land Use - Thursday, March 21, 7:30 p.m. - Library

Parks, Open Spaces & Amenities - Thursday, March
21, 7:30 p.m. - Conference Room

Transportation & Facilities - Thursday, March
28, 7:30 p.m. - Conference Room


Kenneth Hubbard

KRH:rjs



City of West Linn

March 25, 1974

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

To: Members of Land-Use Group
Comprehensive Plan Review Committee

From: Kenneth R. Hubbard
Engineer/Planner

Re: Meeting

This is to remind you that the next scheduled Comprehensive Land Use Group meeting will be held on Thursday, March 28th, at 7:30 p.m. in the Conference Room at City Hall.

The meeting place has been changed from the Library due to prior scheduling of municipal court.

Kenneth R. Hubbard
Engineer/Planner

KRH rf

RESULTS OF THE LAND USE COMPREHENSIVE PLAN REVIEW
COMMITTEE MEETING HELD 3-21-74 at 7:30 p.m. to 10:30 p.m.

Members present: Richard Buse, Dexter Forbes, Lorene Lindas, Chet Tunnell, Lauren Aimonetto, James Pickus, Max Strickler, William McAnlis, and Walter Nutting

The following areas of discussion were agreed upon:

1. All present agreed they wanted West Linn to remain a residential community.
2. In a paragraph by paragraph review of the Land Use Section of the Comprehensive Plan, the following changes were recommended:
 - a. Page 23, paragraph 1, line 3 "private and public development".
 - b. Page 23, paragraph 3, line 6, delete "merely passively react to or".
 - c. Page 24, delete paragraphs 1, 2, and 3.

The evening review ended following paragraph 1, page 25.

LORENE LINDAS

A handwritten signature in blue ink that reads "Lorene Lindas". The signature is written in a cursive, flowing style.



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

March 15, 1974

TO: LAND USE GROUP
COMPREHENSIVE PLAN REVIEW COMMITTEE

FROM: Kenneth R. Hubbard, Engineer/Planner

This is to inform you that a Comprehensive Land Use meeting will be held on Thursday, March 21, at 7:30 p.m. in the library at City Hall.

Please bring your copy of the Comprehensive Plan with you.

If you have any questions, please call this office.


Kenneth R. Hubbard

KRH:rjs



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

March 15, 1974

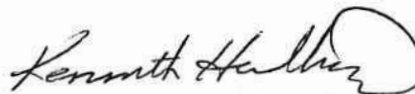
TO: Transportation & Facilities Group
Comprehensive Plan Review Committee

FROM: Kenneth R. Hubbard, Engineer/Planner

This is to inform you that a Comprehensive Transportation facilities meeting will be held on Thursday, March 28, at 7:30 p.m. in the conference room of the City Hall.

Please bring your copy of the Comprehensive Plan with you.

If you have any questions, please call this office.


Kenneth Hubbard

KRH: rjs



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

March 15, 1974

TO: Parks, Open Spaces & Amenities Group
Comprehensive Plan Review Committee

FROM: Kenneth Hubbard, Engineer/Planner

This is to inform you that a Comprehensive Park, Open Spaces and Amenities meeting will be held on Thursday, March 21, at 7:30 p.m. in the conference room of the City Hall.

Please bring your copy of the Comprehensive Plan with you.

If you have any questions, please call this office.


Kenneth Hubbard

KRH:rjs



City of West Linn

March 8, 1974

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

To: Donald L. McIntosh, Mayor
Clifford L. Sanders, City Administrator
Frank Allen, Planning Commission Chairman
Cyrus Nims, General Coordinator
Walter Nutting, Land Use Chairman
William McAnlis, Land Use
Frank Schumaker, Transportation & Facilities Chairman
Stanley Urbigkeit, Transportation & Facilities
Allen Pynn, Parks, Open Spaces & Amenities Chairman
Lee Winner, Open Spaces & Amenities

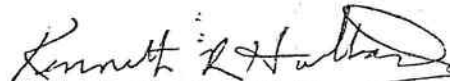
From: Kenneth R. Hubbard

Re: Comprehensive Plan Review

This is to inform you that a special Comprehensive Plan Review Committee meeting will be held on Thursday, March 14th, at 7:30 p.m., in the conference room of the City Hall.

The purpose of this meeting is to establish definite guidelines, procedures and time schedules so as to effect an early implementation of public hearings and adoption of the revised comprehensive plan.

If you have any questions regarding this, please call this office.


Kenneth R. Hubbard
Engineer-Planner

krh rkf



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

March 4, 1974

Mr. Cyrus Nims
Mr. Walter Nutting
Mr. Allen Pynn
Mr. Frank Schumaker

Dear Sirs:

In order for you to schedule meetings with your groups, I have enclosed the activities calendar for March 1974, and also a schedule of the library hours.


I also have enclosed a copy of the existing Comprehensive Plan Map for your study.

The additional zoning maps will be available at your first scheduled meeting or if you desire can be picked up at the office.

When you have scheduled your meetings, please inform this office so they can be set up.

If you have any further questions or need additional information, please call this office.

Sincerely,


Kenneth R. Hubbard
Engineer/Planner

KRH:rjs
Enclosures



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

January 14, 1974

ALL MEMBERS
COMPREHENSIVE PLAN REVIEW COMMITTEE

Dear Friends:

Just so you won't feel as though you had been forgotten, I thought it advisable to bring you up to date on where we stand.

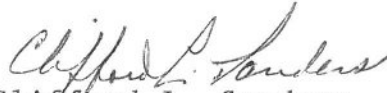
We will be having a meeting of a "steering committee", which will consist of the various group chairmen, later this month. This meeting will be for the purpose of setting out goals and organization and we can then get going on our actual studies and deliberations.

We are having a problem with time right now due to the unusually heavy work load and this is also "budget preparation time" which takes all of my "spare" time. I would anticipate the first meeting of the entire committee will not be until some time in February.

I am enclosing a copy of our current Comprehensive Plan and wish to call your attention to the fact that the map is a preliminary and is not entirely accurate.

You will be kept advised of programming and scheduling.

Very truly yours,


Clifford L. Sanders
City Administrator

CLS:rjs
Enclosure

COMPREHENSIVE PLAN REVIEW COMMITTEE

25 members

General Coordinator - Cyrus Nims
5494 Linn Lane
West Linn
224-9190

1. Land Use Group - Walter Nutting, Chairman
6555 NE Failing St.
West Linn
656-5331

Richard Buse ✓
2436 Sunset Ave.
West Linn
656-7274

Lauren Aimonetto
4738 Mapleton Drive
West Linn
635-2793

Dexter Forbes ✓
4138 Elmran Drive
West Linn
636-4495

James Pickus ✓
19580 Midhill Dr.
West Linn
636-9442

James Lynch ✓
5627 NE River St.
West Linn
655-4495

William McAnlis ✓
1988 SW Ostman Dr.
West Linn
655-6688

Lorene Lindas ✓
1486 Marylhurst Dr.
West Linn
636-9410

Hal Scofield ✓
4114 Calaroga Dr.
West Linn
635-3107

Max Strickler ✓
2231 SE 5th Ave.
West Linn
656-8790

William Tripp ✓
5290 West A St
West Linn
656-9954

Chet Tunnell ✓
1542 NE Holly St
West Linn
656-6791

2. Transportation & Facilities Group - Frank Schumaker, Chairman
5088 Linn Lane
West Linn
656-1651

Carol Geldaker ✓
18525 Trillium Way
West Linn
636-2179

Bob Green ✓
4711 Alder St.
West Linn
656-2720

John Hooley ✓
6404 NE Failing St.
West Linn
655-1975

Les D Jardin ✓
1514 NE Holly St.
West Linn
656-6331

Transportation & Facilities Cont:

Stanley Urbigkeit ✓
6948 NE Lowell Dr.
West Linn
655-2395

3. Parks. Open Space & Amenities Group - Allen Pynn, Chairman ✓
949 SE 7th Ave
West Linn
636-1651

Joyce Anicker ✓
2880 Rosemont Dr
West Linn
656-5567

Lee Winner ✓
1351 Marylhurst Dr
West Linn
636-6998

Dave Rood ✓
4121 Calaroga Dr.
West Linn
636-6592

E.M. Smith ✓
19090 Nixon Ave
West Linn
636-2259

John Harrison ✓
1900 Valley View Dr.
636-2564

CITY OF WEST LINN

OFFICE OF
CITY ADMINISTRATOR

WEST LINN, OREGON 97068

December 5, 1973

TO: The Honorable Mayor & Common Council
FROM: Clifford L. Sanders, City Administrator
SUBJECT: Comprehensive Plan Review Committee

Pursuant to your instructions of November 14, 1973, I have sent inquiries to a number of West Linn residents for the purpose of ascertaining their availability for service on a citizens' advisory committee to assist in the review of our Comprehensive Plan which was adopted in late 1970.

As of this date we have received affirmative replies from, or on behalf of, the following:

Bill Tripp
Allen Pynn
Mrs. Pat Fitzwater
Frank Schumaker
Les DeJardin
Dexter Forbes
John Hooley
Bill McAnlis
Joyce Anicker
Walt Nutting
Dick Buse

Cy Nims
Dave Rood
Chet Tunnell
Bert Smith
Jim Lynch
Arthur Emmons
Bob Green
Mrs. Lorene Lindas
Jim Pickus
Lee Winner
Carol Geldaker

In addition to those listed above, inquiries were sent to 4 persons who indicated they were not available and to 6 persons who have not as yet responded.

Among those who did indicate their willingness to serve are one non-resident of the City and one who has been a resident for only a few months. This new resident is also one of the complainants in the court action now in process in regards to the Robinwood Center commercial area. It is my recommendation that serious consideration be given to the advisability of appointing a non-resident to this committee. It is also my strong recommendation that the nomination of the complaint-filing new resident not be considered and that he should not be appointed to this committee.

The committee which developed our present Comprehensive Plan was

divided into five sub-groups which included the following:

- A. Goals, Concepts, & Implementation
- B. Transportation
- C. Land Use
- D. Facilities
- E. Parks, Open Space, & Amenities

It would appear that "Goals, Concepts, & Implementation" and, to a certain extent, "Facilities", were well covered and established in the original document and since there has been no significant change in these aspects of the plan, it is recommended that the Review Committee be divided into three groups in the areas of (1) Land Use, (2) Parks, Open Space & Amenities, and (3) Transportation and Facilities. It is further recommended that this committee be organized, and assignments made, as follows:

General Coordinator - Cyrus Nims

1. Land Use Group

Walt Nutting - Chairman
Jim Pickus
Bill McAnlis
Bill Tripp
Dexter Forbes
Chet Tunnell
Jim Lynch

2. Transportation & Facilities Group


Frank Schumaker - Chairman
Carol Geldaker
Bob Green
John Hooley
Dick Buse
Les DeJardin

3. Parks, Open Space & Amenities Group

Allen Pynn - Chairman
Joyce Anicker
Lee Winner
Dave Rood
Lorene Lindus
Bert Smith

Following appointment of committee members, as suggested above or as determined by the Council, it is recommended that a joint meeting of the City Council, Planning Commission, and Review Committee be held early in January for the purpose of firming up assignments and spelling out objectives. The Committee would then develop their program for submission to the Planning Commission. The Planning Commission could then accept or amend this plan and hold a public hearing on their final plan. The results of Planning Commission deliberations should then be submitted to the Council for their consideration, adoption, and/or amendment, and conduct of a public hearing. Following the public hearing before the Council, the plan could be completed and adopted by Council action.

Respectfully submitted,


Clifford L. Sanders



City of West Linn

CITY HALL
WEST LINN OREGON
97068
PHONE 656-4261

September 28, 1973

TO: THE HONORABLE MAYOR & COMMON COUNCIL

FROM: Clifford L. Sanders, City Administrator

SUBJECT: SENATE BILL 100 - REFERENCES TO
COMPREHENSIVE PLANS

I am enclosing herewith a copy of Sections 2 and 3 of Senate Bill No. 100 as adopted at the 1973 Legislative Session.

Since I have been severely criticized, and even accused of "bias", in regard to my professional opinions regarding the function of the "Comprehensive Plan", I call your attention to the interpretations placed thereon by the Oregon State Legislature.

The areas of particular import, which support my frequently stated position, are underlined on this copy.

Cliff Sanders

CLS:rjs
Enclosure

A BILL FOR AN ACT

Relating to land use; creating new provisions; amending ORS 215.055, 215.510, 215.515, 215.535 and 453.345; and appropriating money.

Be It Enacted by the People of the State of Oregon:

PART I INTRODUCTION

PREAMBLE

SECTION 1. The Legislative Assembly finds that:

(1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.

(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, city, county and special district land conservation and development plans for compliance with state-wide planning goals and guidelines.

(3) Except as otherwise provided in subsection (4) of this section, cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.

(4) The promotion of coordinated state-wide land conservation and development requires the creation of a state-wide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state.

(5) The impact of proposed development projects, constituting activities of state-wide significance upon the public health, safety and welfare, requires a system of permits reviewed by a state-wide agency to carry out state-wide planning goals and guidelines prescribed for application for activities of state-wide significance throughout this state.

POLICY STATEMENT

SECTION 2. The Legislative Assembly declares that, in order to assure the highest possible level of liveability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and counties, regional areas and the state as a whole. These comprehensive plans:

1 (1) Must be adopted by the appropriate governing body at the local
2 and state levels;

3 (2) Are expressions of public policy in the form of policy statements,
4 generalized maps and standards and guidelines;

5 (3) Shall be the basis for more specific rules, regulations and ordinances
6 which implement the policies expressed through the comprehensive plans;

7 (4) Shall be prepared to assure that all public actions are consistent
8 and coordinated with the policies expressed through the comprehensive
9 plans; and

10 (5) Shall be regularly reviewed and, if necessary, revised to keep them
11 consistent with the changing needs and desires of the public they are
12 designed to serve.

13 DEFINITIONS

14 SECTION 3. As used in this Act, unless the context requires otherwise:

15 (1) "Activity of state-wide significance" means a land conservation and
16 development activity designated pursuant to section 25 of this Act.

17 (2) "Commission" means the Land Conservation and Development
18 Commission.

19 (3) "Committee" means the Joint Legislative Committee on Land Use.

20 (4) "Comprehensive plan" means a generalized, coordinated land use
21 map and policy statement of the governing body of a state agency, city,
22 county or special district that interrelates all functional and natural sys-
23 tems and activities relating to the use of lands, including but not limited
24 to sewer and water systems, transportation systems, educational systems,
25 recreational facilities, and natural resources and air and water quality
26 management programs. "Comprehensive" means all-inclusive, both in terms
27 of the geographic area covered and functional and natural activities and
28 systems occurring in the area covered by the plan. "General nature" means
29 a summary of policies and proposals in broad categories and does not neces-
30 sarily indicate specific locations of any area, activity or use. A plan is "co-
31 ordinated" when the needs of all levels of governments, semipublic and
32 private agencies and the citizens of Oregon have been considered and
33 accommodated as much as possible. "Land" includes water, both surface
34 and subsurface, and the air.



TOM MCCALL
GOVERNOR

Office of the Governor
State Capitol
SALEM 97310

January 13, 1972

The Honorable Donald McIntosh
Mayor of West Linn
City Hall
West Linn, Oregon 97068

Dear Don:

The 1969 Legislature enacted legislation to encourage Oregon cities and counties to complete comprehensive land use plans and zoning ordinances. Although the law fixed a deadline of December 31, 1971, for completion of the plans and ordinances, it allows the Governor to grant a reasonable extension of time after that date if a city or county has made satisfactory progress.

Oregon's land use law is considered nationally to be a landmark, since it provides a means for cities, counties, and state agencies to work together to develop the planning and zoning needed to provide a balanced approach to maintenance of property values, to protect Oregon's unique qualities of livability and to promote the orderly development of our economic future. As I am sure you recognize, the intent of this legislation was not that the state adopt local land use plans and zoning ordinances, but rather that this significant responsibility of government can best be developed by the citizens and officials of each city and county.

I am fully aware and am greatly appreciative of the excellent effort made by elected officials of most cities and counties toward the goals set by the legislature.

However, as the date specified by the legislature is now past, I must ask each city and county governing body to officially inform me of the status of its land use planning effort.

Specifically, ORS 215.505 states:

"Notwithstanding any other provision of law, if after December 31, 1971, there are any lands within the boundaries of a county, whether or not within the boundaries of a city, that are not subject to ORS 390.640 or to a comprehensive land use plan and zoning ordinances adopted pursuant to ORS chapter 215, or zoned pursuant to any other state law or city ordinance, the Governor shall prescribe, may

COPY

The Honorable Donald McIntosh
January 13, 1972
Page 2

amend, and shall thereafter administer comprehensive land use plans and zoning regulations for such lands. If any county shall have under consideration a comprehensive land use or zoning ordinance, and shall have shown satisfactory progress toward the final enactment of such plan or ordinance, the Governor may grant a reasonable extension of time after the date set in this section for completion of said plan or ordinance."

In order that a timely determination may be made as to the progress of each city and county toward the specified goal, please complete and return the attached status report form by March 1, 1972.

If you need assistance or additional information to complete the form, please contact Robert Logan, Administrator, Local Government Relations Division, Executive Department, 320 Public Service Building, Salem, Oregon 97310 (378-3732).

Sincerely,

Governor

TM:cm
Attachment
cc: Mr. Clifford Sanders
City Manager

RINGLE & HERNDON

ATTORNEYS AT LAW

405 WEST ARLINGTON STREET

GLADSTONE, OREGON 97027

PHIL H. RINGLE, JR.
ROBERT D. HERNDON

TELEPHONE 656-0879
AREA CODE 503

November 9, 1971

City Council
City of West Linn
City Hall
West Linn, Oregon 97068

ATTENTION: W. L. Paterson

RECEIVED
CITY OF WEST LINN

NOV 10 1971

A.M. P.M.
7 8 9 10 11 12 1 2 3 4 5 6

Re: Comprehensive Zoning Plan
City of West Linn

Gentlemen:

I am the owner of two lots located in Block 1, Amended Replat of Robinwood, City of West Linn, Oregon; to-wit, Lots 5 & 6.

It has come to my attention that the comprehensive zoning plan now contemplated by the city zones these lots residential.

I do object to such zoning for the following reasons:

- 1) The lots are not saleable as residential property due to the busy highway upon which they front.
- 2) The land has as its highest and best use the development of light industry, professional buildings, or even multiple dwellings such as duplexes, four-plexes or small apartment buildings.
- 3) Zoning these lots will allow numerous driveways to enter the main thoroughfare; to-wit, Pacific Highway. That is, if anyone is willing to build a house on any one of them.
- 4) The county continues to assess these lots with an increasing value and the city has run sewers by them which also cost the owners. The land owner is placed in a position of having to warehouse this property without development at an ever increasing cost. A residential zoning is tantamount to making the property unmerchandiseable in my opinion.
- 5) The particular lots in question do have road easements to them from the back off of Marylhurst Drive which make them readily accessible without ingress or egress from Pacific Highway. I would think that this whole section of Block 1 with this easement should be reconsidered for higher zoning than residential. The actual easement belongs to Mr. Cummings who


owns the property to the north of Marylhurst Drive and the two lots I own. I know that he is quite agreeable to the easement being developed and used and has actually granted me permission to do so. I imagine this use could be shared with other property owners in the area. I think this matter should be explored before the Block is definitely zoned residential.

6) The surrounding area that is easterly across the street and to the south is all zoned residential-commercial and multiple dwelling. I think the zoning should be extended up and down Pacific Highway through Block 1, Lots 5 & 6.

I failed to receive notice of the hearing in connection with the comprehensive zoning plan. It is for this reason that I am writing this letter and hope that my objections will be considered before you interpose your final vote on the zoning plan as it is now constituted.

Very truly yours,

RINGLE & HERNDON


Phil H. Ringle, Jr.

PHR/mkh

ORDINANCE NO. 1129

AN ORDINANCE ADOPTING THE WEST LINN COMMUNITY DEVELOPMENT CODES, REPEALING TITLES 16 AND 17 OF THE WEST LINN MUNICIPAL CODE, REPEALING CHAPTER 15.20 AND 15.24 OF THE WEST LINN MUNICIPAL CODE AND REINCORPORATING THE REPEALED PROVISIONS THEREOF AS PORTIONS OF THE WEST LINN COMMUNITY DEVELOPMENT CODES.

WHEREAS, the City of West Linn has prepared the West Linn Community Development Code composed of land use goals, objectives, policies, implementation strategies, and land use planning maps, which Community Development Codes are justified and supported by extensive findings, inventories, analysis, and evaluation, and

WHEREAS, said Community Development Codes were developed as a result of intensive study and evaluation by the City and were reviewed and commented upon by the citizens of the City of West Linn and representatives of effected public agencies and other interested persons at numerous public meetings before the West Linn City Council, West Linn Planning Commission, and the West Linn Comprehensive Plan Committee,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LINN AS FOLLOWS:

Section 1. Title 16 and Title 17 of the West Linn Municipal Code are repealed in their entirety.

Section 2. The West Linn Community Development Codes composed of a Procedures Code, a Zoning Code, and Lands Division Code are hereby adopted as the West Linn Community Development Codes as required by ORS 197.175. The text of the West Linn Community Development Codes are attached hereto as Exhibit "A" and incorporated herein by reference.

Section 3. From the effective date of this ordinance, the West Linn Community Development Codes shall implement the land use objectives, policies, and strategies of the West Linn Comprehensive Plan.

Section 4. The West Linn Community Development Codes are adopted based upon the West Linn Comprehensive Plan and the findings of fact, inventory and analysis, data base and evaluation contained in the following inventories, working papers and studies:

(1) Comprehensive Plan Inventories for Statewide Land Use Planning Goals 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15.

(2) Comprehensive Water Systems Plan, September, 1982.

(3) Population and Housing Trends Study, April, 1983.

(4) Storm Drainage Master Plan, October, 1983.

(5) West Linn Park and Recreation Master Plan, November, 1978.

(6) Fire/Policy Facilities Study, September, 1981.

The aforesaid inventories, working papers and studies are contained in Exhibit "B" attached hereto and incorporated by reference. The information contained in Exhibit "B" is adopted only as justification for the adoption of the West Linn Community Development Codes and shall not govern the exercise of the planning and zoning responsibilities of the City of West Linn.

Section 5. The West Linn Community Development Codes shall be codified in Title 16 of the West Linn Municipal Code and shall be subdivided into Chapter 16.1 through Chapter 16.97 as said chapters are constituted and set forth in Exhibit "C" attached hereto and incorporated herein by reference.

Section 6. Chapter 15.20 of the West Linn Municipal Code is repealed and reconstituted in its entirety as Chapter 16.52 of the West Linn Municipal Code.

Section 7. Chapter 15.24 of the West Linn Municipal Code is repealed and reconstituted in its entirety as Chapter 16.27 of the West Linn Municipal Code.

Section 8. Certified copies of the West Linn Community Development Codes shall be filed with the City Recorder, Clackamas County, the Metropolitan Service District, and the Land Conservation and Development Commission of the State of Oregon.

Section 9. This ordinance shall be effective the 15th day of December, 1983.

THIS ORDINANCE IS ADOPTED BY THE COMMON COUNCIL AND
APPROVED BY THE MAYOR THIS 14th DAY OF December, 1983.

Larry M. Intje
Mayor

ATTEST:

Helena J. Nicolay
City Recorder

CITY OF WEST LINN ORDINANCE #1129

****Exhibits A, and B are not included. The Planning Department Library contains a Comprehensive Plan, which has been updated. It also contains inventories and other working documents with updates. These may be used for historical reference.**

**COMMUNITY DEVELOPMENT CODE
CITY OF WEST LINN, OREGON**

**ADOPTED DECEMBER 14, 1983
ORDINANCE NO. 1129**

The preparation of this Code was financed in part through a Comprehensive Planning Grant from the State of Oregon, Department of Land Conservation and Development.

COMMUNITY
DEVELOPMENT CODE

CITY OF WEST LINN

COMMUNITY DEVELOPMENT CODE

Larry McIntyre, Mayor

City Council

*Thomas DeJardin
Michael Stevens
Joseph Hart
Kathleen Lairson
Ted Phillips
Robert Stowell*

Planning Commission

*Gary Madson, Chairman
Michael Gosling
Tim Hoard
Larry Kellerman
Ralph Olson
Shirley Weiss
Diane Wustrack*

Comprehensive Planning Program Team

*John A. Buol, City Administrator
Michael Butts, Planning Director*

City Staff

*Barbara Bass
Carol Bilyeu
Karen Jolly
Ella Gossett
Dennis Koellmermeier
Diana Nicolay
Dave Rood
Al Steininger
Ken Worcester*

City Counsel

*John Hammond
Deanne Darling*

Consultants

Ames Associates, Inc.

Contents

COMMUNITY DEVELOPMENT CODE

INTRODUCTORY PROVISIONS

- 01 General
- 02 Definitions

ZONING PROVISIONS

- 05 General

Zoning Districts

- 09 Single Family Residential Detached, R-20
- 10 Single Family Residential Detached, R-15
- 11 Single Family Residential Detached, R-10
- 12 Single Family Residential Detached, R-7.5
- Medium Density
- 13 Single Family Residential/Duplex, R-5
- 14 Single Family Residential Attached, R-4.5
- High Density
- 16 Multiple Family Residential, R-2.1
- Commercial
- 18 Neighborhood Commercial, NC
- 19 General Commercial, GC
- 21 Office-Business Center, OBC
- Industrial
- 22 Campus Industrial, CI
- 23 General Industrial, GI

Overlay Zones

- 24 Planned Unit Development
- 26 Historic District
- 27 Flood Hazard Construction
- 28 Willamette River Greenway
- 30 Tualatin River Bank Control

Supplemental Provisions

- 33 Density Computations: Residential and Non-Residential Uses
- 34 Accessory Structures, Accessory Uses & Permitted Uses Setback Requirements
- 35 Temporary Structures & Uses
- 36 Manufactured/Mobile Homes
- 37 Home Occupations
- 38 Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards & Projections Into Yards
- 40 Building Height Limitations & Exceptions
- 42 Clear Vision Areas
- 44 Fences
- 46 Off-Street Parking, Loading & Reservoir Areas
- 48 Access, Egress & Circulation
- 52 Signs (see chapter 15.20, West Linn Municipal Code).
- 54 Installation & Maintenance of Landscaping

COMMUNITY
DEVELOPMENT
CODE

INTRODUCTORY
PROVISIONS

Contents

INTRODUCTORY PROVISIONS

01.000 General

- .010 Title
- .020 Purpose
- .030 Compliance
- .040 Pre-Existing Approvals
- .050 Certificate of Occupance
- .060 Interpretation
- .070 Severability
- .080 Official Action

02.000 Definitions

- .010 Interpretation
- .030 Specific Words & Terms

INTRODUCTORY PROVISIONS

01.000 GENERAL

01.010 TITLE

This ordinance shall be known as the Community Development Code of the City of West Linn, and shall be referred to herein as this Code.

01.020 PURPOSE

As a means of promoting the general health, safety and welfare of the public, this Code is designed to set forth the standards and procedures governing the development and use of land in West Linn and to implement the West Linn Comprehensive Plan. To these ends, it is the purpose of this Code to maintain and improve the existing character and quality of West Linn through:

- A. Identifying and protecting resource lands from urban development encroachment.
- B. Providing for the natural and cultural resources of the community.
- C. Providing adequate land to meet anticipated future demands for development in a logical and orderly manner.
- D. Encouraging flexibility and innovation in development techniques to permit diversity within the community and to keep development costs to a minimum.
- E. Providing for a range of housing types and costs in order to offer a wide variety of choices to present and future West Linn residents.
- F. Contributing to a healthy and diverse economy in West Linn.
- G. Providing for an orderly and timely provision of public facilities and services for future urban development.
- H. Providing for citizen participation in all phases of the planning process.

01.030 COMPLIANCE

- A. Except as otherwise specifically provided by this zoning code, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the City be commenced or changed, nor shall any condition of or upon real property be caused or maintained after the effective date of this Code, except in conformity with conditions prescribed for each of the several zones and general regulations established hereunder.
- B. It shall be unlawful for any person to erect, construct, establish, occupy, alter, enlarge or use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this zoning code contrary to the provisions of this code. Where this zoning code imposes greater restrictions than those imposed or required by other rules or regulations or code provisions, the provisions of this zoning code shall control.
- C. No lot area, yards, other open space or off-street parking or loading area existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance. No fee conveyance of any portion of a lot, for other than a public use, shall leave a structure on the remainder of the lot with less than minimum ordinance requirements.
- D. No lot area, yard, or other open space or off-street parking or loading area which is required by this ordinance for one use shall be a required lot area, yard, or other open space of off-street parking or loading area for another use, except as provided in Section 05.030(A).

01.040 PRE-EXISTING APPROVALS

Planned unit developments, including the approved density subdivisions, projects requiring Development Review Board approval or other development applications for which approvals were granted prior to the effective date of this Code may occur pursuant to such approvals. The physical development of property or construction of structures on any particular site or lot within such developments for which all approvals had not been received prior to the effective date of this Code shall be subject to review for conformance with the standards applicable to specific site improvements and construction and design under this Code.

01.050 CERTIFICATE OF OCCUPANCY

In order to assure completion of the work in the manner and at the time approved, the premises shall not be used or occupied for the purposes set forth in the permit until the City has issued a Certificate of Occupancy following completion of the work in substantial conformance to the permit. Prior to the final completion of all work, a certificate of occupancy may be issued for a portion of the premises or condition upon further work being completed by a date certain.

01.060 INTERPRETATION

- A. The Planning Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this code. A request for an interpretation shall be made in writing to the Planning Director. The director's interpretation may be appealed to the Commission as provided by 99.060Bc.
- B. The director may develop guidelines to aid in the implementation and interpretation of the provisions of this code.

01.070 SEVERABILITY

Should any section, sentence, clause, or phrase of this code be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this code as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

01.080 OFFICIAL ACTION

All officials, departments and employees of the city vested with authority to issue permits or grant approvals shall adhere to and require conformance with this code, and shall issue no permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this code. Any permit or approval issued or granted in conflict with the provisions of this chapter, whether intentional or otherwise, shall be void.

02.000 DEFINITIONS

02.010 INTERPRETATION

For the purpose of this Code, certain terms or words used herein shall be interpreted as follows.

1. The word shall is mandatory, the word may is permissive.
2. The words used or occupied shall include the words intended, designed or arranged to be used or occupied.
3. The word lot includes the future tense, the singular number includes the plural, and the plural number includes the singular.

02.030 SPECIFIC WORDS & TERMS

For the purpose of these regulations, the following terms or words are defined as follows.

Access. The way or means by which pedestrians and vehicles enter and leave property.

Access Point. An access point includes a driveway, public, or private street or way or alley.

Accessory structure. A subordinate structure located on the lot, the use of which is clearly incidental to and associated with the principal use.

Accessory use. A use which is incidental and subordinate to the principal use.

Accessory use. A use which is incidental and subordinate to the principal use.

Acres Gross. All of the land area owned by the applicant in the subject parcel or parcels under consideration.

Acres Net. The total gross acres less 20 to 25 percent for roads and public facilities.

Administrative Action. A quasi-judicial action, including the following.

An action conducted pursuant to Chapters 1 through 106 in which the legal rights, duties or privileges of specific parties are determined, and any appeal or review therefrom.

A comprehensive plan map or zoning map change.

Any other proceedings as provided by ordinance rule or resolution adopted by the Council.

Administrator. The city administrator of West Linn, Oregon or a duly authorized representative.

Alley. A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Alteration. A change in construction or a change of occupancy. When the term is applied to a change in construction, it is intended to apply to any change, addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another or from one division of trade or use to another.

Alteration, Structural. Any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders. In addition, any change in the external dimensions of the building shall be considered a structural alteration.

Appeal. A request that a final decision by the Director be considered by a higher authority either on the basis of a de novo hearing or with the inclusion of evidence in addition to that considered by the maker of the initial decision.

Approval Authority. Either the Director, the Initial Hearing Body, or the Council, depending on the context in which the term is used.

Basement. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

Bike Path. A way designed for and improved with a hard surface, and signed for use by bicycle traffic.

Block Length. The distance measured along all that part of one side of a street which is between the centerline of two intersecting or intercepting streets, or between an intersecting or intercepting street, undivided acreage, or other major barrier.

Board. The Design Review Board of West Linn, Oregon.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building Height. The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade.

An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described above is more than 10 feet above lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

Building Line. A line on a plat indicating the limit beyond which buildings or structures may not be erected.

City. The city of West Linn, Oregon.

Clear Vision Area. An area which consists of a triangular area, two sides of which are lot lines measured from the corner intersection of the access point lot lines for a distance specified in this regulation.

Commission. The Planning Commission of West Linn, Oregon.

Community Building. A building operated by the public or a non-profit group, neighborhood or association for public assembly for meetings, arts, crafts or similar uses. Examples of a community building are a senior center or arts center.

Comprehensive Plan. The Plan adopted by West Linn, including any plan or plan element adopted as a component of the Comprehensive Plan.

Conditional Use. A use which may be permitted by the approval authority following a public hearing, upon findings by the authority that the approval criteria have been met or will be met upon satisfaction of conditions of approval.

Corner Lot. A lot or parcel abutting on two intersecting streets other than an alley, excluding lots or parcels with boundary line angles greater than 135 degrees.

Council. The City Council of West Linn, Oregon.

Court. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

Developer. The owner of land proposed to be subdivided or partitioned, or representative. Consent shall be required

from the legal owner of the premises for any proposed division of land as provided in this ordinance.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Director. The Planning Director of West Linn, Oregon, or authorized agent.

Division of Land. The process of dividing a tract, lot or parcel into two or more lots or parcels by subdividing or partitioning. A division of land shall be deemed to have occurred at the time when instruments are executed whereby title to less than the entire area of an existing lot of record is transferred to a new owner.

Drainageways. The channel of a drainage course, or other water course and the adjacent land areas that must be reserved in order to discharge surface run-off water.

Dwelling Unit. One or more rooms designed for occupancy by one family for living purposes providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Easement. A grant of the right to use a strip of land for a specific purpose.

Engineer. The city engineer of West Linn, Oregon or a duly authorized representative.

Erosion, Landslide, Cut and Fill.

Cut or Excavation. Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

Erosion. Detachment and movement of soil or rock fragments by water, wind, gravity, frost and ice or by mechanical action caused by development activities.

Fill. Placement of any soil, sand, gravel, clay, mud, debris and refuse, or any other material, organic or inorganic.

Mulch. Application of plant residue, netting, plastic, sheeting or other suitable materials to the land surface to conserve moisture, hold soil in place and aid in establishing plant cover. Plastic mulch may be used only temporarily, during construction activities.

Potential Severe Erosion Hazard Areas. Surface areas where erosion can be easily caused by removal of vegetation cover, stripping topsoil or by placement of fill, whether by natural causes such as streams or surface runoff or by development activities. The placement of any new fill or severe cuts in such an area shall be considered as creating a potentially severe erosion hazard.

Potentially Severe Landslide Hazard Area. Areas where earth movement or failure, such as slumps, mud flows, debris slides, rock falls or soil falls are likely to occur as a result of development activities. These activities include excavation which removes support of soils by changes in runoff, or groundwater flow or vibration loading such as pile driving or blasting.

Sediment. Any organic or mineral material that is in suspension, is being transported or has been moved from its site or origin by water, wind, or gravity as a product of erosion.

Stripping. Any activity which disturbs vegetated or

otherwise stable soil surface, including clearing and grubbing operations.

Fact Finding Body. A body sitting for the purpose of determining the facts. The decision of the body is not discretionary.

Family. One person or two or more persons related by blood, marriage, legal adoption, or guardianship; or a group of not more than five persons all or part of whom are not so related by blood or marriage living together as a single housekeeping unit in a dwelling unit.

Fence, Non Sight Obscuring. A barrier or fence which does not obstruct vision.

Fence, Sight Obscuring. A barrier, consisting of metal, wood, masonry or similar materials or plantings grown as a barrier which obstructs vision.

Final action, final decision, or final order. A determination reduced to writing, signed and filed under 99.110(F) by the appropriate approval authority and--

With respect to the Planning Director, a decision made under 99.060 (A) and 99.160 of this code, appealable to a further approval authority, and subject thereafter to Council review.

With respect to the initial hearing body, a decision made under 99.160 (B) or (C) or 99.110, 99.140, 99.170 to 99.230 and subject thereafter to Council review.

With respect to the Council, a decision made under 99.060 (D) or 99.240 to 99.310, or both, and subject to a Petition for Rehearing.

With respect to the fact finding body, a determination made under 103.040.

Findings. A written statement of the facts determined at a public hearing. The findings are applied to the relevant approval criteria or standards by the Approval Authority as the basis for making its decision.

Flood, Base. The flood having a one percent change of being equalled or exceeded in any given year.

Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor area. The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

Frontage. Property abutting on a street.

Grade. The slope of a road, street or other public way, specified in terms of percentage of slope.

Grade, ground level. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when

the property line is more than five feet from the building, between the building and a line five feet from the building.

Habitable Floor. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

Hillside area. Lands having over 25 percent slopes.

Implementing ordinance. An ordinance adopted to carry out the comprehensive plan.

Initial hearing body. The Planning Commission or the Design Review Board appointed by the Council. The term shall include the City Council only with respect to those matters listed in 99.060.

Intersection. A place where a street and access point adjoin each other.

Legislative. Any proposed action which would result in a change in city policy including:

- A change to the comprehensive plan text.

- A change to the comprehensive plan map which involves a number of parcels of land.

- A change to the text of an implementing ordinance.

- A change to the zoning map which involves a number of parcels of land.

- A change to any land use plan or map which represents a change in city land use policy.

Loading space. An off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle which is loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other

appropriate means of access and egress.

Lot. A plot, parcel, or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

Lot area. The total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads, and easements of access to other property or the private driveway area of a flag lot.

Lot, corner. A lot abutting on two or more streets, other than an alley at their intersection.

Lot, coverage. The area covered by a building or buildings on a lot, expressed as a percentage of the total lot area.

Lot, depth. The average horizontal distance between the front lot line and rear lot line.

Lot, double frontage. See Through Lot.

Lot, interior. The property line bounding a lot.

Lot line. The property line bounding a lot, but not the lines bounding the private driveway portion of a flag lot.

Lot, flag. A lot or parcel which includes a private accessway as part thereof.

Lot Line Adjustment. The relocation of recorded lot lines which does not result in the creation of an additional lot.

Lot line, front. For an interior lot, a line separating the lot from the street; and for a corner lot, a line

separating either (but not both) frontage of the lot from the street as determined by the city.

Lot line, rear. For an interior lot, a line separating one lot from another on the opposite side of the lot from the front lot line; for corner lots either (but not both) interior lot lines separating one lot from another; and for an irregular or triangular-shaped lot, a straight line ten feet in length that is parallel to and at the maximum distance from the front lot line. The city shall determine the rear lot line for corner lots.

Lot line, side. For interior lots, a line separating one lot from the abutting lot or lots fronting on the same street; for corner lots, a line other than the front lot line separating the lot from the street or a line separating the lot from the abutting lot along the same frontage.

Lot of Record. A lawfully created single lot which existed prior to the effective date of this code.

Lot, through. An interior lot having frontage on two streets.

Lot width. The horizontal distance between side lot lines, measured at the building line.

Manufactured/Mobile Home Subdivision. A subdivision designed and approved for the sale of lots for residential occupancy in manufactured/mobile homes.

Map. A final diagram, drawing or other writing concerning a major or minor partition.

Negotiate. Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or

partition, including but not limited to advertising, solicitation and promotion of the sale of such land.

New Construction. Structures for which the "start of construction" commenced on or after the effective date of this ordinance.

Non-conforming lot. A lot which does not meet the requirements of the applicable zone in terms of required lot area, width or depth.

Non-conforming structure of use. A lawful existing structure or use, at the time the ordinance codified in this title or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Non-conforming use of land. A lawful use of land which existed prior to the effective date of this code where the use involves no structure or building other than a single minor accessory structure or sign(s) and which would not be permitted by the applicable regulations of this code.

Open Space. Any unoccupied space on a lot that is open and unobstructed to the sky and occupied by no structure or portions of structures whatever.

Owner. Any person, agent, firm or corporation having a legal or equitable interest in the property.

Parcel. A unit of land that is created by a partitioning of land.

Parking space. A space as defined by the standards set forth in chapter 46.

Parkway. (Parking strip) That portion of street right-of-way lying between the curb line of the improved roadway and

the adjacent private property line.

Party. A person who has the right to pursue appeal or review of a decision of an approval authority.

Partition. Either an act of partitioning land or an area or tract of land partitioned.

Partition Major. The dividing of land into two or three parcels within one calendar year and including the creation of a road or street.

Partition Minor. The dividing of land into two or three parcels within one calendar year which does not include the creation of a road or street.

Partitioner. An owner or authorized agent commencing proceedings under this code to effect a partition of land.

Partition land. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of the year. Partition land does not include divisions of land resulting from lien foreclosures; divisions of land from foreclosures of recorded contracts for the sale of real property and division of land resulting from the creation of cometary lots; and partition land does not include any adjustment of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards established by the zoning ordinance. Partition land does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner. When it appears to the Planning Director that the area is to ultimately be divided into four or more lots or

parcels, conformance with the provisions of this ordinance pertaining to subdivisions may be required. Divisions of land excluded from the definition of partition land in 86.020 shall be subject to all other requirements of the city ordinances regulating the use and development of land.

Party. A person who has a right to seek review by Council of a decision.

Pedestrian way. A right-of-way for pedestrian traffic.

Person. Any person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

Plat. The final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specification, dedications, provisions and information concerning a subdivision of which the subdivider submits for approval and intends in final form to record.

Private street. An accessway, which is under private ownership.

Public Right-of-Way. The area between the boundary lines of a street, pedestrian way or bicycle path.

Quasi-judicial action. An action which involves the application of adopted policy to a specific development application or amendment, as provided in this chapter.

Roadway. The portion of a street right-of-way developed for vehicular traffic.

Review. A request that a final decision by the initial approval authority be considered by a higher authority only on the basis of the record as set forth in 99.220 made before the

initial hearing body.

Sidewalk. A pedestrian walkway with permanent surfacing built to city standards.

Sign. (See Chapter 15.20; West Linn Municipal Code)

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement or unused under-floor space shall be considered as a story.

Start of Construction. The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home sub-

divisions, "start of construction" is the date on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Street. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts or land, and the placement of utilities and including the terms, "road", "highway", "lane", "avenue", "alley", "place", "court", "way", "circle", "drive", or similar designations.

Alley. A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Arterial. A street whose primary function is to provide for the movement of through traffic between areas and across portions of the city or region, and having the subordinate function of providing direct access to abutting land. Depending on the nature and location of an arterial street, it may be designed to the standards of a minor arterial street or a major arterial street.

Collector. A street supplementary to the arterial street system and a means of circulation between arterials and local streets; used to some extent for access to abutting properties and may be used to a limited extent for through traffic.

Cul-de-sac. A short street having one end open to traffic and terminated by a vehicle turn around.

Frontage Road. A minor street parallel and adjacent to an arterial street providing access to abutting

properties, but protected from through traffic.

Local street. A street which functions primarily to provide access to abutting land, serving local traffic movements and not intended to accomodate through traffic. In residential developments, a local street shall be designed to the standards for local streets.

Story, First. The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined herein, for more than fifty percent of the total perimeter, or more than 8 feet below grade, as defined herein, at any point.

Story, half. A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

Structure. Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.

Subdivide land. To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

Subdivider. See Developer.

Subdivision. Either an act of subdividing land or an area or a tract of land subdivided as defined in this chapter.

Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or

exceeds 50 percent of the market value of the structure either:

Before the improvement or repair is started, or
If the structure has been damaged and is being restored,
before the damage occurred. For the purposes of this
definition "substantial improvement" is considered to
occur when the first alteration of any wall, ceiling,
floor, or other structural part of the building commences,
whether or not that alteration affects the external dimensions
of the structure.

The term does not, however, include either:

Any project for improvement of a structure to comply with
existing state or local health, sanitary, or safety code
specifications which are solely necessary to assure safe
living conditions, or

Any alteration of a structure listed on the National
Register of Historic Places or a State Inventory of
Historic Places.

Temporary use. A use which by its nature will last less than
a year. Examples of temporary uses are uses associated with the
sale of goods for a specific holiday, activity or celebration, uses
associated with construction, and seasonal uses. The temporary
uses provisions do not apply to businesses seeking a temporary
or interim location.

Transitional area. An area consisting of a lot, lots or parts
of lots, within any residential district, having side or rear
lot lines abutting a boundary of a commercial or industrial zone,
and extending not more than one hundred feet from such boundary
into the residential zone.

Transitional use. A use allowed in a transitional area which
is intended to permit a gradual change in uses from industrial
and commercial areas to residential areas.

Unlisted Use. A use which is not listed as either a use permitted outright or a conditional use in a particular zone.

Use. The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

Use Types

Residential Use Types. Residential use types include the occupancy of living accommodations on a wholly or primarily nontransient basis.

Children's day care. Services or facilities authorized, certified or licensed by the State for children's day care of six or more children, for a period not to exceed 12 hours per day. Children's day care facilities with less than six children is a home occupation. See chapter 37.

Duplex residential units. Two dwelling units placed so that some structural parts are in common and are located on a single lot or development site.

Home occupation. A use as defined by the standards set forth in chapter 37 of this code.

Group residential. The residential occupancy of living units by groups of more than five persons who are not related by blood, marriage, or adoption, and where communal kitchen/dining facilities are provided. Typical uses include occupancy of retirement homes, boarding houses, cooperatives, and halfway houses, but excluding residential home facilities as specified below.

Manufactured/Mobile Home. A structure transportable in one or more sections each built on a permanent chassis, and which is designed to be used for permanent occupancy as a single family residential dwelling. This definition shall not

apply to those structures known as modular or manufactured housing where such housing is constructed in accordance with the Uniform Building Code and bears the Seal of Approval of the Oregon State Department of Commerce, Building Codes Division.

Multiple family residential units. A structure containing at least three dwelling units in any vertical or horizontal arrangement, located on a lot.

Residential Home Facility. A residence for five or fewer unrelated physically or mentally handicapped persons and staff persons who need not be related to each other or to any other home resident.

Single Family attached residential units. Two dwelling units attached side by side with some structural parts in common at a common property line on separate lots.

Single family detached residential unit. One dwelling unit, freestanding and structurally separated from other dwelling units or buildings, located on a lot.

Senior Citizen/Handicapped Housing Facilities. Living facilities which provide living units, congregate dining, recreational facilities and other services and requiring 24 hour staffing assistance.

Civic Use Types. The performance of utility, educational, recreational, cultural, protective, governmental, and other uses which are strongly vested with public or social importance.

Community recreation. Recreational, social, or multi-purpose uses typically associated with parks, play-fields, golf courses, or community buildings.

Cultural exhibits and library services. Museums, exhibition of

objects in one or more of the arts and sciences, gallery exhibition or works of art, or library collection of books, manuscripts, etc., for study and reading.

Hospitals. An institution where the ill or injured may receive medical, surgical or psychiatric treatment; and nursing, food and lodging during their stay.

Lodge, fraternal, and civic assembly. Meetings and activities primarily conducted for the members of a particular group. Excluded from this use types are uses classified as "Group Residential", "Residential Care Facilities" and "Transient Lodging". Typical uses include meeting places for civic clubs, lodges, or fraternal or veteran organizations.

Parking facilities. Parking services involving garages and lots, and may exclude required parking lots within the same lot of record of a particular development or use.

Postal services. Mailing services and processing as traditionally operated or leased by the United States Postal Service, United Parcel Service and other postal services.

Public agency administrative. Public services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles, and excludes commercial use type, "Professional and Administrative Services". Typical use types are associated with governmental offices.

Public safety facilities. Providing protection pursuant to fire, life, and safety code sections together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations, and ambulance services.

Schools. Public, private or parochial place or institution for teaching or learning. Typical uses include nursery, elementary, junior and senior high schools and related uses; excluding trade and business schools and colleges.

Utilities. Services and utilities which can have substantial visual impact on an area. Such uses may be permitted in any zoning district when the public interest supercedes the usual limitations placed on land use and transcends the usual restraints of the district for reasons of necessary location and community-wide interest.

There are two classes of utilities--major and minor.

Utility, major utility. A utility which may have a significant impact on the surrounding uses or the community in terms of generating traffic or creating noise or visual effects and includes utility, substation, pump station, water storage tank, sewer plant or other similar use essential for the proper function of the community.

Utility, minor utility. A utility which has a minor impact on the surrounding uses or on the community in terms of generating traffic or creating noise or visual effects and includes the overhead or underground electric, telephone or cable television poles and wires, the underground gas and water distribution systems and the drainage or sewerage collection systems or other similar use essential for the proper functioning of the community.

Commercial Use Types. The distribution and sale or rental of goods and the provision of services other than those classified "Civic Uses".

Agriculture. The tilling of the soil, the raising of crops, dairying and/or animal husbandry, but not including the keeping or raising of fowl, pigs, or fur-bearing animals unless

such is clearly incidental to the principal use of the property for the raising of crops.

Agricultural sales. Sale from the premises of feed, grain, fertilizers, pesticides, and similar goods. Typical uses include nurseries, hay, feed, and grain stores.

Agricultural Services. Establishments or places of business engaged in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include tree and lawn service firms.

Amusement Enterprise. Establishments or places primarily engaged in the provision of entertainment of recreation which require less personal physical activity than those uses included in indoor participant sports and recreation. Typical uses include billiard parlors, bowling alleys, arcades and electronic game room facilities or movie theaters.

Animal Sales and Services. Establishments or places of business primarily engaged in animal related sales and services. The following are animal sales and services use types.

Animal Sales and Services: Grooming. Grooming of dogs, cats, and similar small animals. Typical uses include dog bathing and clipping salons or pet grooming shops.

Animal Sales and Services: Kennels. Kennel services for dogs, cats, and similar small animals. Typical uses include boarding kennels or dog training centers.

Animal Sales and Services: Veterinary (Large Animals). Veterinary services for large animals. Typical uses include animal hospitals for large animals (horses, sheep) or veterinary hospitals for large animals.

Animal Sales and Services: Veterinary (Small Animals).
Veterinary services for small animals. Typical uses include pet clinics, dog and cat hospitals, or animal hospitals for small animals.

Automotive and Equipment. Establishments or places of business primarily engaged in motorized vehicle related sales or services. The following are automotive and equipment use types.

Automotive and Equipment: Cleaning. Washing and polishing of automobiles. Typical uses include auto laundries or car washes.

Automotive and Equipment: Fleet Storage. Fleet storage of vehicles used regularly in business operation and not available for sale or long term storage of operating vehicles. Typical uses include taxi fleet, mobile-catering truck storage, or auto storage garages.

Automotive and Equipment: Repairs, Heavy Equipment. Repair of trucks, etc., as well as the sale, installation, or servicing of truck or automotive equipment and parts together with body repairs, painting, and steam cleaning. Typical uses include truck transmission shops, body shops, or motor freight maintenance groups.

Automotive and Equipment: Repairs, Light Equipment. Repair of automobiles and the sale, installation, and servicing of automobile equipment and parts but excluding body repairs and painting. Typical uses include muffler shops, auto or motorcycle repair garages, or auto glass shops.

Automotive and Equipment: Sales/Rentals, Heavy Equipment. Sale, retail or wholesale, and/or rental from the premises of heavy construction equipment and trucks

together with incidental maintenance. Typical uses include boat dealers, heavy construction equipment dealers, or truck dealers.

Automotive and Equipment: Sales/Rentals, Light Equipment.

Sale, retail or wholesale, and/or rental from the premises of autos, noncommercial trucks, motorcycles, motorhomes, and trailers with less than a 10,000 gross cargo weight together with incidental maintenance.

Typical uses include automobile dealers, car rental agencies, or recreational vehicles sales and rental agencies.

Automotive and Equipment: Storage, Recreational Vehicles and Boats.

Storage of recreational vehicles and boats. Typical uses include the collective storage of personal recreational vehicles or boats.

Building Maintenance Services. Establishments primarily engaged in the provision of maintenance and custodial services. Typical uses include janitorial, landscape maintenance, or window cleaning services.

Business Equipment Sales and Services. Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional, and service establishments to the firms themselves rather than to individuals, but excludes automotive, construction, and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops, or hotel equipment and supply firms.

Business Support Services. Establishments primarily engaged in the provision of service of a clerical, employment, protective, or minor processing nature to firms rather than individuals and where the storage of goods other than samples

is prohibited. Typical uses include secretarial services, telephone answering services, or blueprint services.

Communications Services. Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as "Utilities". Typical uses include television studios, telecommunication service centers, or telegraph service offices.

Construction Sales and Services. Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures. Typical uses include building materials stores, tool and equipment rental or sales, and building contracting/construction offices.

Consumer Repair Services. Establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding "Automotive and Equipment" use types. Typical uses include appliance repair shops, apparel repair firms, musical instrument repair firms and shoe repair shops.

Convenience Sales and Personal Services. Small neighborhood oriented retail businesses (retail commercial and personal services) which provide for the daily needs of nearby residents. It includes uses such as grocery stores, drug stores, laundromats, dry cleaners, barber shops and beauty salons.

Eating & Drinking Establishments. Establishments or places of business primarily engaged in the sale of prepared food

and beverages for on-premise consumption. Typical uses include: fast order food establishments with and without drive-up facilities and sit-down eating establishments, taverns, bars and lounges.

Financial and Insurance. Establishments primarily engaged in the provision of financial, insurance, or securities brokerage services. Typical uses include banks, savings and loans or insurance agencies.

Food & Beverage Retail Sales. Establishments or places of business primarily engaged in the retail sale of food and beverages for home consumption. Typical uses include groceries, delicatessens, or liquor stores, and excludes "Eating & Drinking Establishments".

General Retail Services. The sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified as "Agricultural Sales", "Animal Sales & Services", "Automotive & Equipment", "Business Equipment Sales & Services", "Construction Sales & Services", "Food & Beverage Retail Sales" and "Vehicle Fuel Sales". Typical uses include department stores, apparel stores, furniture stores, pet stores or book stores.

Heliport. A place specially designed and used for the landing and take off of helicopters.

Horticulture. The cultivation of plants, garden crops, trees and/or nursery stock.

Laundry Services. Establishments primarily engaged in the provision of laundering, dry cleaning, or dyeing services other than those classified as "Personal Services". Typical uses include commercial laundry agencies, diaper services, or linen supply services, but excluding laundromats and dry cleaners.

Medical & Dental Services. Establishments primarily engaged in the provision of personal health services ranging from prevention, diagnosis and treatment, or rehabilitation services provided by physicians, dentists, nurses, and other health personnel as well as the provision of medical testing and analysis services, but excludes those classified as any civic use or group residential use types. Typical uses include medical offices, eye care offices, dental offices and laboratories, or health maintenance organizations.

Nursing home. A home, place or institution or part thereof in which convalescent and/or chronic care is rendered to two or more patients in exchange for compensation. Convalescent and/or chronic care includes, but is not limited to, the procedures commonly employed in nursing and caring for the sick; persons who are acutely ill or are surgical or maternity cases are excluded; qualified personnel and a consulting physician are available at all times; and isolation facilities are provided.

Participant Sports & Recreation. Establishments or places primarily engaged in the provision of sports or recreation by and for participants. Any spectators would be incidental and on a nonrecurring basis. The following are participant sports and recreation use types:

Participant Sports & Recreation: Indoor. Those uses conducted totally within an enclosed building. Typical uses include: indoor tennis courts, racketball courts, swimming pools, or physical fitness centers.

Participant Sports & Recreation: Outdoor. Those uses conducted in open facilities. Typical uses include driving ranges, miniature golf courses, tennis courts or swimming pools.

Personal Service Facilities. Establishments primarily engaged in the provision of informational, instructional, personal improvement, and similar services of nonprofessional nature. Typical uses include photography studios, driving schools and trade schools or reducing salons.

Professional & Administrative Services. Offices of private firms or organizations which are primarily used for the provision of professional, executive, management, or administrative offices, legal offices, architectural or engineering firms, or real estate firms.

Research Services. Establishments primarily engaged in research of an industrial or scientific nature which is generally provided as a service or which is conducted by and for a private firm, but excludes medical testing and analysis. Typical uses include electronics research laboratories, environmental research and development firms, or pharmaceutical research labs.

Scrap Operations.

Salvage. Places of business primarily engaged in the storage, sale, dismantling, or processing of used or waste materials which are not intended for reuse in their original form. Typical uses include automotive wrecking yard, junk yards, or paper salvage yards.

Recycling Collection Center. Facilities where glass, cans and papers are collected for the purpose of being transferred to a paper salvage or recycling facility.

Transient Lodging. Establishments primarily engaged in the provision of lodging services on a temporary basis with incidental food, drink, and other sales and services intended for the convenience of guests. Typical uses include hotels, motels or bed and breakfast houses.

Vehicle Fuel Sales. Establishments or places of business primarily engaged in the retail sale, from the premises, of petroleum products with incidental sale of tires, batteries, and replacement items, lubricating services, and minor repair services. Typical uses include automobile service stations, filling stations, or truck stops.

Industrial Use Types. Industrial use types include the on-site production of goods by methods not commercial, agricultural, or extractive in nature.

Light Industrial.

Manufacturing of Finished Products. The manufacturing of finished products from previously prepared material (excluding raw materials).

Packaging & Processing.

The production, processing, assembling, packaging, or treatment of products from previously processed materials; or

Production, processing, assembling, and packaging of finished products from previously prepared materials.

Wholesale, Storage, & Distribution. Establishments or places of business primarily engaged in wholesaling, storage, distribution, and handling of materials and equipment other than live animals and plants. The following are wholesaling, storage, and distribution use types.

Wholesaling, Storage & Distribution: Mini-Warehouses.

Storage and warehousing service within a building(s) primarily for individuals to store personal effects and by businesses to store materials for operation of an industrial or commercial enterprise located elsewhere.

Incidental uses in a mini-warehouse may include the repair and maintenance of stored materials by the tenant but in no case may storage spaces in a mini-warehouse facility function as an independent retail, wholesale business, or service use.

Spaces shall not be used for workshops, hobbyshops, manufacturing, or similar uses and human occupancy of said spaces shall be limited to that required to transport, arrange, and maintain stored materials.

Wholesaling, Storage & Distribution: Light.

Wholesaling, storage, and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses, or moving and storage firms.

Heavy Industrial.

Manufacturing of Finished Products.

Manufacturing, processing, or assembling of semi-finished or finished products from raw materials.

Wholesaling, Storage & Distribution: Heavy.

Open-air storage, distribution, and handling of materials and equipment. Typical uses include monument or stone yards, or grain elevators.

Yard. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.

Yard, front. A yard between side lot lines and measured horizontally at right angles to the front lot line from the lot line to the nearest point of the building.

Yard, rear. A yard between side lot lines or between a street side yard and opposite side lot line and measured horizontally at right angles to the rear lot line from the

rear lot line to the nearest point of a main building.

Yard, side. A yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building.

Yard, street side. A yard adjacent to a street between the front yard and the rear lot line measured horizontally and at right angles from the side lot line to the nearest point of the building.

COMMUNITY
DEVELOPMENT
CODE

ZONING

Contents

ZONING PROVISIONS

05.000 General

- .010 Purpose
- .020 Classification of Zones
- .030 Zoning Map
- .040 Determination of Zoning' Boundaries
- .050 Zoning of Annexed Land

Zoning Districts

09.000 Single Family Residential Detached, R-20

- .010 Purpose
- .020 Procedures & Approval Process
- .030 Permitted Uses
- .040 Accessory Uses
- .050 Uses and Development Permitted Under Prescribed Conditions
- .060 Conditional Uses
- .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
- .080 Dimensional Requirements, Conditional Uses
- .090 Other Applicable Development Standards
- .100 A Redivision Plan Required

10.000 Single Family Residential Detached, R-15

- .010 Purpose
- .020 Procedures and Approval Process
- .030 Permitted Uses
- .040 Accessory Uses
- .050 Uses and Development Permitted Under Prescribed Conditions
- .060 Conditional Uses
- .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
- .080 Dimensional Requirements, Conditional Uses
- .090 Other Applicable Development Standards

11.000 Single Family Residential Detached, R-10

- .010 Purpose
- .020 Procedures and Approval Process
- .030 Permitted Uses
- .040 Accessory Uses
- .050 Uses and Development Permitted Under Prescribed Conditions
- .060 Conditional Uses
- .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions

- .080 Dimensional Requirements, Conditional Uses
- .090 Other Applicable Development Standards
- 12.000 Single Family Residential Detached, R-5
 - .010 Purpose
 - .020 Procedures and Approval Process
 - .030 Permitted Uses
 - .040 Accessory Uses
 - .050 Uses and Development Permitted Under Prescribed Conditions
 - .060 Conditional Uses
 - .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
 - .080 Dimensional Requirements, Conditional Uses
 - .090 Other Applicable Development Standards

Medium Density

- 13.000 Single Family Residential/Duplex, R-5
 - .010 Purpose
 - .020 Procedures and Approval Process
 - .030 Permitted Uses
 - .040 Accessory Uses
 - .050 Uses and Development Permitted Under Prescribed Conditions
 - .060 Conditional Uses
 - .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
 - .080 Dimensional Requirements, Conditional Uses
 - .090 Other Applicable Development Standards

- 14.000 Single Family Residential Attached, R-4.5
 - .010 Purpose
 - .020 Procedures and Approval Process
 - .030 Permitted Uses
 - .040 Accessory Uses
 - .050 Uses and Development Permitted Under Prescribed Conditions
 - .060 Conditional Uses
 - .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
 - .080 Dimensional Requirements, Conditional Uses
 - .090 Other Applicable Development Standards

Medium - Urban High Density

- 16.000 Multiple Family Residential, R-2.1
 - .010 Purpose
 - .020 Procedures and Approval Process
 - .030 Permitted Uses
 - .040 Accessory Uses
 - .050 Uses and Development Permitted Under Prescribed Conditions

- .060 Conditional Uses
- .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
- .080 Dimensional Requirements, Conditional Uses
- .090 Other Applicable Development Standards

Commercial

18.000 Neighborhood Commercial, NC

- .010 Purpose
- .020 Procedures and Approval Process
- .030 Permitted Uses
- .040 Accessory Uses
- .050 Uses and Development Permitted Under Prescribed Conditions
- .060 Conditional Uses
- .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
- .080 Dimensional Requirements, Conditional Uses
- .090 Other Applicable Development Standards

19.000 General Commercial, GC

- .010 Purpose
- .020 Procedures and Approval Process
- .030 Permitted Uses
- .040 Accessory Uses
- .050 Uses and Development Permitted Under Prescribed Conditions
- .060 Conditional Uses
- .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
- .080 Dimensional Requirements, Conditional Uses
- .090 Other Applicable Development Standards

Office-Business Center

21.000 Office-Business Center, OBC

- .010 Purpose
- .020 Procedures and Approval Process
- .030 Permitted Uses
- .040 Accessory Uses
- .050 Uses and Development Permitted Under Prescribed Conditions
- .060 Conditional Uses
- .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
- .080 Dimensional Requirements, Conditional Uses
- .090 Other Applicable Development Standards

Industrial

22.000 Campus Industrial, CI

- .010 Purpose

- .020 Procedures and Approval Process
- .030 Permitted Use
- .040 Accessory Use
- .050 Uses and Development Permitted Under Prescribed Conditions
- .060 Conditional Uses
- .070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions
- .080 Development Standards
- .090 Dimensional Requirements, Conditional Uses
- .100 Other Applicable Development Standards

Overlay Zones

24.000 Planned Unit Development

- .010 Purpose
- .020 Administration and Approval Process
- .030 Expiration of Approval
- .040 Non Compliance - Bond
- .050 Applicability of Zone as Condition of Approval
- .060 Staged Development
- .070 Area of Application
- .100 Applicability and Allowed Uses
- .110 Residential Density
- .115 Bonus Density Chart
- .120 Applicability of the Base Zone Provisions
- .130 Applicability of Development Review Chapter
- .140 The Application - The Tentative Development Plan
- .150 Application for Approval of a Tentative Subdivision
- .160 Additional Information Required and Waiver of Requirements
- .170 PreApplication Conference
- .180 Approval Standards
- .190 The Site Analysis
- .200 The Site Plan
- .210 Grading & Drainage Plan
- .220 The Landscape Plan
- .230 Sign Drawings
- .240 Exceptions to Underlying Zone, Yard, Parking & Sign Provisions and The Landscaping Provisions
- .250 Shared Open Space

26.000 Historic District

- .010 Purpose
- .015 Applicability of Provision and Initiation
- .020 Administration and Approval Process
- .030 Criteria for Historic District Designation
- .040 Criteria for Exterior Alteration and New Construction Criteria
- .050 Criteria for Demolition
- .060 Application Submission Requirements
- .070 The Site Plan
- .080 Architectural Drawings

- .090 Landscape Plan
- .100 Sign Drawings
- .110 Additional Information Required and Waiver of Requirements
- 27.000 Flood Hazard Construction
 - .010 Purpose
 - .020 Basis For Establishing the Areas of Special Flood Hazard
 - .030 Development Permit Required
 - .040 Designation of the Director
 - .050 Duties and Responsibilities of the Director
 - .060 Variance Procedure
 - .070 Provisions for Flood Hazard Protection
- 28.000 Willamette River Greenway (WRG)
 - .010 Purpose
 - .020 Applicability & Definitions
 - .030 Exemptions
 - .040 Administration & Approval Process
 - .050 Notice
 - .060 Time Limit on Approval
 - .070 The Application
 - .080 Additional Information Required, Waiver of Requirements
 - .090 Approval Criteria
 - .100 Site Plan
 - .110 A Grading Plan
 - .120 Architectural Drawings
 - .130 A Landscape Plan
- 30.000 Tualatin River Bank Control
 - .010 Purpose
 - .020 Applicability & Definitions
 - .030 Exemptions
 - .040 Administration & Approval Process
 - .050 Time Limit on Approval
 - .060 Approval Standards
 - .070 Setback Requirements & Exceptions
 - .080 Design Standards for the Tualatin River
 - .090 Vegetative Preservation Requirements & Exceptions
 - .110 The Application
 - .120 Additional Information Required & Waiver of Requirements
 - .130 Site Plan
 - .140 A Grading Plan
 - .150 Architectural Sketches
 - .160 A Landscape Plan

Supplemental Provisions

- 33.000 Density Computations: Residential & Non-Residential Use

- .010 Purpose
- .040 Computation of Net Acres
- .050 Residential Density Computation
- .060 Limitations on Residential Density Transfer
- .070 Procedures for Determining Density Transfer for Parcels with Type I and Type II Lands
- 34.000 Accessory Structures, Assessory Uses & Permitted Uses Setback Requirements
 - .020 Permitted Uses
 - .030 Setback Provisions for Noise Producing Accessory Structures & Uses
 - .040 Boat Houses & Docks
 - .050 General Setback Provisions
- 35.000 Temporary Structures & Uses
 - .020 Applicability
 - .030 Administration & Approval Process
 - .040 Temporary Uses
- 36.000 Manufactured/Mobile Homes
 - .010 Purpose
 - .020 Manufactured/Mobile Homes Standards
 - .030 Manufactures/Mobile Home Subdivision Standards
- 37.000 Home Occupations
 - .010 Purpose
 - .020 Criteria
 - .030 The Application
 - .040 Administration & Approval Standards
 - .050 Approval & Strict Compliance is a Requisite for a Business License
 - .060 Time Limits & Revocation
- 38.000 Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards, & Projections into Yards
 - .020 No Yard Required: Structure not on Property Line
 - .030 Setback From Street Centerline Required
 - .040 Exceptions to Yard Requirements
 - .050 Storage in Front Yard
 - .060 Projections Into Required Yards
- 40.000 Building Height Limitations & Exceptions
 - .010 Projections Not Used for Human Habitation
 - .020 Church or Government Buildings
- 42.000 Clear Vision Areas
 - .020 Clear Vision Areas Required & Uses Prohibited
 - .030 Exceptions

- .040 Computation: Street & Accessway 24 Feet or More in Width
- .050 Computation: Accessway Less Than 24 Feet in Width
- 44.000 Fences
 - .020 Sight Obscuring Fence: Setback & Height Limitations
 - .030 Screening of Outdoor Storage
 - .040 Landscaping
 - .050 Standards for Construction
- 46.000 Off-Street Parking, Loading & Reservoir Areas
 - .010 Applicability & General Provisions
 - .020 Administration & Approval Process
 - .030 Approval Standards
 - .040 Joint Use of a Parking Area
 - .050 Storage in Parking & Loading Areas Prohibited
 - .060 Maximum Distance Allowed Between Parking Area & Use
 - .070 Computation of Required Parking Spaces & Loading Area
 - .080 Minimum Off-Street Parking Space Requirements
 - .090 Parking Requirements for Unlisted Uses
 - .100 Reservoir Areas Required for Drive-In Uses
 - .110 Driveways Required on Site
 - .120 Off-Street Loading Spaces
 - .130 Design & Standards
 - .140 Drainage of Off-Street Parking & Loading Facilities
 - .150 Performance Bond or Security Required
- 48.000 Access, Egress & Circulation
 - .010 Applicability & General Provisions
 - .020 Minimum Vehicular Requirements for Residential Uses
 - .030 Minimum Vehicle Requirements for Non Residential Uses
 - .040 One Way Vehicular Access Points
 - .050 Width and Location of Curb Cuts & Access Separation Requirements
 - .060 Planning Directors Authority to Restrict Access -- Appeal Provisions
 - .070 Variances, Approval Standards & Requirements
 - .080 Pedestrian Circulation
 - .090 Bicycle & Pedestrian Ways
- 52.000 Signs (See chapter 15.20, West Linn Municipal Code).
- 54.000 Installation & Maintenance of Landscaping
 - .010 Purpose
 - .020 Installation
 - .030 Maintenance
- 55.000 Development Review
 - .010 Purpose & Intent
 - .020 Administration & Approval Process

- .030 Expiration of Approval - Continuation
- .040 Non-Compliance - Bond
- .050 Applicability
- .060 Staged Development
- .070 Applicable Base Zone Provisions
- .080 The Application - The Tentative Development Plan
- .085 Additional Information Required and Waiver of Requirements
- .090 Preapplication Conference
- .100 Approval Standards
- .110 The Site Analysis
- .120 The Site Plan
- .130 Grading Plan
- .140 Architectural Drawings
- .150 The Landscape Plan
- .160 Sign Drawings
- .170 Exceptions to Underlying Zone, Yard, Parking & Sign Provisions & the Landscaping Provisions
- .180 Maintenance
- .190 Shared Open Space

Administration

60.000 Conditional Uses

- .010 Purpose
- .030 Administration & Approval Process
- .040 Time Limit on a Conditional Use Approval
- .050 Building Permits for an Approved Conditional Use
- .060 The Application
- .070 Approval Standards & Conditions
- .080 Site Plan(s) & Map

65.000 Non-Conforming Uses Involving a Structure

- .010 Purpose
- .030 Exceptions to the Non-Conforming Use Provisions
- .040 Standards Applicable to Exceptions to the Non-Conforming Use Provisions
- .050 Determination of Non-Conforming Use Status
- .060 Status of Non-Conforming Uses
- .070 Discontinuation of Non-Conforming Use
- .080 Alterations Required by Law
- .090 Maintenance
- .100 Expansion of the Use Within the Same Structure or Alterations to the Structure
- .110 Building Permits for an Approved Non-Conforming Use
- .120 The Application
- .130 Approval Standards & Conditions
- .140 Site Plan(s) & Map

66.000 Non-Conforming Uses Involving a Structure

- .010 Purpose
- .030 Exceptions

- .040 Determination of Status
- .050 Status of Non-Conforming Structures
- .060 Destruction, Movement of Structure
- .070 Enlargement or Alteration to a Non-Conforming Structure: Process & Approval Standards
- .080 Non-Conforming Structure Unsited for a Conforming Use
- .090 Building Permits for an Approved Non-Conforming Structure

- 67.000 Non Conforming Uses of Land
 - .010 Purpose
 - .030 Determination of Status
 - .040 Status
 - .050 Discontinuance

- 68.000 Non-Conforming Lots & Lots of Record
 - .010 Purpose
 - .030 Determination of Status
 - .040 Status

- 75.000 Variance
 - .010 Purpose
 - .020 Classification of Variances
 - .030 Administration & Approval Process
 - .040 Time Limit on a Variance
 - .050 The Application
 - .060 The Approval Criteria
 - .070 Site Plan(s) & Map

- 80.000 Unlisted Uses & Authorization of Similar Uses
 - .010 Purpose
 - .030 Determination Process
 - .040 Limitation
 - .050 Approval Standards

ZONING PROVISIONS

05.000 GENERAL

05.010 PURPOSE

The purpose of the zoning provisions of this Code is: to implement the Comprehensive Plan; to provide rules, regulations and standards governing the use of land and structures; to carry out the development pattern and plan of the City; to promote the public health, safety and general welfare; to lessen congestion in the streets, secure safety from fire, flood, pollution and other dangers; to provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage, and drainage; and to encourage the conservation of energy resources.

05.020 CLASSIFICATIONS OF ZONES

All areas within the corporate limits of the city of West Linn are hereby divided into zone districts, and the use of each tract and ownership of land within the corporate limits shall be limited to those uses permitted by the zoning classification applicable to each such tract as hereinafter designated. The zoning districts within the city of West Linn are hereby classified and designated as follows:

<u>Zoning District</u>	<u>Map Symbol</u>	<u>Dwelling Units Per Net Acre</u>	<u>Lot size in Square Feet</u>
<u>Low Density</u>			
Single Family Residential-detached	R-20	2.18	20,000
Single Family Residential-detached	R-15	2.9	15,000
Single Family Residential-detached	R-10	4.35	10,000
Single Family Residential-detached	R-7.5	5.8	7,500
<u>Medium Density</u>			
Single Family Residential-Duplex	R-5	8.7 - 9.68	5,000-
Single Family Residential-attached	R-4.5	9.68-10.9	4,500-
<u>Medium High Density</u>			
Multiple Family Residential	R-2.1	10.9-2.1	
<u>Commercial</u>			
Neighborhood Commercial	NC		
General Commercial	GC		
Office-Business Center	OBC		
<u>Industrial</u>			
Campus Industrial	CI		
General Industrial	GI		
<u>Overlay Zones</u>			
Planned Unit Development	PUD		
Historic District	HD		
Flood Plain Construction	FP		
Willamette River Greenway	WRG		
Tualatin River Bank Control	TRBC		

55.030 ZONING MAP

- A. The boundaries of each of the foregoing districts and the zoning classification and use of each tract in each of said zoning districts is hereby prescribed to coincide with the identifying zone classifications shown on the map entitled "West Linn Zoning Map", dated with the effective date of this code and signed by the Mayor and City Recorder and hereafter referred to as the "zoning map" and said map by this reference is made a part of this code. A certified print of the adopted zoning map or map amendments shall be maintained in the office of the Planning Department as long as the code remains in effect.

- B. Each lot, tract and parcel of land or portion thereof within the zone boundaries as designated and marked on the zoning map, is hereby classified, zoned and limited to the uses as hereinafter specified and defined for the applicable zone classification.
- C. Amendments to the City zoning map may be made in accordance with the provisions of chapters one and two of this code. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without change, together with the adopting documents, on file in the Planning Department. The Planning Director shall maintain in his office and available for public inspection an up-to-date copy of the City zoning map to be revised so that it accurately portrays changes of zone boundaries.
- D. The Planning Director shall maintain on a set of zoning maps, an index indicating the case number, type of action and location of actions taken under this code.

05.040 DETERMINATION OF ZONING BOUNDARIES

Where due to the scale, lack of the scale, lack of detail, or illegibility of the city zoning map or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of district boundary lines, shall be determined by the Planning Director in accordance with the following standards:

1. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed as following city limits.
4. Boundaries indicated as approximately following river, stream and/or drainage channels shall be construed as following river, stream and/or drainage channels.

5. Whenever any street is lawfully vacated, and when the lands within the boundaries thereof attached to and become a part of lands adjoining such street, the lands formerly within the vacated street shall automatically be subject to the same zoning district designation that is applicable to lands to which same attaches.

05.050 ZONING OF ANNEXED LAND

Zoning regulations applicable to an area prior to annexation to the city shall continue to apply and shall be enforced by the city until zoning for the area has been adopted by the City Council. The council may, when passing a resolution recommending annexation to the Portland Metropolitan Area Boundary Commission, approve at the same time an ordinance placing the property or any part thereof in a city zoning classification upon recommendation from the Planning Commission provided that, in addition to all procedures for notice, publication, hearings, findings, and fees for zone changes according to the provisions of chapter one or chapter two are completed. The process for zoning the property with a city zone classification may be initiated by the applicant at the time of the annexation application by completion of a zone change application. Any zoning designation approved by the city through this process shall not become effective until the effective date of the Boundary Commission's final action on the proposed annexation. City notices for annexation shall contain a declaration of the city's intent to consider placing the property proposed for annexation or any part thereof in a city zoning classification.

LOW DENSITY
09.000 SINGLE FAMILY RESIDENTIAL DETACHED, R-20

09.010 PURPOSE

The purpose of this district is to provide for development where there are some available services but the services will not support the development of land at the level provided by the Comprehensive Plan. This zone is not intended to be applied to agricultural lands unless a need for the land is demonstrated based on an available lands study. It is an interim zone. The intent of the zone is to allow development at a level based on the existing service level but in a manner, which does not preclude the ultimate development of the property at the density shown on the Comprehensive Plan. Therefore, a redivision plan is required.

09.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 09.030 is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, sections 09.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 08.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

09.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Community Recreation.
2. Public support facilities.
3. Residential care facility.
4. Single family detached residential unit.
5. Utilities: minor.

09.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

09.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, Type I, subject to the provisions of chapter 49.
2. Sign, subject to the provisions of chapter 52.
3. Temporary use subject to the provisions of chapter 35.
4. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock, other than normal household pets shall not be permitted within one hundred feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre or which has less than twenty thousand feet per head of livestock.

09.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Cultural Exhibits and library services.
2. Home occupations, Type II, subject to the provisions of chapter 37.
3. Public safety facilities.
4. Religious assembly.
5. Schools.
6. Utilities: major.

09.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following requirements are the requirements for uses within this zone:

1. The minimum lot size shall be 20,000 square feet for a single family detached unit.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 150 feet.
3. The average minimum lot width shall be 150 feet.
4. The lot depth shall be less than two and one-half times the width, but not less than an average depth of 90 feet.
5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
 - a. For the front yard, 20 feet.
 - b. For an interior side yard, 7½ feet.
 - c. For a side yard abutting a street, 15 feet.
 - d. For a rear yard, 20 feet.
6. The maximum building height shall be two and one-half stories or 35 feet except for flag lots in which case the provisions of chapter 40 shall apply.
7. The maximum lot coverage shall be 25 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot shall be 25 feet.

09.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

09.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:
1. Chapter 34, Accessory structures.
 2. Chapter 36, Temporary Uses.

3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 4. Chapter 40, Building Height Limitations and Exceptions.
 5. Chapter 42, Clear Vision Areas.
 6. Chapter 44, Fences and Screening of Storage Areas.
 7. Chapter 46, Off-street Parking and Loading.
 8. Chapter 48, Access.
 9. Chapter 52, Signs.
 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Development Review apply to all uses except detached single family dwellings.

09.100 A REDIVISION PLAN REQUIRED

- A. Where the property is not being developed at the density allowed by the Comprehensive Plan, and but for the zoning could be developed at the density allowed by the plan if all services were available and adequate to serve the use, a redevelopment plan shall be required as a condition of approval for a single family dwelling building permit, minor partition, major partition or subdivision.
- B. The redevelopment plan is a sketch plan and a land survey and an engineering drawing is not required except where there are unique soil, topographic or geologic conditions. Under the provisions of 99.035 Administrative Procedures, the Planning Director may require additional information.
- C. The applicant shall submit a topographic map based on available information and a subdivision layout in accordance with standards set forth in chapters 85-95, Land Division, and the Low Density Residential, R-10 Zone.
- D. A building permit issued shall be for a specified future lot and the building shall meet the setback provisions of the Low Density Residential, R-10 Zone.
- E. The redivision plan is considered a guide. Its purpose is to assure the efficient use of land and orderly growth. At such time as services are available and the property owner applies

to redivide the land, a different proposal may be submitted for approval provided it meets all of the requirements. The redivision Plan is not binding on the applicant or the City at the time a formal application is submitted under the Land Division Chapter.

- F. The Planning Director shall approve the redivision plan in the manner set forth in 99.060A2, except that no notice shall be given. The applicant may appeal the Planning Director's decision as provided by section 99.240A.
- G. The Planning Director's decision shall be based on the following findings:
 - 1. The redivision plan complies with the applicable requirements of the Land Division Ordinance and Low Density Residential, R-10 Zone.
 - 2. The subsurface sewage system has been approved.
 - 3. There is adequate water for the proposed use.

LOW DENSITY
10.000 SINGLE FAMILY RESIDENTIAL DETACHED, R-15

10.010 PURPOSE

The purpose of this zone is to provide for development at levels which related to the site development limitations. This zone is applicable to areas having steep slopes, areas subject to high erosion potential, areas which will cause serious off-site drainage problems, areas subject to movement, or areas with other types of limitations which require a minimum amount of disturbance to the natural features.

10.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 10.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, section 10.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by : 99.060A2 Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 10.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following Code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses In Structures.
 - 2. Chapter 66, Non-conforming Structures.
 - 3. Chapter 67, Non-conforming Uses of Land.
 - 4. Chapter 68, Lots of Record.
 - 5. Chapter 75, Variances.

10.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Community Recreation.
2. Public support facilities.
3. Residential care facility.
4. Single family detached residential unit.
5. Utilities: minor.

10.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

10.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, Type I, subject to the provisions of chapter 49.
2. Sign, subject to the provisions of chapter 52.
3. Temporary use subject to the provisions of chapter 35.
4. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock, other than normal household pets shall not be permitted within one hundred feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre or which has less than twenty thousand feet per head of livestock.

10.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Cultural Exhibits and library services.
2. Home occupations, Type II, subject to the provisions of chapter 37.
3. Public safety facilities.
4. Religious assembly.
5. Schools.
6. Utilities: major.

10.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following requirements are the requirements for uses within this zone:

1. The minimum lot size shall be 15,000 square feet for a single family detached unit.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 45 feet.
3. The average minimum lot width shall be 80 feet.
4. The lot depth shall be less than two and one-half times the width, but not less than an average depth of 90 feet.
5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
 - a. For the front yard, 20 feet.
 - b. For an interior side yard, 7½ feet.
 - c. For a side yard abutting a street, 15 feet.
 - d. For a rear yard, 20 feet.
6. The maximum building height shall be two and one-half stories or 35 feet except for flag lots in which case the provisions of chapter 40 shall apply.
7. The maximum lot coverage shall be 30 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot shall be 20 feet.

10.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

10.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory structures.
 2. Chapter 36, Temporary Uses.
 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 4. Chapter 40, Building Height Limitations and Exceptions.
 5. Chapter 42, Clear Vision Areas.
 6. Chapter 44, Fences and Screening of Storage Areas.
 7. Chapter 46, Off-street Parking and Loading.
 8. Chapter 48, Access.
 9. Chapter 52, Signs.
 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of chapter 55, Development review apply to all uses except detached single family dwellings.

11.000 LOW DENSITY
 SINGLE FAMILY RESIDENTIAL DETACHED, R-10

11.010 PURPOSE

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations and which related to the proximity of the area to commercial and public facilities and to public transportation. This zone is intended to implement the Comprehensive Plan policies and locations criteria and is applicable to areas designated as Developed Neighborhoods on the Comprehensive Plan Map and the Type I and Type II lands identified under the Buildable Lands Policy.

11.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 11.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions (section 11.030) is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use (section 11.060) is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses in Structures.
 - 2. Chapter 66, Non-Conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

11.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Single family detached residential unit.
2. Community recreation.
3. Public support facilities.
4. Residential care facility.
5. Utilities: minor.

11.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

11.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, Type I, subject to the provisions of chapter 49.
2. Sign, subject to the provisions of chapter 52.
3. Temporary uses, subject to the provisions of chapter 35.
4. Water dependent uses, subject to the provisions of chapters 28, 30 and 34.
5. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock, other than normal household pets shall not be permitted within one hundred feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre or which has less than twenty thousand feet per head of livestock;

11.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Cultural exhibits and library services.
2. Home occupations, Type II, subject to the provisions of chapter 49.

3. Public safety facilities.
4. Religious assembly.
5. Schools.
6. Utilities: major.

11.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following requirements are the requirements for uses within this zone:

1. The minimum lot size shall be 10,000 square feet for a single family detached unit.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
3. The average minimum lot width shall be 50 feet.
4. The lot depth shall be less than two and one-half times the width, but not less than an average depth of 90 feet.
5. The minimum yard dimensions or minimum building setback area from the lot line shall be:
 - a. For the front yard, 20 feet.
 - b. For an interior side yard, 7½ feet.
 - c. For a side yard abutting a street, 15 feet.
 - d. For a rear yard, 20 feet.
6. The maximum building height shall be two and one-half stories or 35 feet except for flag lots in which case the provisions of chapter 40 shall apply.
7. The maximum lot coverage shall be 35 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot shall be 12 feet.

11.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

11.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:
 - 1. Chapter 34, Accessory structures.
 - 2. Chapter 36, Temporary Uses.
 - 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 - 4. Chapter 40, Building Height Limitations and Exceptions.
 - 5. Chapter 42, Clear Vision Areas.
 - 6. Chapter 44, Fences and Screening of Storage Areas.
 - 7. Chapter 46, Off-street Parking and Loading.
 - 8. Chapter 48, Access.
 - 9. Chapter 52, Signs.
 - 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Development Review apply to all uses except detached single family dwellings.

12.000 LOW DENSITY
 SINGLE FAMILY RESIDENTIAL DETACHED, R-7.5

12.010 PURPOSE

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations and which relate the proximity of the area to commercial and public facilities and to public transportation. This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan.

12.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 12.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions (section 12.030) is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 12.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses in Structures.
 - 2. Chapter 66, Non-conforming Structures.
 - 3. Chapter 67, Non-conforming Uses of Land.
 - 4. Chapter 68, Lots of Record.
 - 5. Chapter 75, Variances.

12.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Single family detached residential unit.
2. Community recreation.
3. Public support facilities.
4. Residential Care facility.
5. Utilities: Minor.

12.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

12.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, Type I, subject to the provisions of chapter 49.
2. Sign, subject to the provisions of chapter 52.
3. Temporary uses, subject to the provisions of chapter 35.
4. Water dependent uses, subject to the provisions of chapters 28, 30 and 34.

12.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Children's Day Care Center
2. Cultural exhibits and library services.
3. Home occupations, Type II, subject to the provisions of chapter 49.
4. Public safety facilities.
5. Religious assembly.
6. Schools
7. Utilities: major.

12.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS.

Except as may be otherwise provided by the provisions of this code, the following requirements are the requirements for uses within this zone:

1. The minimum lot size shall be:
 - a. For a single family detached unit, 7,500 square feet.

- b. For each attached single family unit, 6,000 square feet. No yard shall be required between the units.
- 2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
- 3. The average minimum lot width shall be 50 feet.
- 4. The minimum average lot depth shall be 90 feet.
- 5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
 - a. For the front yard, 20 feet.
 - b. For an interior side yard, 7½ feet.
 - c. For a side yard abutting a street, 15 feet.
 - d. For a rear yard, 20 feet.
- 6. The maximum building height shall be two and one-half stories or 35 feet except for flag lots in which case the provisions of chapter 40 shall apply.
- 7. The maximum lot coverage shall be 33 percent.
- 8. The minimum width of an accessway to a lot which does not abut a street or a flag lot shall be 12 feet.

12.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

12.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:
 - 1. Chapter 34, Accessory structures.
 - 2. Chapter 36, Temporary Uses.
 - 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 - 4. Chapter 40, Building Height Limitations and Exceptions.
 - 5. Chapter 42, Clear Vision Areas.
 - 6. Chapter 44, Fences and Screening of Storage Areas.

7. Chapter 46, Off-street Parking and Loading.
 8. Chapter 48, Access.
 9. Chapter 52, Signs.
 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of chapter 55, Development Review apply to all uses except detached single family dwellings.

13.000 MEDIUM DENSITY
SINGLE FAMILY RESIDENTIAL/DUPLEX, R-5

13.010 PURPOSE

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations to the area's proximity to commercial and public facilities and public transportation and to the surrounding development pattern. This zone is intended to carry out the intent of the comprehensive plan which is to provide for a choice in housing types and is intended to implement the policies and locational criteria in the plan for medium density residential housing.

13.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 13.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, section 13.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 13.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses in Structures.
 - 2. Chapter 66, Non-conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

13.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Single family detached residential unit.
2. Single family attached residential unit.
3. Duplex residential unit.
4. Community recreation.
5. Manufactured/ mobile homes.
6. Public support facilities.
7. Residential care facility.
8. Utilities minor.

13.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

13.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, Type I, subject to the provisions of chapter 49.
2. Sign, subject to the provisions of chapter 52.
3. Temporary uses, subject to the provisions of chapter 35.
4. Water dependent uses, subject to the provisions of chapters 28, 30 and 34.

13.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Children's Day Care Center
2. Cultural exhibits and library services.
3. Convenience sales and personal services.
4. Home occupations, Type II, subject to the provisions of chapter 49.
5. Manufactured/Mobile homes subdivision subject to the provisions of chapter 36.
6. Medical or dental offices or clinic.

13.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS.

Except as may be otherwise provided by the provisions of this code, the following requirements are the requirements for uses within this zone:

1. The minimum lot size shall be:
 - a. For a single family detached unit, 5,000 square feet.
 - b. For each attached single family unit, 4,500 square feet. No yard shall be required between the units.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
3. The average minimum lot width shall be 50 feet.
4. The minimum average lot depth shall be 90 feet.
5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
 - a. For the front yard, 20 feet.
 - b. For an interior side yard, 5 feet.
 - c. For a side yard abutting a street, 15 feet.
 - d. For a rear yard 20 feet.
6. The maximum building height shall be two and one-half stories or 35 feet except for flag lots in which case the provisions of chapter 40 shall apply.
7. The maximum lot coverage shall be 40 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot shall be 12 feet.

13.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

13.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:
 - 1. Chapter 34, Accessory structures.
 - 2. Chapter 36, Temporary Uses.
 - 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 - 4. Chapter 40, Building Height Limitations and Exceptions.
 - 5. Chapter 42, Clear Vision Areas.
 - 6. Chapter 44, Fences and Screening of Storage Areas.
 - 7. Chapter 46, Off-street Parking and Loading.
 - 8. Chapter 48, Access.
 - 9. Chapter 52, Signs.
 - 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Development Review apply to all uses except detached single family dwellings.

14.000 MEDIUM DENSITY
SINGLE FAMILY RESIDENTIAL ATTACHED, R-4.5

14.010 PURPOSE

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations to the area's proximity to commercial and public facilities and public transportation and to the surrounding development pattern. This zone is intended to carry out the intent of the Comprehensive Plan which is to provide for a choice in housing types and is intended to implement the policies and locational criteria in the plan for medium density residential housing.

14.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 14.030 is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed condition, sections 14.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 14.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses in Structures.
 - 2. Chapter 66, Non-conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

14.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Duplex residential units.
2. Single family attached residential units.
3. Community recreation.
4. Public support facilities.
5. Residential care facility.
6. Utilities: minor.

14.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

14.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, Type I, subject to the provisions of chapter 37.
2. Sign, subject to the provisions of chapter 52.
3. Temporary uses, subject to the provisions of chapter 35.
4. Water dependent uses, subject to the provisions of chapters 28, 30 and 34.

14.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Single family detached residential unit.
2. Children's day care center.
3. Cultural exhibits and library services.
4. Convenience sales and personal services
5. Medical and dental offices or clinic.
6. Nursing home.
7. Postal Services.
8. Professional & administrative services.
9. Public safety facilities
10. Religious assembly
11. Schools.
12. Utilities: major.

13. Senior Citizen/Handicapped Housing Facilities with a maximum number of units 50 percent above the allowed density for the property provided that in addition to the provisions of chapter 60 the following conditions shall apply.
- a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
 - b. Building height restrictions shall be the same as the subject zoning district.
 - c. Community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms, meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have easy access to a storage area sized to store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.
 - d. Congregate dining facilities providing regular daily meals for residents shall be provided.
 - e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.
 - f. The maximum number of units allowed in a senior citizens or handicapped housing facility shall be as follows.

- (1). Medium-High Density District (R-2.1) The base density shall be 50 percent above the allowed density for the property.
 - (2). Medium Density District (R-4.5) The density shall be 50 percent above the allowed density for the property.
- g. The design of the building(s) and the site and landscaping plans shall be subject to design review, 55.000. Special considerations for this use are the following.
- (1). Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.
 - (2). The building design and site layout shall define recognizable semi-public, semi-private and private spaces; insure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.
 - (3). A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate site and sound buffering of adjacent properties.
 - (4). No more than 25 percent of the total number of units may be used for nursing care patients.
 - (5). Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the Board finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

14.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED
UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code,
the following requirements are the requirements for uses within this
zone:

1. The minimum lot size shall be:
 - a. For a single family detached unit, 4,500 square feet.
 - b. For each attached single family unit, 4,000 square feet.
 - c. For a duplex, 8,000 square feet or 4,000 square feet for each unit.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
3. The average minimum lot width shall be 50 feet.
4. The minimum average lot depth shall be 90 feet.
5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
 - a. For a front yard, 20 feet.
 - b. For an interior side yard, 5 feet.
 - c. For a side yard abutting a street, 15 feet.
 - d. For a rear yard, 20 feet.
6. The maximum building height shall be two and one-half stories or 35 feet except for flag lots in which case the provisions of chapter 40 shall apply.
7. The maximum lot coverage shall be 40 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot shall be 12 feet.

14.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

14.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:
 - 1. Chapter 34, Accessory structures
 - 2. Chapter 36, Temporary Uses
 - 3. Chapter 38, Additional Yard Area Required Exceptions to Yard Requirements, Storage in Yards and Projections into Yards
 - 4. Chapter 40, Building Height Limitations and Exceptions
 - 5. Chapter 42, Clear Vision Areas
 - 6. Chapter 44, Fences and Screening of Storage Areas.
 - 7. Chapter 46, Off-street Parking and Loading
 - 8. Chapter 48, Access
 - 9. Chapter 52, Signs
 - 10. Chapter 54, Installation and Maintenance of Landscaping
- B. The provisions of chapter 55, Development Review apply to all uses except detached single family dwellings.

16.000 MEDIUM-HIGH DENSITY
MULTIPLE FAMILY RESIDENTIAL, R-2.1

16.010 PURPOSE

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations to the area's proximity to commercial and public facilities and public transportation and to the surrounding development pattern. This zone is intended to carry out the intent of the Comprehensive Plan which is to provide for a choice in housing types and is intended to implement the policies and locational criteria in the plan for high density residential housing.

16.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 16.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, section 16.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 16.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses in Structures.
 - 2. Chapter 66, Non-conforming Structures.
 - 3. Chapter 67, Non-conforming Uses of Land.

4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

16.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Multiple family residential unit.
2. Single family attached residential units.
3. Group residential units.
4. Community recreation.
5. Public support facilities
6. Residential care facility.
7. Utilities: minor.

16.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

16.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, Type I, subject to the provisions of chapter 37.
2. Sign, subject to the provisions of chapter 52.
3. Temporary uses, subject to the provisions of chapter 35.
4. Water dependent uses, subject to the provisions of chapters 28, 30 and 34.

16.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Single family detached residential unit.
2. Duplex residential unit.
3. Children's day care center.
4. Convenience sales and personal services.
5. Cultural exhibits and library services.
6. Lodges, fraternal and civic assembly.
7. Medical and dental offices or clinic.
8. Postal services.
9. Professional and administrative services.
10. Public safety facilities.
11. Religious assembly.
12. Schools
13. Utilities: major.
14. Nursing home.

15. Senior Citizen/Handicapped Housing Facilities with a maximum number of units 50 percent above the allowed density for the property provided that in addition to the provisions of chapter 60 the following conditions shall apply.
- a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
 - b. Building height restrictions shall be the same as the subject zoning district.
 - c. Community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms, meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have easy access to a storage area sized to store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.
 - d. Congregate dining facilities providing regular daily meals for residents shall be provided.
 - e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.
 - f. The maximum number of units allowed in a senior citizens or handicapped housing facility shall be as follows.

- (1). Medium-High Density District (R-2.1) The base density shall be 50 percent above the allowed density for the property.
 - (2). Medium Density District (R-4.5) The density shall be 50 percent above the allowed density for the property.
- g. The design of the building(s) and the site and landscaping plans shall be subject to design review, 55.000. Special considerations for this use are the following.
- (1). Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.
 - (2). The building design and site layout shall define recognizable semi-public, semi-private and private spaces; insure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.
 - (3). A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate site and sound buffering of adjacent properties.
 - (4). No more than 25 percent of the total number of units may be used for nursing care patients.
 - (5). Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the Board finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

16.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED
UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code,
the following requirements are the requirements for uses within
this zone:

1. The minimum lot size shall be:
 - a. For a single family detached unit, 4,000 square feet.
 - b. For each attached single family unit, 2,700 square feet.
 - c. For a duplex, 7,000 square feet, or 3,500 square feet for each unit.
 - d. For a boarding, lodging or rooming house, 7,000 square feet.
 - e. For each multiple family dwelling unit, 2,100 square feet. A multiple family dwelling unit is limited to three and one-half stories in height.
2. The minimum front lot line length or the minimum lot width that the front lot line shall be 35 feet.
3. The average minimum lot width shall be 50 feet.
4. The minimum average lot depth shall be 90 feet.
5. The minimum yard dimensions or minimum building setback area from the lot line shall be:
 - a. .For a front yard, 20 feet ;
 - b. For an interior side yard, 5 feet ;
 - c. For a side yard abutting a street, 15 feet ; and
 - d. For a rear yard, 20 feet, except that in the case of an apartment structure in this district, an additional yard area may be required between the structure in this district and any adjacent low density residential uses .

6. The maximum building height shall be:
 - a. Two and one half stories or 35 feet for a garden apartment - low rise unit, single family unit, attached single family unit, duplex unit or boarding house, except as provided by Chapter 10 for flag lots.
 - b. Three and one-half stories or 45 feet for a garden apartment - medium rise unit, except as provided by Chapter 40 for flag lots.
7. The maximum lot coverage shall be 50 percent.

16.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

16.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:
 1. Chapter 34, Accessory structures.
 2. Chapter 36, Temporary Uses.
 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 4. Chapter 40, Building Height Limitations and Exceptions.
 5. Chapter 42, Clear Vision Areas.
 6. Chapter 44, Fences and Screening of Storage Areas.
 7. Chapter 46, Off-street Parking and Loading.
 8. Chapter 48, Access.
 9. Chapter 52, Signs.
 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of chapter 55, Development Review apply to all uses except detached single family dwellings.

18.000 NEIGHBORHOOD COMMERCIAL, NC

18.010 PURPOSE

The purpose of the neighborhood commercial zone is to provide for convenience goods and services within a cluster of stores. Convenience goods are goods which are bought frequently, at least weekly and for which people do not engage in comparison shopping. The range of uses is limited to those uses which can be supported by a limited trade area. Uses in this district are intended to meet neighborhood needs as opposed to community wide needs. This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan.

18.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 18.030, is a use which requires no approval under the provision of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, section 18.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 18.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses in Structures.

2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

18.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Convenience grocery store.
2. Cultural exhibits and library services.
3. Postal Services.
4. Public safety facilities.
5. Public support facilities.
6. Utilities: minor.

18.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

18.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Sign, subject to the provisions of chapter 52.
2. Temporary use, subject to the provisions of chapter 35.

18.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Children's day care center.
2. Consumer repair services.
3. Convenience sales and personal services.
4. Food and beverage retail sales.
5. Financial, insurance and real estate services.
6. Garden store and nursery supply.
7. Medical and dental services.
8. Personal service facilities.
9. Professional and administrative services.
10. Utilities: major.

18.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following requirements are the requirements for uses within this zone:

1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
2. The average minimum lot width shall be 50 feet.
3. The average minimum lot depth shall not be less than 90 feet.
4. The minimum yard dimensions or minimum building setback area from the lot line shall be:
 - a. For a front yard, 25 feet;
 - b. For an interior side yard, 7½ feet;
 - c. For a side yard abutting a street, 15 feet; and
 - d. For a rear yard, 25 feet. However, where the use abuts a residential district, the setback distance of the residential zone shall apply and in addition, a buffer of up to 50 feet may be required.
5. The maximum lot coverage shall be 50 percent; however, the above requirements in this section may be modified for developments under the planned unit development provisions of chapter 24.
6. The maximum building height shall be two and one-half stories or 35 feet.

18.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

18.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including

permitted uses:

1. Chapter 34, Accessory structures.
 2. Chapter 36, Temporary Uses.
 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 4. Chapter 40, Building Height Limitations and Exceptions.
 5. Chapter 42, Clear Vision Areas.
 6. Chapter 44, Fences; Screening of Outdoor Storage.
 7. Chapter 46, Off-street Parking and Loading.
 8. Chapter 48, Access.
 9. Chapter 52, Signs.
 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of chapter 55, Development Review apply to all uses except detached single family dwellings.

19.000 GENERAL COMMERCIAL, GC

19.010 PURPOSE

The purpose of this zone is to provide for the concentration of major retail goods and services at centers. The intent is to provide for the provision of a variety of goods and services and for comparison shopping, to accomodate new businesses and employment opportunities, to promote a suitable mix of commercial uses, to contribute to community identity and to assure that the commercial development is scaled to blend with nearby residential areas, and that the residential areas are protected from noise, glare of lights, traffic congestion and other possible adverse effects. The trade area will vary and may extend outside the community. This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan.

19.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 19.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, section 19.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 19.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.

D. The following code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

19.030 PERMITTED USES

The following uses are uses permitted outright in this zone.

1. Agricultural sales.
2. Agricultural services.
3. Amusement enterprises.
4. Animal sales and services: grooming.
5. Building maintenance services.
6. Business equipment sales and services.
7. Business support services.
8. Communications services.
9. Consumer repair services.
10. Convenience sales and personal services.
11. Eating and drinking establishments.
12. Financial, insurance and real estate services.
13. Food and beverage retail sales.
14. General retail services.
15. Laundry services.
16. Lodge, fraternal and civic assembly.
17. Medical and dental services.
18. Parking facilities.
19. Participant sports and recreation: indoor.
20. Personal service facilities.
21. Professional and administrative services.
22. Public agency administration.
23. Public safety facilities.
24. Public support facilities.
25. Recycling.
26. Research services.
27. Transient lodging.

28. Utilities: minor.
29. Cultural exhibits and library services.
30. Postal services.

19.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

19.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS.

The following uses are allowed in this zone under prescribed conditions.

1. Multiple family units: as a mixed use in conjunction with commercial development, only above the first floor of the structure.
2. Animal sales and services: kennels, as prescribed with no exterior runs or storage.
3. Animal sales and services: veterinary (small animals), as prescribed with no exterior runs or storage.
4. Signs, subject to the provisions of chapter 52.
5. Temporary use, subject to the provisions of chapter 35.

19.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Children's day care center.
2. Automotive and equipment.
 - a. Cleaning.
 - b. Repairs, heavy equipment.
 - c. Repairs, light equipment.
 - d. Sales/rentals, heavy equipment.
 - e. Sales/rentals, light equipment.
 - f. Storage, recreation vehicles and boats.
3. Construction, sales and services.
4. Heliports.
5. Hospitals.
6. Light industrial, manufactured.
7. Light industrial, finished products.
8. Spectator sports facilities.
9. Vehicle fuel sales.

10. Utilities: major.
11. Wholesale storage and distribution.
 - a. Mini-warehouse.
 - b. Light.

19.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS.

- A. Except as may be otherwise provided by the provisions of this Code, the following requirements are the requirements for uses within this zone:
 1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
 2. The average minimum lot width shall be 50 feet.
 3. The average minimum lot depth shall not be less than 90 feet.
 4. Where the use abuts a residential district, the setback distance of the residential zone shall apply and in addition, a buffer of up to 50 feet may be required.
 5. The maximum lot coverage shall be 50 percent.
 6. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a low or medium density residential zone and three and one-half stories or 45 feet for any structure located 50 feet or more from a low or medium density residential zone.
- B. The requirements of 1 through 5 in Subsection A of this section may be modified for developments under the planned unit development provisions of Chapter 24.

19.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

19.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:
 - 1. Chapter 34, Accessory structures.
 - 2. Chapter 36, Temporary Uses.
 - 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 - 4. Chapter 40, Building Height Limitations and Exceptions.
 - 5. Chapter 42, Clear Vision Areas.
 - 6. Chapter 44, Fences; Screening of Outdoor Storage.
 - 7. Chapter 46, Off-street Parking and Loading.
 - 8. Chapter 48, Access.
 - 9. Chapter 52, Signs.
 - 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of chapter 55, Development Review apply to all uses except detached single family dwellings.

21.000 OFFICE - BUSINESS CENTER, OBC

21.010 PURPOSE

The purpose of this zone is to provide for groups of business and offices in centers, to accomodate the location of intermediate uses between residential districts and areas of more intense development, to provide opportunities for employment and for business and professional services in close proximity to residential neighborhoods and major transportation facilities, to expand the city's economic potential, to provide a range of compatible and supportive uses, and to locate office employment where it can support other commercial uses. The trade area will vary and may extend outside the community. This zone is intended to implement the policies and criteria setforth in the comprehensive plan.

21.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 21.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, section 21.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 21.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

21.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Business equipment sales and services.
2. Business support services.
3. Communications services.
4. Cultural exhibits and library services
5. Financial, insurance and real estate services.
6. Lodge, fraternal & civic assembly.
7. Medical and dental services
8. Parking facilities.
9. Participant sports & recreation: indoor
10. Personal services and facilities.
11. Postal services
12. Professional and administrative services.
13. Public safety facilities.
14. Public support facilities
15. Utilities: minor.

21.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Animal Sales and services: veterinary (small animals) as prescribed with no exterior runs or storage.
2. Multiple family units: as a mixed use in conjunction with commercial development, only above the first floor of the structure.
3. Signs, subject to the provisions of chapter 52.
4. Temporary use, subject to the provisions of chapter 35.

21.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Childrens day care center.
2. Convenience sales and personal services.
3. Food and beverage retail sales.
4. Heliports.
5. Research services.
6. Transient lodging.
7. Utilities: major.
8. Vehicle fuel sales.
9. Religious Assembly.

21.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS.

A. Except as may be otherwise provided by the provisions of this Code, the following requirements are the requirements for uses within this zone:

1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
2. The average minimum lot width shall be 35 feet.
3. The average minimum lot depth shall not be less than 90 feet.
4. The minimum yard dimensions or minimum building setback area from the lot line shall be:
 - a. For the front yard, 25 feet;
 - b. For an interior side yard, 7½ feet;
 - c. For a side yard abutting a street, 15 feet;
 - d. For a rear yard, 25 feet; however, where the use abuts a residential district, the setback distance of the residential zone shall apply and

- in addition, a buffer of up to 50 feet may be required.
5. The maximum lot coverage shall be 50 percent.
 6. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a low or medium density residential zone and three and one-half stories or 45 feet for any structure located 50 feet or more from a low or medium density residential area.
- B. The requirements of 1 through 5 in Subsection A of this section may be modified for developments under the planned unit development provisions of Chapter 24.

21.080 DIMENSIONAL REQUIREMENTS CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

21.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses:
1. Chapter 34, Accessory structures.
 2. Chapter 36, Temporary Uses.
 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 4. Chapter 40, Building Height Limitations and Exceptions.
 5. Chapter 42, Clear Vision Areas.
 6. Chapter 44, Fences; Screening of Outdoor Storage.
 7. Chapter 46, Off-street Parking and Loading.
 8. Chapter 48, Access.
 9. Chapter 52, Signs.
 10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of chapter 55, Development Review apply to all uses except detached single family dwellings.

22.000 CAMPUS INDUSTRIAL, CI

22.010 PURPOSE

The purpose of the Campus Industrial zoning district is to provide a mix of clean, employee-intensive industries, offices, and retail commercial uses which have no off-site impacts in terms of noise, odor, glare, lights, vibration, smoke dust or other types of off-site impacts. The zone provides for combining parking, landscaping and other design features and which physically and visually link structures and uses within one development.

22.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 22.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, sections 22.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 22.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses in Structures.
 - 2. Chapter 66, Non-conforming Structures.
 - 3. Chapter 67, Non-conforming Uses of Land.
 - 4. Chapter 68, Lots of Record.
 - 5. Chapter 75, Variances.

22.030 PERMITTED USES

The following uses are uses permitted outright in this zone.

1. Research services.
2. Manufacturing of finished products provided that:
 - a. The use is employee-intensive, providing approximately 15 or more jobs for every developed acre of land.
 - b. The use is not of a type or intensity which produces odor, smoke, fumes, noise, glare, heat or vibrations which are incompatible with other primary uses allowed in this district.
 - c. The physical and operational requirements of the use, including type of structure used and volume of heavy traffic generated, are similar to other industrial and office uses allowed in this district.
3. Business support services.
4. Personal service facilities primarily serving the business community within the area.
5. Corporate headquarters or regional offices with 50 or more employees.
6. Offices, except corporate headquarters or regional offices allowed under 22.030(5) above, and those offices specified as limited uses under 22.050B may occupy upto 70 percent of the total floor area of the development.
7. Participant sports and recreation: inodoor and outdoor developed to serve primarily the recreational needs of residents and employees of the district.

22.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34 and include among other uses the following.

1. Public support facilities.
2. Building maintenance facilities.
3. Recycling collection centers provided that any storage of material shall be within an enclosed structure.
4. Children's day care.
5. Utilities: minor.

22.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

- A. The following uses are allowed on a limited basis as part of the development of this district when developed concurrently with or after the primary uses, subject to the provisions of 22.050B.
 1. Convenience sales and personnel services.
 2. Banks.
 3. Medical and dental services.
 4. Bars and cocktail lounges in conjunction with a restaurant.
 5. Drive-thru window service in conjunction with uses in 22.050B and including restaurants, may be allowed.
- B. Limitations and conditions on the development of the uses in 22.050A shall be as follows.
 1. The total combined floor area occupied by all the listed uses shall not exceed 10 percent of the total floor area occupied by the permitted use. Formula: $.10 \times \text{permitted floor area} = \text{listed use floor area}$.
 2. All listed uses shall be located, arranged and integrated within the development to serve primarily the shopping and service needs of employees of the district.
 3. No outdoor storage of materials associated with the listed use shall be allowed.
 4. Uses shall not be of a type or intensity which produce odor, smoke, fumes, noise, glare, heat or vibrations, which are incompatible with associated permitted uses in the area.
 5. All listed uses shall comply with the dimensional and development standards under 22.060 and 22.080.

- C. The following uses are allowed in this zone under prescribed conditions.
1. Sign, subject to the provisions of chapter 52.
 2. Temporary use, subject to the provisions of chapter 35.
 3. Water dependent uses, subject to the provisions of chapters 28, 30 and 34.

22.060 CONDITIONAL USES

- A. The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use, and , in addition, the proposed use:
1. Will have minimal adverse impact on the appropriate development of permitted uses on abutting properties and the surrounding area considering location, size, design and operating characteristics of the use.
 2. Will not create offensive odor, dust, smoke, fumes, noise, glare, heat or vibrations which are incompatible with permitted uses allowed in this zone.
 3. Will be located on a site occupied by a permitted use or a use permitted under prescribed conditions or, if separate, in a structure which is compatible with the character and scale of uses allowed within the district, and on a site no larger than necessary for the use and operational requirements of the use.
 4. Will provide vehicular and pedestrian access, circulation, parking and loading areas which are compatible with similar facilities for uses on the same site or adjacent sites.
- B. Uses allowed subject to the above conditions are:
1. Hotels, motor lodges, and associated convention facilities.
 2. Heliports.
 3. Retail and service commercial uses.

22.070 DIMENSIONAL REQUIREMENTS FOR USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS.

- A. The purposes of these requirements and limitations are to:
1. Encourage coordinated development, and the most efficient and maximum use of Campus Industrial districts.
 2. Provide for adequate structure separation to ensure air and light access and fire safety and protection for all

3. Provide for a compatible mix of uses supportive of public transportation facilities.
 4. Provide for the protection of adjacent properties.
 5. Provide for open space and outdoor activity areas.
- B. Site Area Requirements. A site area for purposes of this section shall be the total land area to be developed as a unit, prior to the creation of any new parcels or lots within the land area. A site area may be either of the following.
1. A single tax lot, or two or more contiguous tax lots, under the same ownership.
 2. Two or more contiguous tax lots under separate ownership, provided that:
 - a. All individual property owners are members of a group formed for the purpose of developing the properties as a single planned development; or
 - b. All individual tax lot ownerships are converted into development shares prior to any building permit being issued for the project; or
 - c. The owners shall record, in the office of the City Recorder, a contract in which all owners agree to subject the use and development of individual tax lots or ownerships to the development plan for the site area as approved by the City. No permit shall be issued on any separate tax lot or ownership for any structure or use not indicated on the City approved development plan for the site area.
- C. Minimum Site Area Size Requirements.
1. Developments which include uses under at least two of the permitted use categories under 22.030, shall require a minimum site area of three acres.
 2. Developments which include only uses under 22.030 (1) through (5), and accessory uses, shall require a minimum site area of two acres.
 3. Developments which include only uses under 22.030(7) shall require a minimum site area of one acre.

- D. **Undersized Lots:** Any permitted use under 22.030, and accessory uses, may be established on a lot smaller than the minimum site area requirements which is physically separated from all other undeveloped or underdeveloped properties in this district, or which is approved as a Conditional Use under 22.060. Uses under 22.050 shall not be included in undersized lot developments.
- E. **Floor Area Ration:** The maximum floor area for all permitted and conditional uses within a site area shall not exceed the net site area multiplied by one (1:1).
- F. **Floor Area Requirements:** Any permitted use or combination of permitted uses under 22.030 may be allowed within a development in this district at floor area percentages, excluding accessory uses, not exceeding those illustrated on the following table.

FLOOR AREA LIMITATIONS FOR PERMITTED USE CATEGORIES UNDER 22.030

1,2,3,4,&5	6	7
100%	70%	100%

Limited uses: Only permitted use floor area may be included for purposes of calculating the allowed limited use floor area for development.

- G. The requirements under 22.070 above may be modified or waived by the Director pursuant to the provisions of 99.060. Approval shall not be granted, unless the applicant provides evidence substantiating conditions 1-3, or 4, below:
1. The modification or waiver is consistent with the purposes under 22.070; and
 2. The need for the use for which additional floor area is requested is at least as great as the need for other compatible permitted uses allowed in this district; and
 3. The proposed use, and locaton of the use, is compatible with, and complementary to existing or proposed developments within the district area; or
 4. A substantial mix of permitted uses has been established within the immediate district area to the extent that all permitted use categories under 22.030 are represented.

- H. Lot Coverage: The maximum lot coverage for all structures shall be 55 percent of the net site area, after any required dedications for roadway purposes. A minimum of 25 percent of the development site area shall be used for landscaping, natural areas or outdoor recreational use areas.
- I. Minimum Perimeter Setback: Fifteen feet.
1. The following uses may be allowed within a perimeter setback area which fronts on a public road:
 - a. Landscaping;
 - b. Bikeways, trails, pedestrian walks and plazas;
 - c. Access driveways;
 - d. Bus shelters and other pedestrian amenities, and
 - e. Identification signs.
 2. The following uses may be allowed within perimeter setback areas which are adjacent to other site areas:
 - a. Landscaping;
 - b. Bikeways, trails, pedestrian walks, patios, courts;
 - c. On-site directional signs;
 - d. Coordinated joint-use circulation drives, parking, loading, recreational activity areas, plazas; and
 - e. Coordinated joint-use structures, subject to provisions of the Uniform Building Code.
- J. Minimum Street Frontage: Fifty feet.
- K. Maximum Building Height: The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a residential zone and three and one-half stories or 45 feet for any structure located 50 feet or more from a residential zone.
- L. Corner Vision: No sight-obscuring structures or plantings exceeding 30 inches in height shall be located within a 20 foot radius of the lot corner nearest the intersection of two public roads, or from the intersection of a private driveway or easement and a public road. Trees located within a 20 foot radius of any such intersection shall be maintained to allow 10 feet of visual clearance below the lowest hanging branches.
- M. Exceptions to Dimensional Requirements: The requirements for lot

coverage, perimeter setback, street frontage and corner vision may be modified in the design review process pursuant to staff review with notice under 99.080. Approval shall not be granted unless:

1. The criteria under 75.000 for variances are satisfied; and
2. The purposes set forth under 22.070A are addressed and satisfied in the proposed design of the development.

22.080 DEVELOPMENT STANDARDS

All development within this district is subject to the review procedures and application requirements under 55.000. In addition, the following specific standards, requirements, and objectives shall apply to all development in this district:

- A. Building Siting and Design: The design and siting of structures in this district shall comply with the following.
 1. Particular attention shall be given to the siting and design of all structures, and portions thereof, which may be viewed by the public from inside and outside the development.
 2. When more than one permitted use is to be included in a site area, structures and uses shall be arranged and clustered to maximize opportunities for shared circulation, parking, loading, pedestrian walkways and plazas, recreation areas, transit-related facilities, and day and night surveillance.
- B. Access and On-Site Circulation: In addition to the provisions of 48.000, the location, design and development of on-site circulation shall:
 1. Provide, as appropriate, joint access and circulation drives through and between developments.
 2. Provide continuous pedestrian and bicycle access to permitted, accessory, and uses permitted under prescribed conditions within and between developments, and conveniently located bicycle storage to service the various uses.
 3. Provide on-site directional signing identifying the location of all uses within the development.
 4. Minimize barriers to handicapped and elderly persons.
- C. Parking and Loading Requirements: The provisions of 46.000 shall apply, except as modified to address the following objectives.
 1. Locate parking areas to maximize the potential for shared parking between on and off site complementary uses, as

provided under 46.000.

2. Encourage the provision of priority parking spaces convenient to the building entrances for employee carpool vehicles.
 3. Maximize the joint use of truck loading and maneuvering areas between on site and adjacent off site complementary uses.
 4. Locate necessary commercial or recreational vehicle storage in areas which are generally inappropriate for permitted use parking, and buffer such areas from residential uses. No parking or loading space required under 46.000 shall be used for storing a commercial or recreational vehicle.
- D. Landscaping: A minimum of 25 percent of the developed site area shall be used for landscaping. The design and development of landscaping in this district shall:
1. Enhance the appearance of the site internally and from a distance.
 2. Include street trees and streetside landscaping. (Trees and ground cover shall be selected from those recommended in the adopted design plan, as applicable.)
 3. Provide an integrated open space and pedestrian way system within the development with appropriate connections to surrounding properties.
 4. Include, as appropriate, a bikeway, pedestrian walkway or jogging trail.
 5. Provide buffering or transitions between uses.
 6. Encourage outdoor eating areas conveniently located for use by employees.
 7. Encourage outdoor recreation areas appropriate to serve all the uses within the development.
- E. Fences: Periphery fences shall not be allowed within this district. Decorative fences or walls may be used to screen service and loading areas, private patios or courts. Fences may be used to enclose playgrounds, tennis courts, or to secure sensitive areas or uses, such as vehicle storage areas or drainage detention facilities. Fences shall not be located where they impede pedestrian or bicycle circulation through or between site areas.

- F. Signs: One free standing or ground mounted sign may be provided for a development pursuant to chapter 52.
- G. Outdoor Storage: No outdoor storage of materials shall be allowed within this district.
- H. The requirements of A through G of this section may be modified for developments under the planned unit development provisions of chapter 24.

22.090 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by 22.070, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in 60.070 (1) and (2).

22.100 OTHER APPLICABLE DEVELOPMENT STANDARDS

- A. The following standards apply to all development including permitted uses.
 - 1. Chapter 34, Accessory structures.
 - 2. Chapter 36, Temporary Uses.
 - 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
 - 4. Chapter 40, Building Height Limitations and Exceptions.
 - 5. Chapter 42, Clear Vision Areas.
 - 6. Chapter 44, Fences; Screening of Outdoor Storage.
 - 7. Chapter 46, Off-Street Parking and Loading.
 - 8. Chapter 48, Access.
 - 9. Chapter 52, Signs.
 - 10. Chapter 54, Installation and Maintenance of Landscaping.
 - 11. Chapter 55, Development Review.

23.000 GENERAL INDUSTRIAL, GI

23.010 PURPOSE

The purpose of this zone is to provide for manufacturing, processing and assembling uses which are of a size and scale which makes them generally incompatible with other adjoining non-industrial uses. The uses included in this zone are generally characterized by large buildings and large storage areas and have off-site effects from smoke, odor, noise, dust, lights or other externalities. The zone is intended to implement the policies and location criteria in the Comprehensive Plan.

23.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, section 23.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of chapter 80.
- B. A use permitted under prescribed conditions, section 23.030, is a use for which approval will be granted provided all the conditions are satisfied; and
 - 1. The Planning Director shall make the decision in the manner provided by 99.060A2, Administrative Procedures, except that no notice shall be required; and
 - 2. The decision may be appealed by the applicant to the Planning Commission as provided by section 99.240A.
- C. A conditional use, section 23.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of chapter 80.
- D. The following code provisions may be applicable in certain situations:
 - 1. Chapter 65, Non-conforming Uses in Structures.
 - 2. Chapter 66, Non-conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

23.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Agricultural sales & services.
2. Animal sales & services:
 - a. Kennels.
 - b. Veterinary: small & large animals.
3. Automotive & equipment:
 - a. Cleaning.
 - b. Fleet storage.
 - c. Repairs, Light & heavy equipment.
 - d. Sales/rentals, light & heavy equipment.
 - e. Storage, recreational vehicles & boats.
4. Construction sales & services.
5. Laundry services.
6. Manufacturing of products:
 - a. From raw materials.
 - b. From previously prepared materials.
7. Packaging & processing.
8. Postal service.
9. Public safety facilities.
10. Public support facilities.
11. Research services.
12. Scrap operations: recycling collection center.
13. Utilities: minor & major.
14. Wholesale, storage & distribution.
 - a. Mini-warehouse.
 - b. Light.
 - c. Heavy.

23.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by chapter 34.

23.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Sign, subject to the provisions of chapter 52.
2. Temporary use, subject to the provisions of chapter 35.
3. Water dependent uses, subject to the provisions of chapter 28, 30 and 34.

23.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of chapter 60, Conditional Use.

1. Heliport.

23.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

A. Except as may be otherwise provided by the provisions of this code, the following requirements are the requirements for uses within this zone:

1. The minimum front lot line length of the minimum lot width at the front lot line shall be 50 feet.
2. The average minimum lot width shall be 50 feet.
3. The average minimum lot depth shall not be less than 90 feet.
4. Where the use abuts a residential district, the setback distance of the residential zone shall apply and in addition, a buffer of up to 50 feet may be required.
5. The maximum lot coverage shall be 50 percent.
6. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 100 feet of a residential zone and three and one-half stories or 45 feet for any structure located 100 feet or more from a residential zone.

B. The requirements of 1 through 5 in Subsection A of this section may be modified for developments under the planned unit development provisions of Chapter 24.

23.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in section 60.070 (1) and (2).

23.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory structures.
2. Chapter 36, Temporary Uses.
3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
4. Chapter 40, Building Height Limitations and Exception.
5. Chapter 42, Clear Vision Areas.
6. Chapter 44, Fences; Screening of Outdoor Storage.
7. Chapter 46, Off-street Parking and Loading.
8. Chapter 48, Access.
9. Chapter 52, Signs.
10. Chapter 54, Installation and Maintenance of Landscaping.

B. The provisions of chapter 55, Development Review apply to all uses except detached single family dwellings.

OVERLAY ZONES

24.000 PLANNED UNIT DEVELOPMENT

24.010 PURPOSE

The purpose of the Planned Unit Development overlay zone is to provide a means for creating planned environments:

- A. To produce a development which would be as good or better than that resulting from traditional lot by lot development.
- B. To preserve to the greatest extent possible the existing landscape features and amenities through the use of a plan that relates the type and design of the development to a particular site.
- C. To correlate comprehensively the provisions of this title, all applicable plans, resolutions and ordinances, to encourage developments which will provide a desirable and stable environment in harmony with that of the surrounding area.
- D. To allow flexibility that will encourage a more creative approach in the development of land, and will result in a more efficient, aesthetic and desirable use of open areas.
- E. To allow flexibility in design, placement of buildings, use of open spaces, circulation facilities, off-street parking areas, and to best utilize the potentials of sites characterized by special features of geography, topography, size and shape.
- G. To allow a mixture of densities between zoning districts and plan designations when more than one district or designation is included in the development.

24.020 ADMINISTRATION AND APPROVAL PROCESS

- A. The Planned Unit Development (PUD) zone is an overlay zone and a preapplication conference is a precondition to the filing of an application.
- B. The application shall be filed by the owner of record or authorized agent.
- C. Action on the application shall be as provided by the Administrative Procedures Chapter, 99.06B and the following:

1. Unless otherwise provided by this code, the Planning Commission shall hold a public hearing and approve, approve with conditions or deny the application based on findings related to the applicable criteria set forth in 99.110 and section 24.180.
 2. A decision by the Planning Commission may be reviewed by the Council as provided by section 24.240B.
- D. Within one year after the date formal approval is given, the owner shall prepare and file with the Planning Director, a Final Development Plan, unless otherwise provided as a part of the approval of the Tentative Development Plan.
- E. Action on the Final Development Plan shall be administrative and taken by the Planning Director.

24.030 EXPIRATION OF APPROVAL

- A. If no substantial construction has occurred within two years from the date of approval of the Final Development Plan, the Planning Director shall schedule a public hearing before the Planning Commission to determine the questions of whether continuation of approval, in whole or in part, is in the public interest.
- B. The Commission may approve an extension of time up to two years, approve the extension of time subject to modifications and conditions, or deny the extension of time.
- C. The decision shall be based on findings related to:
1. A change or absence of change in the facts on which the approval was based; and
 2. A change or absence of change in the policies and ordinance provisions on which the approval was based.
- D. The decision may be reviewed by Council as provided by 99.240B.

24.040 NON COMPLIANCE - BOND

- A. Non-compliance with an approved Final Development Plan shall be a violation of this chapter.
- B. The development shall be completed in accordance with the approved Final Development Plan including landscaping and recreation areas before any occupancy permit will be issued, except that when the Planning Director determines that immediate execution of any feature of an approved Final Development Plan is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director

shall as a precondition of the issuance of a required permit, require the posting of a performance bond, or other surety, to secure execution of the feature at a time certain not to exceed one year.

24.050 APPLICABILITY OF ZONE AS CONDITION OF APPROVAL

An approval authority may apply the provisions of this chapter as a condition of approving any application for a commercial or industrial development.

24.060 STAGED DEVELOPMENT

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of 99.125.

24.070 AREA OF APPLICATION

- A. Planned Unit Developments may be established in residential districts on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of this section.
- B. All residential developments shall be developed as Planned Unit Developments whenever one of the following criteria apply:
 - 1. Any development site composed of more than twenty five percent (25%) of Type I or Type II lands as defined by the Comprehensive Plan shall be developed as a Planned Unit Development.
 - 2. More than twenty percent of the dwelling units are to be attached or common wall.
 - 3. A large area is specifically identified by the Planning Commission as needing greater design flexibility, increased open space, or a wider variety of housing types.

24.100 APPLICABILITY AND ALLOWED USES

Subject to the provisions of section 24.080, 24.070 and 24.090, the Planned Unit Development overlay zone may be applied to:

- A. The R-20, R-15, R-10, R-7.5, R-5, R-4.5 and R-2.1 Zones.
 - 1. In addition to the uses allowed outright in the underlying zone the following uses shall be allowed outright where all other applicable standards are met.
 - a. Single family, duplex, attached housing and multiple family housing.
 - b. Community buildings.
 - c. Indoor recreation facility, athletic club, fitness center,

racquet ball court, swimming pool, tennis court or similar use.

d. Outdoor recreation facility, golf course, swimming pool, tennis court or similar use.

e. Recreation vehicle storage area.

2. Any commercial uses listed under the neighborhood commercial zone (NC) shall be allowed in the manner provided by the base zone and in addition the applicant must prove;
- a. The uses are for the purpose of serving the residents of the proposed development; and
 - b. There is a need for the type and amount of commercial space. A market analysis may be required.

B. The NC, GC, OBC, CI and GI zones and the uses allowed shall be in the manner prescribed by the base zone.

24.110

RESIDENTIAL DENSITY

A. The following standards shall apply to the density of residential portions of the planned unit development.

1. Density may be transferred on the site and for the purposes of determining the allowed residential density, the density provisions and limitations set forth in Chapter 33 shall apply.

2. The permitted number of dwelling units may be increased up to twenty eight percent (28%) above those computed under subsection 1. above based on a finding of the Planning Director that the Density Bonus credits have been satisfied as set forth in the following section which:

a. Allows additional units upto the maximum indicated on the Density Bonus Chart when a development furthers the policies indicated. Development features which further these policies include but are not limited to:

- (1) Lot configurations or east-west street patterns which allow for maximum solar orientation for housing units.
- (2) Minimal road lengths and utility runs resulting from clustering of lots or units.
- (3) Utilizing solar heating potentials (active or passive)

in building orientation and architectural features.

- (4) Use of plant materials or natural features to divert prevailing winter winds and reduce summer solar impact.
- (5) Use of waste heat from industrial, office or commercial uses on the same site or within the same structure.
- (6) Other energy related siting and building design techniques.

b. Site Planning and Design Excellence: Allows additional units up to the maximum indicated on the chart when excellence in site planning and building design is demonstrated with respect to neighborhood compatability, recreation space, security and crime prevention and livability of on-site environment, as determined by the Design Review Board. Examples of quality design features which may be used to address the foregoing include, but are not limited to:

- (1) Maximum retention and integration of natural features into site design.
- (2) Street tree plantings.
- (3) Underground or understructure parking to decrease impervious surfaces and increase recreation and open space areas.
- (4) Well designed and located recreational amenities for different age groups.
- (5) Superior landscape design including use of decorative paving materials to define spaces, provision of seating areas, and use of interesting land forms and landscape materials.
- (6) Use of interesting architectural features such as gazebos, trellises, fences or walls, materials, colors and textures which create a visually attractive and inviting outdoor environment.
- (7) Aesthetic treatment and integration into site design of natural surface drainage channels or detention facilities.

- (8) Use of flexible lot size provisions to preserve natural features and protect neighboring properties.
 - (9) Integration of well articulated pedestrian/bikeway path systems connecting various areas of the development including open space, and providing off-street access to adjacent compatible uses.
- B. The City shall encourage and assist in the accumulation of bonus density developments. The final density allowed will depend on the following factors.
 - 1. The amount of density allowed will include any partial figure of one half or greater resulting from adding the percentage increase to the base density shall be rounded up to the next figure.
 - 2. Development constraints of the site area: The development shall be subject to all applicable development standards of this ordinance. The Planning Director may recommend that the proposed design of the development be modified to insure that development standards are satisfied. Modifications of design may include, but are not limited to the following.
 - a. Reduction in building coverage.
 - b. Clustering of buildings.
 - c. Redesign of parking or street layout.
 - d. Use of parking structures or parking under units.
- C. Applicant's choice on site design, especially where maximum potential density can be achieved only by transferring of dwelling units, multi-story construction or reduction in size of units.
- D. Maximum Density: The full maximum potential density will be allowed when the development standards are fully satisfied and the density does not exceed the density allowed in the next highest residential Comprehensive Plan category.

2. Development constraints of the site area: The development shall be subject to all applicable development standards of this ordinance. The Planning Director may recommend that the proposed design of the development be modified to insure that development standards are satisfied. Modifications of design may include, but are not limited to the following.

24.115 BONUS DENSITY CHART

<u>Bonus Category</u>	LOW DENSITY % of increase <u>(R-20,15,10, & 7.5)</u>	MEDIUM DENSITY % of increase <u>(R-5 & 4.5)</u>	HIGH DENSITY % of increase <u>(R-2.1)</u>
1. <u>Low-Cost Housing</u> Living units qualifying & approved for housing for lower income families, elderly or handicapped under a federal, state or local program.	5% (one unit per assisted housing unit)	8%	8%
2. <u>Common wall units</u> : One bonus unit shall be allowed for every four common-wall units, up to a maximum bonus of 5%.	5%	n/a	n/a
3. <u>Park Dedication</u> : Improved site area is dedicated and accepted by the City or other public agency, as usable, accessible park land.	5%	8%	4%
4. <u>Energy Conservation</u> : The development satisfies the criteria for energy efficiency and conservation pursuant to 24.110.	2½%	8%	8%
5. <u>Design Excellence</u> : The development satisfies the criteria for exceptional design, pursuant to 24.110.	7½%	8%	8%
MAXIMUM TOTAL % BONUS INCREASE	25%	32%	28%

24.120 APPLICABILITY OF THE BASE ZONE PROVISIONS

The provisions of the base zone are applicable as follows:

- A. Lot dimensional standards. The minimum lot size and lot depth and lot width standards do not apply except as related to the density computation under chapter 33.
- B. Lot coverage. The lot coverage provisions of the base zone shall apply.
- C. Building height. The building height provisions shall apply.
- D. Structure Set back Provisions.
 - 1. Front yard and rear yard set backs for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by chapter 33, the base zone or chapter 55.
 - 2. The side yard set back provisions shall not apply except that all detached structures shall maintain a minimum side yard setback of three (3) feet or meet the Uniform Building Code requirement for fire walls.
 - 3. Front yard and rear yard setback requirements in the base zone setback shall not apply to structures on the interior of the project except that:
 - a. A minimum front yard setback of twenty (20) feet shall be required for any garage structure which opens facing a street.
- E. All other provisions of the base zone shall apply except as modified by this chapter.

24.130 APPLICABILITY OF DEVELOPMENT REVIEW CHAPTER

The provisions of chapter 55 as provided by 55.050 shall apply to all uses except detached single family residential dwellings.

24.140 THE APPLICATION - THE TENTATIVE DEVELOPMENT PLAN

- A. An application for a Planned Unit Development shall be initiated by the property owner or the owners authorized agent.
- B. A preapplication conference shall be a prerequisite to the filing of an application.
- C. The applicant shall submit a completed application together with 15 copies of each of the following except for each drawing submitted, there shall be eight copies at the original

scale and seven copies reduced to a paper size not greater than 11 by 17 inches.

1. A Tentative Development Plan including the following:
 - a. A Site Analysis, 24.190.
 - b. A Site Plan, 24.200.
 - c. A Grading Plan, 24.210.
 - d. A Landscape Plan, 24,220.
 - e. A Sign Plan, 24.230.
 2. A narrative based on the standards contained in this ordinance which supports any requested exceptions as provided under section 24.240.
 3. A program element which shall contain the following information:
 - a. A table showing the total number of acres, the distribution by use, the percentage designated for each dwelling type and for non-residential uses such as off-street parking, streets, parks, schools, open space, recreation area, commercial uses and public facilities.
 - b. A table showing the overall density of the residential developments and density by dwelling types.
 - c. The time and staging schedule for the initial construction and the completion of each phase.
- D. The applicant shall submit drafts of the proposed restrictive covenants, property owners agreements, deeds, easements and reservations of public open space not dedicated to the city.
- E. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- F. The applicant shall pay the requisite fee.

24.150 APPLICATION FOR APPROVAL OF A TENTATIVE SUBDIVISION

If the PUD application involves the subdivision of land, as defined by the Land Division Code, the applicant shall prepare and submit a Tentative Subdivision Plan to be considered concurrently with the PUD application.

24.160 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

- A. The Planning Director may required additional information as part of the application subject to the provisions of 99.035 A.
- B. The Planning Director may waive any requirements for the application subject to the provisions of 99.035 B and C.

24.170 PREAPPLICATION CONFERENCE

- A. All applicants shall participate in a preapplication conference prior to the submission of a tentative development plan.
- B. The Director shall explain all the applicable policies, ordinance provisions, opportunities and constraints which may be applicable to the site and type of proposed development.
- C. The following subjects shall be reviewed at the preapplication conference:
 - 1. The existing site conditions and factors which must be considered; for example:
 - a. The parcel's location and size, the comprehensive plan, zoning, and other possible and applicable ordinance provisions.
 - b. The proposed use and types of adjacent land uses and the opportunities for shared use such as parking or for the need for buffers or sound barriers.
 - c. The natural features on the site; topography, drainage courses, vegetation and soil conditions and stability as these features relate to plan policies and ordinance provisions and the site development plan.
 - d. The availability of utilities.
 - e. The site access and potential traffic problems.
 - f. The availability of transit, capacity of the road system and existence of plans for bicycle and pedestrian ways.
 - g. Existing or potential noise sources.
 - 2. The intent of this ordinance with respect to the various requirements.
 - 3. Conditions placed on previous applications.

The Planning Commission shall make findings on the following criteria when approving, approving with conditions or denying an application.

- A. All the provisions of the Land Division provisions, chapters 85, et seq shall be met.
- B. The provisions of the following chapters shall be met:
 - 1. Chapter 33, Density Computation and Limitations
 - 2. Chapter 34, Accessory Structure
 - 3. Chapter 38, Additional Yard Area Required
 - 4. Chapter 40, Building Height Limitations and Exceptions
 - 5. Chapter 42, Clear Vision Areas
 - 6. Chapter 44, Fences and Screening Outdoor Storage
 - 7. Chapter 46, Off-street Parking and Loading
 - 8. Chapter 48, Access
 - 9. Chapter 52, Signs
- C. Relationship to the natural and physical environment.
 - 1. The streets, buildings and other site elements shall be designed and located to preserve the existing trees, topography, and natural drainage to the greatest degree possible.
 - 2. The structures shall not be located in areas subject to slumping and sliding.
 - 3. There shall be adequate distance between on site buildings and other onsite and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection.
 - 4. The structures shall be oriented with consideration for the sun and wind directions, where possible.
 - 5. Trees having a six(6) inch caliper at five (5) feet in height, shall be saved, where possible.
- D. Buffering between uses.

In addition to the compatibility requirements contained in 33.060 buffering shall be provided between different types of land uses (for example, between single family and multiple family residential and residential and commercial); and the following factors shall be considered in determining the adequacy of the type and

extent of the buffer:

1. The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust or to provide a visual barrier.
2. The size of the buffer needed in terms of width and height to achieve the purpose.
3. The direction from which buffering is needed.
4. The required density of the buffering.
5. Whether the viewer is stationary or mobile.

E. Privacy and noise.

1. Structures which include attached residential dwelling units shall provide private outdoor areas for each ground floor unit. The private outdoor space shall be screened from view by adjoining units on the same level.
2. Non-residential structures which abut existing residential dwellings shall be located on the site or be designed in a manner, to the maximum degree possible, to protect the private areas on the adjoining properties from view and noise.

F. Private Outdoor Area

1. In addition to the requirements of Subsection E. each ground level residential dwelling unit shall have an outdoor private area (patio, terrace, porch) of not less than forty-eight (48) square feet.
2. The outdoor space shall be oriented towards the sun where possible.
3. The area shall be screened or designed to provide privacy for the users of the space.

G. Shared or Private recreation areas.

1. In addition to the requirements of subsection E. and the requirements of subsection F of this section usable recreation space shall be provided in residential developments for each unit or for the shared or common use of all the residents in the following amounts:
 - a. Studio units up to and including two bedroom units; 200 square feet per unit.
 - b. Three or more bedroom units; 300 square feet per unit.

2. The required recreation space may be provided as follows:
 - a. It may be all outdoor space; or
 - b. It may be part outdoor space and part indoor space; for example, an outdoor tennis court and indoor recreation room; and
 - c. It may be all public or common space; or
 - d. It may be part common space and part private; for example. it could be an outdoor tennis court, indoor recreation room and balconies on each unit; and
 - e. Where balconies are added to units, the balconies shall not be less than forty-eight (48) square feet.
3. The shared space shall be readily observable for reasons of crime prevention and safety.

H. Landscaping and Open space

1. Residential Development. In addition to the requirements of 24.180F and G, a minimum of 15 percent of the site shall be landscaped.
2. Non-Residential Development. A minimum of 15 percent of the site shall be landscaped.

I. Access and Circulation

In addition to the provisions of chapter 42, Clear Vision areas and chapter 48, Access:

1. The number of access points, multiple family and non-residential uses, shall be determined by the lot size; vehicle turn over rate; and relationship with adjoining streets.
2. The circulation pattern shall be clear to facilitate emergency vehicles.
3. Provisions shall be made for pedestrian and bicycle ways if such facilities are shown on the Comprehensive Plan.

J. Public Transit.

1. Provisions for public transit may be required where the site abuts a public transit route. The required facilities shall be based on:
 - a. The location of other transit facilities in the area;
 - b. The size and type of the proposed development.
2. The required facilities shall be limited to such facilities as:
 - a. A waiting shelter;
 - b. A turn-out area for loading and unloading; and
 - c. Hardsurface paths connecting the development to the waiting area.

K. Signs

In addition to the provisions of Chapter 52, 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 and 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.

24.190 THE SITE ANALYSIS

- A. The site analysis shall include:
 1. A vicinity map showing the location of the property in relation to adjacent properties, roads, pedestrian and bike-ways, transit stops and utility access.
 2. A site analysis on a drawing at a suitable scale (in order of preference, 1" = 100' to 1" = 200') which shows:
 - a. The parcel boundaries, dimensions and gross area;
 - b. Contour lines at the following minimum intervals:
 - (1) Two foot intervals for slopes from 0-25%; and
 - (2) Five foot intervals from slopes over 25%.
 - c. A slope analysis which identifies portions of the site according to the slope ranges as follows:
 - (1) 0-5%;
 - (2) 5-10%;
 - (3) 10-15%;
 - (4) 15-25%;
 - (5) 25-35%;
 - (6) 35% or greater slopes. Approximate calculations may be made for areas in excess of 35%.
 - d. The drainage patterns and drainage courses on the site and on adjacent lands.
 - e. Potential natural hazard areas including:
 - (1) Flood plain areas;
 - (2) Areas subject to a high water table;
 - (3) Landslide areas; and
 - (4) Areas having a high erosion potential.
 - f. Resource areas including:
 - (1) Marsh and wetland areas; and
 - (2) Wildlife habitat areas identified by the city in its comprehensive plan.

- g. The site features including:
 - (1) Large rock outcroppings;
 - (2) Areas having unique views;
 - (3) Streams and stream corridors.
 - h. The location of trees having a 6" caliper at 5 feet and where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be submitted and only those trees that will be affected by the proposed development need to be sited accurately.
 - i. The location and type of noise sources.
 - j. The direction of sun and wind.
 - k. Identification information including the name and address of the owner, developer and project designer, and the scale and north arrow.
- B. Where the site is subject to land slides or other potential hazard or the site is composed of more than twenty-five percent Type I and Type II lands as described in the Comprehensive Plan, a soils and engineering geologic study based on the proposed project shall be submitted which shows the area can be made suitable for the proposed development.

24.200 THE SITE PLAN

- A. The site plan shall be at the same scale as the site analysis, 24.190 and shall show the following:
- 1. The applicant's entire property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development and adjacent property and development.
 - 2. Boundary lines and dimensions for the perimeter of the property and the dimensions for all proposed lot lines, section lines, corners and monuments.
 - 3. The location of at least one temporary benchmark and contours as provided by 24.190(A) (2) (b).
 - 4. Identification information, including the name and address of the owner, developer and project designer, and the scale and north arrow.
 - 5. The location, dimensions and names of all:
 - a. Existing and platted streets and other public ways and easements on adjacent property and on the site;

- b. Proposed streets or other public ways, easements on the site.
- 6. The location, dimensions and set back distances of all:
 - a. Existing structures, improvements, utility and drainage facilities on adjoining properties.
 - b. Existing structures, improvements, utility and drainage facilities to remain on the site.
 - c. Proposed structures, improvements, utility and drainage facilities on the site.
- 7. The location and dimensions of:
 - a. The entrances and exits to the site;
 - b. The parking and circulation areas;
 - c. Pedestrian and bicycle circulation areas;
 - d. On-site outdoor recreation spaces and common areas;
 - e. Above ground utilities.
- 8. The location of areas to be landscaped.
- 9. The location and type of street lighting with specific consideration given to crime prevention.
- 10. The orientation of structures, except single family detached structures showing the location of windows and doors.
- 11. The location of mail boxes where the mail boxes are to be grouped.

24.210 GRADING & DRAINAGE PLAN

- A. The grading and drainage plan shall be at the same scale as the site analysis and shall include the following:
 - 1. The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals.
 - 2. A statement by a registered civil engineer supported by factual data that all increase in intensity of runoff caused by development will be facilitated on the site and that the intensity of runoff leaving the site will not increase over that runoff rate of the site in its undeveloped state. This statement shall include as

a minimum a storm frequency of occurrence of five years or greater depending upon an evaluation of potential for damage when a storm of higher frequency occurs.

3. Where on site detention of the increased volume of water caused by development is not feasible or acceptable, a plan which identifies and which mitigates any off site adverse effects resulting from increased runoff shall be prepared by a registered professional civil engineer.
4. Identification information, including the name and address of the owner, developer, project designer and the project engineer.

24.220 THE LANDSCAPE PLAN.

- A. The landscape plan shall be prepared on the Site Plan and in addition shall show:
 - 1. The location of the underground irrigation system or hose bibs;
 - 2. The location and height of fences and other buffering or screening materials;
 - 3. The location, size and species of the existing and proposed plant materials; and
 - 4. The location of the trees to be removed.
- B. The landscape plan shall be accompanied by a narrative description of:
 - 1. The soil conditions and the plant selection requirements relating to the soil conditions.
 - 2. Plans for soil treatment such as stockpiling the top soil.
 - 3. The erosion controls which will be used if necessary.

24.230 SIGN DRAWINGS

- A. Free standing sign.
 - 1. The location of any free standing signs shall be shown on the Site Plan; and
 - 2. A drawing to scale shall be submitted showing the dimensions height, color, materials and means of illumination of the sign.
- B. On-Building Sign.
 - 1. The location of any on-building sign shall be shown on the architectural drawings of the building and the size, color materials and means of illumination shall be indicated.
 - 2. The plot plan shall show the location of the signs on the building in relation to adjoining property.

24.240 EXCEPTIONS TO UNDERLYING ZONE, YARD, PARKING & SIGN PROVISIONS & THE LANDSCAPING PROVISIONS.

- A. The Planning Commission may grant an exception to the off street parking dimensional and minimum number of space requirements in

the applicable zone based on findings that:

1. The minor exception is not greater than ten (10) percent of the required parking; and
2. The application is for a use designed for a specific purpose which is intended to be permanent in nature (for example, a nursing home) and which has a low demand for off-street parking; or
3. There is an opportunity for sharing parking and there is written evidence that the property owners are willing to enter into a legal agreement; or
4. Public transportation is available to the site, reducing the standards and will not adversely affect adjoining uses; or
5. There is a community interest in the preservation of particular natural features of the site which make it in the public interest to grant an exception to parking standards.

B. The Planning Commission may grant an exception to the sign dimensional requirements in the applicable zone based on findings that:

1. The minor exception is not greater than ten (10) percent of the required applicable dimensional standard for signs:
2. The exception is necessary for adequate identification of the use on the property;
3. The sign will be compatible with the overall site plan, the structural improvements and with the structures and uses on adjoining properties.

C. The Planning Commission may grant an exception to the landscape requirements of this ordinance upon a finding that:

1. The overall landscape plan provides for fifteen (15) percent of the gross site area to be landscaped.

24.250 SHARED OPEN SPACE

Where the open space is designated on the plan as common open space the following shall apply:

1. The open space area shall be shown on the final plan and recorded with the Planning Director.
2. The open space shall be conveyed in accordance with one of the following methods:
 - a. By dedication to the city as publicly owned and maintained as open space. Open space proposed for dedication to the city must be acceptable to it with regard to the size, shape, location, improvement, and budgetary and maintenance limitations.
 - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity with the city retaining the development rights to the property. The terms of such lease or other instrument of conveyance, must include provisions suitable to the City Attorney for guaranteeing the following:
 - (1) The continued use of such land for the intended purposes.
 - (2) Continuity of property maintenance.
 - (3) When appropriate, the availability of funds required for such maintenance.
 - (4) Adequate insurance protection.
 - (5) Recovery for loss sustained by casualty and condemnation or otherwise.
 - c. By any method which achieves the objectives set forth in 2 above.

26.000 HISTORIC DISTRICT

26.010 PURPOSE

The purpose of the historic district provisions are to implement the Comprehensive Plan; effect and accomplish the protection, enhancement and perpetuation of districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history; safeguard the City's historic, aesthetic and cultural heritage as embodied and reflected in such improvements and districts; complement any Registered Historic or cultural areas designated in the City; stabilize and improve property values in such districts; foster civic pride in the accomplishments of the past; strengthen the economy of the City; promote the use of historic districts and landmarks for the education and pleasure of the City; and carry out the provisions of LCDC Goal 5.

26.015 APPLICABILITY OF PROVISION AND INITIATION

- A. The Historic District shall apply to the following.
 - 1. Historic areas, designated in accordance with this chapter.
 - 2. Landmarks as designated by this chapter.
 - 3. The Willamette area whose boundaries are indicated by map in the Comprehensive Plan.
- B. The boundaries of the historic districts and the location of landmarks shall be designated on the West Linn Zoning map.
- C. The Council, the Commission, the Board, a Neighborhood Association or any interested person may initiate the proceedings for designation of an Historic District in accordance with 99.030.

26.020 ADMINISTRATION AND APPROVAL PROCESS

- A. A pre-application conference with city staff is required. See 99.030B.
- B. Due to possible changes in State statutes, or regional or local policy, information given by staff to the applicant during the pre-application conference is valid.
 - 1. Another pre-application conference is required if any variance application is submitted six months after the pre-application conference.

2. Failure of the Director to provide any of the information required by this Chapter shall not constitute a waiver of the standards, criteria or requirements of the application.
- C. The Board shall approve, approve with conditions or deny any application for an Historic District. The Board shall apply the standards set forth in 99.030, 26.040 or 26.050 of this Code when reviewing an application for an Historic District.
- D. The decision of the Board may be appealed in accordance with 99.240.
1. The applicant may request a hearing before the Council if the action of the Board is to deny or to approve with conditions.
 2. Any persons or group of persons whose interests are adversely affected by this action may appeal the decision to the Council if the action of the Board decision is to approve or approve with conditions the application.
- E. The Director shall mail notice of any Historic District proposal to the following persons who have a right to request notice of a hearing before the Board in accordance with 99.080.
1. All property owners of record within 300 feet of the property which is the subject of the application.
 2. The chairperson of an official Neighborhood Association if the property which is the subject of the application lies wholly or partially within the boundaries of such organization.
- F. The Board may approve a demolition request after considering the criteria contained in 26.050 C 1-9.
1. Action by the Board approving the issuance of a permit for demolition may be appealed to the Council by any aggrieved party, by filing a notice of appeal, in accordance with 99.250.
 2. If no appeal is filed, the Building Inspector shall issue the permit in compliance with all other codes and ordinances of the City.
- G. The Board may reject the application for the permit if it determines that, in the interest of preserving historical values, the structure should not be demolished, and in that event

issuance of the permit shall be suspended for a period fixed by the Board, as follows.

1. For landmarks or structures located in an Historic District, the Board may invoke a stay of demolition for a period not exceeding 30 days from the day of public hearing.
 2. The Board may invoke an extension of the suspension period if it determines that there is a program or project underway which could result in public or private acquisition of such structure, and that there is reasonable ground to believe that such program or project may be successful, then the Board, may extend the suspension period in 30 day increments for an additional period not exceeding 120 days from the date of public hearing for demolition permit.
 3. During such period of suspension of permit application, no permit shall be issued for such demolition nor shall any person demolish the building or structure.
 4. If all such programs or projects are demonstrated to the Board to be unsuccessful and the applicant has not withdrawn his application for demolition permit, the Building Inspector shall issue such permit, if the application otherwise complies with the codes and ordinances of the City.
 5. Action by the Board pending issuance of a permit for demolition may be appealed to the Council by the applicant in accordance with 99.240.
- H. In any case where the Council has ordered the removal or demolition of any structure determined to be dangerous to life, health or property, nothing contained in this chapter shall be construed as making it unlawful for any person without prior approval of the Board, pursuant to this chapter, to comply with such order.

26.030 CRITERIA FOR HISTORIC DISTRICT DESIGNATION

- A. Approval of an Historic District designation shall be made when the Board finds that any of the following criteria have been met.
1. Whether the proposed district or landmark would serve the purpose of the Historic District as stated in 26.010.

2. Reflects the broad cultural or natural history of the community, state, or nation.
 3. Is identified with historic personages, or with important events in national, state or local history.
 4. Embodies the distinguishing characteristics of an architectural specimen inherently valuable for a study of a period, style, or method of construction.
 5. Is a notable work of a master builder, designer, or architect.
- B. The age of a specific building shall not be deemed sufficient in itself to warrant designation as historic.

26.040 CRITERIA FOR EXTERIOR ALTERATION AND NEW CONSTRUCTION CRITERIA

- A. Except as provided pursuant to 26.040 E, no person may alter the exterior of any structure in an Historic District in a manner as to affect its exterior appearance, nor may any new structure be constructed in an Historic District, unless the site and elevation drawings are approved by the Board.
- B. Exterior remodeling as governed by this chapter shall include any change or alteration in design or other exterior treatment excluding painting.
- C. For exterior alterations of structures in an Historic District, the criteria to be used by the Board in reaching its decision shall include the following.
 1. The purpose of the Historic District as set forth in 26.010.
 2. The provisions of the West Linn Comprehensive Plan.
 3. The economic use of the structure in an Historic District and the reasonableness of the proposed alteration and their relationship to the public interest in the structure's or landmark's preservation or renovation.
 4. The value and significance of the structure or landmark in an Historic District.
 5. The physical condition of the structure or landmark in an Historic District.
 6. The general compatibility of exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used with an existing structure in an Historic District.

7. Pertinent aesthetic factors as designated by the Board.
 8. Economic, social, environmental and energy consequences related to LCDC Goal 5.
- D. For construction of new structures in an Historic District, the criteria to be used by the Board in reaching its decision shall include the following.
1. The purpose of the Historic District as set forth in 26.010.
 2. The provisions of the West Linn Comprehensive Plan.
 3. The economic effect of the new structure on the historic value of the district.
 4. The visual effect of the proposed new structure on the architectural character of the district.
 5. The general compatibility of the exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new building or structure.
 6. Economic, social, environmental and energy consequences related to LCDC Goal 5.
- E. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any architectural features which does not involve a change in design, material or the outward appearance of such feature which the Building Inspector shall certify is required for the public safety because of its unsafe or dangerous condition.

26.050 CRITERIA FOR DEMOLITION

- A. If an application is made for a building permit to demolish all or part of a structure which is located in an Historic District, the Building Inspector shall transmit a copy of said transaction to the Director.
- B. The Board shall hold a public hearing within 45 days of the application in accordance with the procedures in 26.110.
- C. In determining the decision of the demolition as proposed in an application for a demolition permit, the Board shall consider the following criteria.
 1. All plans, drawings and photographs as may be submitted by the applicant.

2. Information presented at a public hearing held concerning the proposed work.
3. The West Linn Comprehensive Plan.
4. The purpose of this chapter as set forth in 99.170.
5. The criteria used in the original designation of the District in which the property under consideration is situated.
6. The historical and architectural style, the general design, arrangement, materials of the structure in question or its appurtenant fixtures; the relationship of such features to similar features of the other buildings within the district and the position of the building or structure in relation to public rights-of-way and to other buildings and structures in the area.
7. The effect of the proposed work upon the protection, enhancement, perpetuation and use of the district which cause it to possess a special character or special historical or aesthetic interest or value.
8. Whether denial of the permit will involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this Code.
9. Economic, social, environmental and energy consequences related to LCDC Goal 5.

26.060 APPLICATION SUBMISSION REQUIREMENTS

- A. All applications shall be made on forms provided by the Director and shall be accompanied by the following.
 1. Five copies of the Historic District, exterior alteration, new construction or demolition site plan(s) and necessary data or narrative which explains how the proposal conforms to the standards:
 - a. Sheet size for the proposed site plan and required drawings shall not exceed 18" x 24"; and
 - b. The scale of the site plan shall be 20, 50, 100 or 200 feet to the inch; and

- c. All drawings of structure elevations shall be a standard architectural scale, being 1/4" or 1/8" equals one foot.
- 2. Names and addresses of all who are property owners of record within 30 days before the application and whose property is within 300 feet of the site.
- 3. The required fee.
- B. The required information may be combined and does not have to be placed on separate maps.
- C. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.

26.070 THE SITE PLAN

- A. The proposed Historic District plan shall include the following information.
 - 1. The proposed site and surrounding properties.
 - 2. The location, dimensions and names of all existing streets.
 - 3. The location and dimension of:
 - a. The entrances and exits on the site;
 - b. The parking and circulation areas;
 - c. Loading and services areas;
 - d. Pedestrian and bicycle circulation;
 - e. Outdoor common areas;
 - f. Above ground utilities; and
 - g. Existing landscaping.
 - 4. The location, dimensions and setback distances of all:
 - a. Existing structures, improvements and utilities which are located within 25 feet of the site and are on adjoining property; and
 - b. Proposed structures, improvements, landscaping and utilities on the site.

26.080 ARCHITECTURAL DRAWINGS

- A. The Historic District plan proposal shall include:
 - 1. Floor plans indicating the square footage of all structures existing and proposed for use on-site; and
 - 2. Elevation drawings of each proposed structure and elevation drawings or photographs of each existing structure.

26.090 LANDSCAPE PLAN

- A. The landscape plan shall be drawn at the same scale as the site plan or a larger scale if necessary and shall indicate:
 - 1. Location and height of fences, buffers and screenings;
 - 2. Location of terraces, decks, shelters and common open spaces; and
 - 3. Location, type, size and species of existing and proposed plant materials.

26.100 SIGN DRAWINGS

Sign drawings shall be submitted in accordance with Chapter 15.20 of the Municipal Code.

26.110 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

- A. The Director may require information in addition to that required by this chapter in accordance with 99.050 A.
- B. The Director may waive a specific requirement for information in accordance with 99.050 B1 & B2.

27.000 FLOOD HAZARD CONSTRUCTION

27.010 PURPOSE

The purpose of the Flood Hazard overlay zone is to minimize flood losses by provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or cause increased flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

27.020 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration is a scientific and engineering report entitled "The Flood Insurance Study for the City of West Linn", dated September, 1982, with accompanying, Flood Insurance Maps is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the City Hall.

27.030 DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in 27.020. The permit shall be for all structures including mobile homes and for all other development including fill and other activities as defined in 99.030.

27.040 DESIGNATION OF THE DIRECTOR

The Director is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

27.050 DUTIES AND RESPONSIBILITIES OF THE DIRECTOR

- A. Permit Review
 - 1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of 27.070 C 1 are met.
- B. Use of Other Base Flood Data
- When base flood elevation data has not been provided in accordance with 27.020 the Director shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer 27.070 B 1 & 2.
- C. Information to be Obtained and Maintained
1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 2. For all new or substantially improved floodproofed structures:
 - (1) Verify and record the actual elevation (in relation to mean sea level),
 - (2) Maintain floodproofing certifications.
 - (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- D. Alteration of Watercourses
1. Notify adjacent communities and the appropriate State agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in 27.060.

27.060 VARIANCE PROCEDURE

The Council is established as an appeal board and shall hear and decide appeals and requests for variances from the requirements of this ordinance. Such appeals shall be granted consistent with the standards of Section 1910.6 of the rules and regulations of the National Flood Insurance Program (24 CFR 1909, etc.)

27.070 PROVISIONS FOR FLOOD HAZARD PROTECTION

A. General Standards

In all areas of special flood hazards the following standards are required:

1. Anchoring

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

- (1) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
- (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional

- ties per side;
 - (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (4) Any additions to the mobile home be similarly anchored.
 - c. An alternative method of anchoring may involve a system designated to withstand a wind force of 90 miles per hour or greater. Certification must be provided to the Director that this standard has been met.
2. Construction Materials and Methods
- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Utilities
- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
4. Subdivision Proposals
- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to

minimize flood damage;

- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5. Review of Building Permits

Where elevation data is not available, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in 27.020 or 27.050 B the following provisions are required:

1. Residential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above base flood elevation.

2. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of bouyancy and,
- c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in 27.050 C2(2) of this ordinance.

3. Mobile Homes

- a. Mobile homes shall be anchored in accordance with 27.070 A 1
- b. For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:
 - (1). Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be one foot above the base flood level,
 - (2). Adequate surface drainage and access for a hauler are provided; and
 - (3). In the instance of elevation on pilings, that:
 - (a). Lots are large enough to permit steps.
 - (b). Piling foundations are placed in stable soil no more than 10 feet apart, and
 - (c). Reinforcement is provided for pilings more than six feet above the ground level.

c. Floodways

Located within areas of special flood hazard established in 27.020 are areas designated as followways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1). Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2). If 27.070 C1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provision of 27.070.
- (3). Prohibit the placement of any mobile homes, except in an existing mobile home subdivision.

28.000 WILLAMETTE RIVER GREENWAY (WRG)

28.010 PURPOSE

The purposes of the Willamette River Greenway (WRG) District are the following:

- A. Protect, conserve, enhance, and maintain the natural, scenic historical, economic, and recreational qualities of lands along the Willamette River.
- B. Implement the goals and policies of the State of Oregon's Willamette River Greenway Program.
- C. Implement the policies of the Comprehensive Plan.
- D. Establish standards and requirements for the use of lands within the Willamette River Greenway.
- E. Provide for the review of any intensification of use, change of use, or development within the Willamette River Greenway.

28.020 APPLICABILITY & DEFINITIONS

- A. The Willamette River Greenway zone is an overlay zone. The zone boundaries coincide with the adopted Greenway Boundary and the zone applies to all development permitted by the underlying zone.
- B. All uses permitted under the provisions of the underlying base zone are allowed in the manner prescribed by the base zone subject to an approved Greenway Permit issued under the provisions of this chapter.
- C. Development as used in this chapter includes any change of use or intensification of the use of land or water except the activities listed in section 28.030 are exempt from the requirements of this chapter.

28.030 EXEMPTIONS

The following development activities do not require a permit under the provisions of this chapter.

- A. Customary dredging and channel maintenance conducted under permit from the State of Oregon.

- B. Seasonal increases in gravel operations under permit from the State of Oregon.
- C. Scenic easements acquired under ORS 390.332 and their maintenance as authorized by that statute and ORS 390.368.
- D. Addition or modification by public utilities for existing utility lines, wires, fixtures, equipment, circuits, appliances, and conductors.
- E. Flood emergency procedures and the maintenance and repair of existing flood control facilities.
- F. Signs, markers, announcements, etc. placed by a public agency to serve the public.
- G. Residential accessory development (excluding structures) such as lawns, gardens, and play areas.
- H. Storage of equipment or material associated with uses permitted, providing that the storage complies with applicable provisions of this chapter.
- I. Minor repairs or alterations to an existing structure for which no building permit is required.
- J. A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated.
- K. The completion of a structure for which a valid permit has been issued as of December 6, 1975 and under substantial construction has been undertaken by July 1, 1976.
- L. Landscaping.
- M. Construction of driveways.
- N. Maintenance and repair, usual and necessary for the continuance of an existing use.
- O. Reasonable emergency procedures necessary for the safety or protection of property.

28.040 ADMINISTRATION & APPROVAL PROCESS

- A. An application for a Greenway Permit for a use permitted outright in the underlying base zone shall be decided as follows:
 - 1. The Planning Director shall decide all applications for uses permitted outright and not subject to the provisions of

this code, in the manner set forth in 99.060A. An appeal may be filed as provided by 99.240A.

2. The Design Review Board shall decide all applications for uses permitted outright and subject to the Development Review provisions of this code set forth in 99.060C. The Development Review application and Greenway Permit application shall be a separate decision, but may be heard concurrently as provided by 99.070. A petition for review by the Council may be filed as provided by 99.240B.
- B. An application for a Greenway Permit and for a conditional use allowed in the underlying base zone shall be decided by the Planning Commission as a part of the conditional use approval under chapter 60. and as set forth in 99.060B. Notwithstanding the provisions of Chapter 99. and Chapter 55, Development Review, the Planning Commission shall also decide Design Review applications in conjunction with Greenway Permit Applications. The application for the conditional use, the Greenway Permit, and Design Review may be heard concurrently as provided by 99.070, however separate actions shall be taken on each application. A petition for review by the Council may be filed as provided by 99.240.B.

28.050 NOTICE

- A. In addition to and in accordance with the notice requirements of 99.080 the Planning Director shall give written notice to the State Department of Transportation, by mailing a copy of the application and a copy of the hearing notice by certified mail, return receipt requested.
- B. Notice of the final action on the application shall be mailed by certified mail, return receipt requested to the State Department of Transportation as provided in 99.130.

28.060 TIME LIMIT ON APPROVAL

- A. Approval of a Greenway Permit shall be void if --
 1. The conditional use permit becomes void; under 60.040;
or

2. The site plan on which the approval is based is modified. Any change in the plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and 99.102B.

28.070 THE APPLICATION

- A. An application for a Greenway Permit shall be initiated by the property owner or the owner's authorized agent.
- B. A prerequisite to the filing of an application is a preapplication conference at which time the Director shall explain the requirements and provide appropriate forms as set forth in 99.030B.
- C. An application for a Greenway permit shall include the completed application and 15 copies of each of the following except for each drawing submitted, there shall be eight copies at the original scale and seven copies reduced to a paper size not greater than 11 x 17 inches.
 1. A site plan, (28.100).
 2. A grading plan, (28.110).
 3. Architectural drawings, (28.120).
 4. A landscape plan, (28.130).
- D. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- F. The applicant shall pay the requisite fees.

28.080 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS

- A. The Planning Director may require additional information as a part of the application subject to the provisions of 99.035A.
- B. The Planning Director may waive any requirement for the application subject to the provisions of 99.035 (B) & (C).

28.090 APPROVAL CRITERIA

The approval authority shall make a finding on each of the following criteria when approving, approving with conditions or denying an application for a Willamette River Greenway Permit:

- A. The development complies with each of the following criteria:
1. Public access to and along the river shall be provided to the maximum extent possible.
 2. Significant fish and wildlife habitats shall be protected.
 3. Significant natural and scenic areas, viewpoints and vistas shall be preserved.
 4. The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in the development, change of use, or intensification of use.
 5. Areas of annual flooding, flood plains and wetlands shall be preserved in their natural state to the maximum possible extent.
 6. The natural vegetative fringe along the river shall be maintained and enhanced to the maximum extent that is practical to assure scenic quality, protection of wildlife, protection from erosion, and screening of uses from the river.
 7. Any public recreational use or facility shall not substantially interfere with the established uses on adjoining property.
 8. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
 9. Extraction of aggregate deposits shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety, and to guarantee necessary reclamation.
 10. Development, change or intensification of use shall provide the maximum possible landscape area, open space or vegetation between the activity and the river.

B. The site development plan complies with each of the following applicable standards:

1. Site modifications:

- a. Existing predominant topographical features of the bank line and escarpment shall be preserved and maintained except for disturbance necessary for the construction or establishment of a water related or water dependent use and measures necessary to reduce potential bank and escarpment erosion, landslides, or flood hazard conditions.
- b. Stability of the development resulting from an intensification or change of use shall be assured considering the stress imposed on the bank and land area between the low water mark of the river and the top of the bank.
- c. The hydraulic and flood carrying capacity of the river on the bank shall be considered in the design of the proposed intensification, development or change of use, and steps shall be taken to insure minimal adverse effect by and upon the proposal.
- d. The applicant shall establish to the satisfaction of the approval authority that steps have been taken to minimize the impact of the proposal on the riparian environment (areas between the top of the bank and the low water mark of the river including lower terrace, beach and river edge). The approval authority may require the applicant to submit a further study to determine whether such impact is acceptable.
- e. If applicable, the applicant may be required to submit the certification of a registered professional engineer that the standards specified in (2) and (3) above have been met. Where necessary to properly evaluate a proposal the approval authority may require the applicant to furnish further studies such as a soils survey, a foundation study, or a hydrologic study performed by competent professionals.

2. Riparian vegetation: Vegetative ground cover and trees upon the site shall be preserved, conserved and maintained according to the following provisions:
 - a. Riparian vegetation removed during development shall be replaced with indigenous vegetation which shall be compatible with and enhance the riparian environment.
 - b. Trees of 6 inch or greater caliper measured at a height of 5 feet shall not be removed between the top of the bank and the river's edge except as follows:
 - (1). Where it is necessary as approved by the approval authority to accommodate a water related or water dependent use; or
 - (2) Where the tree is determined by the city to be hazardous.
 - c. Plans for removal and replacement of riparian vegetation shall be approved by the approval authority as part of the application.
 - d. Tree cutting and grading shall be prohibited within the buffer area except that:
 - (1) Diseased trees or trees in danger of falling may be removed; and
 - (2) Tree cutting may be permitted in conjunction with those uses listed in 28.030 to the extent necessary to accommodate the listed uses.
 - e. Selective cutting in accordance with the Oregon Forest Practices Act, if applicable, shall be permitted within the area between the buffer area and the greenway boundary provided the natural scenic qualities of the greenway are maintained.
3. Landscaping: In addition to any landscaping requirement by this code, the following provisions shall apply:
 - a. All areas of the site within the WRG shall be landscaped except areas covered by a structure, parking and driveways and other permitted uses.
 - b. Required landscape areas shall be continuously maintained, irrigated with permanent facilities sufficient to maintain the plant material, and covered by living plant material capable of attaining 90 percent ground

coverage within three years.

- c. The living plant materials shall be compatible with and enhance the riparian environment.
4. Structures. All buildings and structures, including supporting members, and all exterior mechanical equipment shall be screened, colored, or surfaced so as to blend with the riparian environment. Colors shall be natural earth tones. Surfaces shall be nonreflective.
5. Signs and graphics. In addition to compliance with all other applicable ordinance provisions relating to signs and graphics, no sign or graphic display inconsistent with the purposes of the Greenway shall have a display surface oriented toward or visible from the Willamette River.
6. Lighting. Lighting on the site of an intensity, development or change of use, shall not be focused or oriented onto the surface of the river. Notwithstanding the preceding provision, lighting provided for public or private walkways shall be that necessary for safety.
7. Parking and unenclosed storage areas.
 - a. Parking, loading and unenclosed storage areas located within the WRG District shall be screened from the river in accordance with chapter 46.000, Off-Street Parking and chapter 35.000 Development Review.
 - b. Parking, loading and unenclosed storage areas located outside but adjacent to the WRG District shall be screened from properties within the WRG District.
8. Greenway Setback. All buildings shall be setback 150 feet from the mean low water line of the Willamette River with the following exceptions:
 - a. Set back distances shall not apply to water dependent uses which require a river bank location or water related uses which require direct access to the river.
 - b. Residential lots of record unable to meet this requirement shall be subject to the provisions of the applicable zone or the provision of chapter 38.040, whichever yields the greatest possible rear yard set back from the river.

28.100 SITE PLAN

- A. All site plans and maps shall include the name, address and telephone number of the applicant, the scale of the plot plan, a north arrow and a vicinity map.
- B. The applicant shall submit a site plan drawn to an appropriate scale (in order of preference; 1"-10' to 1"= 30'). which contains the following information:
 - 1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 - 2. The parcel boundaries, dimensions and gross area.
 - 3. The applicant's property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.
 - 4. The location, dimensions, and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.
 - 5. The location, dimensions and setback distances of all--
 - a. Existing structures, improvements, utility facilities and drainage ways on adjoining properties;
 - b. Existing structures, improvements, utility facilities and drainageways to remain on the site; and
 - c. Proposed structures or changes to existing structures, improvements, utility facilities and drainage ways on the site.
 - 6. The proposed and existing location and dimensions of --
 - a. The entrances and exits to the site;
 - b. The parking and circulation areas;
 - c. Loading and service areas for waste disposal, loading and delivery;
 - d. Pedestrian and bicycle circulation areas;
 - e. On site outdoor recreation spaces and common areas; and

f. Above ground utilities.

7. The type, location, size, height, typical design, material, color and method of illumination of outdoor lighting with specific consideration given to crime prevention.

28.110 A GRADING PLAN

The grading plan shall be at the same scale as the Site Plan (20.100) and shall show:

- A. The location and extent to which grading will take place indicating general contour lines, slope ratios and slope stabilization proposals.
- B. The location of the proposed drainage ways.

28.120 ARCHITECTURAL DRAWINGS

Architectural drawings shall be submitted showing --

- A. Elevations of structure(s) and showing heights;
- B. Entrances and exits of proposed structures;
- C. The exterior building materials: type, color and texture.

28.130 A LANDSCAPE PLAN

The landscape plan shall be prepared on the Site Plan (20.100) and in addition shall show --

- A. The location of existing trees and vegetation to be removed and to be retained;
- B. The location and design of landscaped areas;
- C. The varieties and sizes of trees and materials to be planted;
- D. The proposed irrigation system;
- E. The location and height of fences and other buffering or screening materials; and
- F. The location of terraces, decks, patios, shelters and play areas.

30.000 TUALATIN RIVER BANK CONTROL

30.010 PURPOSE

The purpose of this overlay zone is to maintain the integrity of the Tualatin River by establishing standards which will minimize erosion, promote bank stability, maintain and enhance water quality and fish and wildlife habitats, and preserve the scenic quality and recreation potential, assure that streams and drainways are protected for their drainage and implement the comprehensive plan.

30.020 APPLICABILITY & DEFINITIONS

- A. This zone is an overlay zone.
- B. All uses permitted under the provisions of the underlying base zone are allowed in the manner prescribed by the base zone subject to an approved Tualatin River Bank Control permit under the provisions of this chapter.
- C. Development as used in this chapter includes any change of use or intensification of the use of land or water or any changes to the existing topography or vegetation except the activities listed in 30.030 are exempt from the requirements of this chapter.
- D. This overlay zone applies to all development within 150 feet of the mean low water line of the Tualatin River.

30.030 EXEMPTIONS

The following development activities do not require approval under the provisions of this chapter.

- A. Customary dredging and channel maintenance conducted under permit from the State of Oregon.
- B. Seasonal increases in gravel operations under permit from the State of Oregon.
- C. Scenic easements acquired under ORS 392.332 and their maintenance as authorized by that statute and ORS 390.368.
- D. Addition or modification by public utilities for existing utility lines, wires, fixtures, equipment, circuits, appliances and conductors.
- E. Flood emergency procedures and the maintenance and repair of existing flood control facilities.

- F. Signs, markers, ads, etc., placed by a public agency to serve the public.
- G. Residential accessory development (excluding structures) such as lawns, gardens, and play areas.
- H. Storage of equipment or material associated with uses permitted, providing that the storage complies with applicable provisions of this chapter.
- I. Minor repairs or alterations to an existing structure for which no building permit is required.
- J. A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated.
- K. The completion of a structure for which a valid permit has been issued as of the effective date of this chapter.
- L. Landscaping.
- M. Construction of driveways, roads, trails and paths.
- N. Maintenance and repair, usual and necessary for the continuance of an existing use.
- O. Reasonable emergency procedures necessary for the safety or protection of property.

30.040 ADMINISTRATION & APPROVAL PROCESS

- A. An application for a Tualatin River Bank Control permit for a use permitted outright in the underlying base zone and not subject to Design Review approval shall be issued by the Director without notice based on the standards in 30.060. The decision of the Director may be appealed as provided by in 99.0240B.
- B. An application for a use permitted outright, but subject to Design Review approval under chapter 35 shall be decided by the Board in accordance with the provisions of 99.0260C and the standards in 30.060. The Board shall also decide the application subject to the Design Review provisions of this code in the manner set forth in 99.060C. The Design Review application and the Tualatin River Bank Control permit application shall be a separate decision, but may be heard concurrently as provided by 99.070. A petition for review by the Council may be filed as provided by 99.240B.

- C. An application for a Tualatin River Bank Control permit for a conditional use allowed in the underlying base zone shall be decided by the Commission in accordance with the standards in 30.060 as a part of the conditional use approval under chapter 60 and as set forth in 99.060B. Notwithstanding the provisions of chapters 99 and 55 the Commission shall also decide a Design Review application under the provisions of chapter 55 in conjunction with a Tualatin River Bank Control permit application. The application for the conditional use, the Tualatin River Bank Control permit, and Design Review may be heard concurrently as provided by 99.070, however separate actions shall be taken on each application. A petition for review by the Council may be filed as provided by in 99.240B.

30.050 TIME LIMIT ON APPROVAL

Approval of a Tualatin River Bank Control permit shall be void if:

- A. The conditional use permit becomes void under 60.040; or
- B. The site plan on which the approval is based is modified. Any change in the plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and 99.120B.

30.060 APPROVAL STANDARDS

A permit shall be issued for a Tualatin River Bank Control permit upon written findings that:

- A. The setback provisions of 30.070 are met;
- B. The design standards of 30.080 are met; and
- C. A buffer or filter strip of existing vegetation will be preserved in accordance with the standards of 30.090A; or the buffer will be adequate based on the standards in 30.090B or the existing vegetation will be replaced by comparable vegetation as provided by 30.090C.

30.070 SETBACK REQUIREMENT & EXCEPTIONS

- A. All structures and nonwater oriented accessory structures shall only be allowed at an elevation above the 100 year flood plain elevation of the Tualatin River as established by the Corps of Engineers.

B. The following exceptions shall apply.

1. Residential lots of record which have a lot depth which precludes compliance with the setback standards of this section, shall be exempt from the strict application of these standards. Such structures shall be setback the maximum practicable distance.
2. Water dependent commercial and industrial uses and such uses as private boat docks, marinas, or boat ramps shall be exempt from the setback requirements.
3. Additions to existing structures which are located closer than the setback requirements of this section shall be permitted.
4. Public uses, such as bridges for public roads, shall be allowed within the setbacks stated in this section provided that adverse impacts are mitigated.

30.080 DESIGN STANDARDS FOR THE TUALATIN RIVER

The following design standards apply to the area within 150 feet from the mean low water line of the Tualatin River.

- A. All structures which are painted or will be painted shall be painted muted earth tones or white.
- B. Parking and storage areas shall be screened from view by appropriate vegetative buffers.

30.090 VEGETATIVE PRESERVATION REQUIREMENTS & EXCEPTIONS

- A. A buffer or filter strip of existing vegetation shall be preserved along the Tualatin River for the area between the mean low water line and the mean high water line, and within the 100 year flood plain.
- B. Exceptions to the width of the buffer or filter area may be granted as part of the approval process based on the following standards.
 1. The character and size of the proposed development and its potential for adverse impacts on the river is minimal and therefore the buffer area may be reduced.
 2. The topography of the area will act as a buffer.
 3. The type and density of the existing vegetation is such that the width of the buffer may be reduced.
 4. The type and stability of the soils will preclude erosion.

- C. The existing vegetation may be removed provided it is replaced by comparable vegetation.

30.110 THE APPLICATION

- A. An application for a Tualatin River Bank Control permit shall be initiated by the property owner or the owner's authorized agent.
- B. A prerequisite to the filing of an application is a preapplication conference at which time the Director shall explain the requirements and provide the appropriate forms as provided in 99.030B.
- C. An application for a Tualatin River Bank Control permit shall include the application and 15 copies of each of the following except for each drawing submitted, there shall be eight copies at the original scale and seven copies reduced to a paper size not greater than 11 x 17 inches.
 - 1. A site plan (30.130).
 - 2. A grading plan (30.140).
 - 3. Architectural drawings (30.150).
 - 4. A landscape plan (30.160).
- D. The applicant shall pay the requisite fees.

30.120 ADDITIONAL INFORMATION REQUIRED & WAIVER OF REQUIREMENTS

- A. The Director may require additional information as part of the application subject to the provisions of 99.035A.
- B. The Director may waive any requirement for the application subject to the provisions of 99.035B & C.

30.130 SITE PLAN

- A. All plot plans and maps shall include the name, address and telephone number of the applicant, the scale of the plot plan, a north arrow, and a vicinity map.
- B. The applicant shall submit a plot plan or an aerial photograph to an appropriate scale (in order of preference: 1"=10' to 1"=30') which contains the following information.
 - 1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 - 2. The parcel boundaries, dimensions and gross area.
 - 3. The location of the required vegetative buffer area (30.090), building setback line (30.070), and a line showing the boundary of this overlay zone (30.020).

4. The location, dimensions and setback distances, within the boundary of this overlay zone of the following.
 - a. Existing structures, improvements, utility facilities and drainage ways on adjoining properties.
 - b. Existing structures, improvements, utility facilities and drainageways to remain on the site.
 - c. Proposed structures or changes to existing structures, improvements, utility facilities and drainage ways on the site.
5. The proposed and existing location and dimensions within the boundary of this overlay zone applies to the following.
 - a. The entrances and exits to the site.
 - b. The parking and circulation areas.
 - c. Loading and service areas for waste disposal, loading and delivery.
 - d. Pedestrian and bicycle circulation areas.
 - e. On site outdoor recreation spaces and common areas.
 - f. Above ground utilities.
6. The type, location, size, height, typical design, material, color and method of illumination of outdoor lighting.

30.140 A GRADING PLAN

The grading plan shall be at the same scale as the site plan (30.130) and show the following.

- A. The location and extent to which grading will take place indicating general contour lines, slope ratios and slope stabilization proposals.
- B. The location of the proposed drainage ways.

30.150 ARCHITECTURAL SKETCHES

The architectural sketches to be submitted shall show the exterior building materials including type, color and texture for development abutting the Tualatin River.

30.160 A LANDSCAPE PLAN

The landscape plan for properties abutting the Tualatin River shall be prepared on the site plan (30.130) and show the following.

- A. The location of existing trees and vegetation to be removed and to be retained.

- B. The location and design of landscaped areas.
- C. The varieties and sizes of trees and materials to be planted.
- D. The location and height of fences and other buffering or screening materials.

SUPPLEMENTAL PROVISIONS

33.000 DENSITY COMPUTATIONS: RESIDENTIAL AND NON-RESIDENTIAL USES

33.010 PURPOSE

The purpose of this chapter is to provide density standards. This chapter sets forth the method by which the allowed number of dwelling units per acre is computed where the applicable zone allows a density transfer. The standards are also intended to assure that adjoining developments are compatible and create a sense of neighborhood unity. Compatibility with adjoining development will be assured through the development review procedures.

33.040 COMPUTATION OF NET ACRES

- A. Net acres, for land to be developed with detached single family dwellings, is computed by subtracting from the gross acres the following:
1. Any land area which is included in a boundary street right-of-way or water course.
 2. An allocation of twenty five percent (25%) for public facilities.
 3. A lot of at least the size required by the applicable base zone, if an existing dwelling is to remain on the site.

- B. Net acres, for land to be developed with other than detached single family dwellings, is computed by subtracting from the gross acres the following:
1. Any land area which is included in a boundary street right-of-way or water course.
 2. An allocation of twenty percent (20%) for public facilities.
 3. A lot of at least the size required by the applicable base zone, if an existing dwelling is to remain on the site.

33.050 RESIDENTIAL DENSITY COMPUTATION

The allowed density or number of dwelling units on the site, subject to the limitations in section 33.060, is computed by dividing the number of square feet in the net acres by the minimum number of square feet required for each lot by the base zone.

33.060 LIMITATIONS ON RESIDENTIAL DENSITY TRANSFER

- A. If there is no intervening street or natural topographic barrier between the PUD site and the adjoining property and the residential density is transferred on the site, the following limitations shall apply:
1. The onsite lot sizes within 100 feet of each property line shall not be smaller than a lot seventy-five (75%) of the size of the lot size allowed on the abutting lots by the applicable zone; or
 2. The onsite density within 100 feet of each property line shall not exceed the density on the adjoining property by more than twenty-five (25%).
- B. Where density has been transferred on the site, the housing types which abut an existing housing development shall be compatible in terms of the following standards --
1. Two attached housing units are considered compatible with a detached single family unit; but
 2. More than two attached housing units are not considered compatible with a single family detached unit.

33.070 PROCEDURES FOR DETERMINING DENSITY TRANSFER FOR PARCELS WITH
TYPE I AND TYPE II LANDS

When density is to be transferred on a land area with Type I
or Type II land, the following procedure will apply.

<u>Type I or Type II lands</u>	<u>Building Not Allowed</u>	<u>Allowable Density *</u>	
		<u>When Developed</u>	<u>When Transferred</u>
Slopes			
25- 35%		50%	100%
35- 50%	X**		100%
More than 50%	X	-	50%
Confirmed Land slide Hazards	X		50%
Flood Hazard			
100 year flood fringe		50%	100%
100 year floodway	X	-	50%
Stream buffer	X		100%
Wetlands	X		100%
Significant Natural Areas	X		100%

* Development of single family detached residences on lots of record
are exempt from this chart; most restrictive density governs in the
event of conflict or overlap.

** Provisions in the Hillside Development ordinance will apply, Section
94.000

34.000 ACCESSORY STRUCTURE, ASSESSORY USES & PERMITTED USES SETBACK REQUIREMENTS

34.020 PERMITTED USES

A. Accessory uses are permitted uses which are customary and incidental to principal uses permitted in the zone and shall be permitted outright; however:

1. A greenhouse or hothouse may be maintained accessory to a dwelling providing the activity does not exceed that which requires a license under Chapter 571 of the Oregon Revised Statutes; Nurseries & Nurseryman.
2. A guest house may be maintained accessory to a dwelling provided there are no kitchen facilities within the guest house.

34.030 SETBACK PROVISIONS FOR NOISE PRODUCING ACCESSORY STRUCTURES & USES

Noise producing accessory uses and structures such as heat pumps, swimming pool motors or pumps shall meet the setback requirements of the zone.

34.040 BOAT HOUSES & DOCKS

Only side yard setback requirements apply to boat houses and docks.

34.050 GENERAL SETBACK PROVISIONS

Accessory structures shall comply with all requirements for the principal use except as provided in 34.040 and where specifically modified by this code as follows. A side yard or rear yard requirement may be reduced to three feet for an accessory structure except for a side or rear yard abutting a street, provided that --

- A. The structure is erected more than 60 feet from the front lot line;
- B. The structure does not exceed one story or 15 feet in height;
- C. The structure does not exceed an area of 450 square feet, and
- D. The structure does not violate any existing utility easements.

35.000 TEMPORARY STRUCTURES & USES

35.020 APPLICABILITY

Notwithstanding the limitations of use as established by this code in each of the several districts, the Planning Director may issue temporary permits for uses listed in Section 35.040 which are temporary in nature.

35.030 Temporary Structures & Uses, Administration & Approval Process is amended to read:

- A. The Director may issue Temporary Use permits:
 - 1. For a period not to exceed 60 days from the date of issuance; and
 - 2. Such permits shall only be consecutively renewed for one additional 60 day period by the Director.
- B. The Commission may issue Temporary Use permits that will terminate between 60 days and six months from the date of issuance.
- C. The Council may issue Temporary Use permits that will terminate between six months and one year.
- D. The applicable Approval Authority may attach reasonable conditions to any Temporary Use permit approval which will protect the health, safety and welfare of the City's residents.

35.040 TEMPORARY USES

- A. Temporary uses include --
 - 1. Uses associated with the celebration of a specific holiday such as the sale of Christmas trees and fireworks;
 - 2. Uses associated with the sale of fresh fruits, produce and flowers;
 - 3. Uses associated with construction;
 - 4. Uses associated with festivals or celebrations.
 - 5. A real estate office within a development limited to the sale of real estate in the development.

36.000 MANUFACTURED/MOBILE HOMES

36.010 PURPOSE

The purpose of the manufactured/mobile homes provision is to establish criteria for the placement of mobile home units in mobile home subdivisions within the City of West Linn.

36.020 MANUFACTURED/MOBILE HOMES STANDARDS

- A. Mobile homes shall be subject to the following requirements in all of the zoning districts in which they are allowed.
1. The unit shall satisfy the requirements for a mobile home as defined in 06.020 of the Code.
 2. The unit shall be attached to a permanent foundation for which a building permit has been obtained.
 3. The unit shall have a roof with a minimum slope of 16%(2:12).
 4. The unit shall have eaves.
 5. The unit shall have been manufactured within the last 12 months, and carry a state insignia indicating compliance with applicable Oregon State Mobile Home Construction for Equipment standards.
 6. The unit shall have a minimum floor area of 1200 square feet and be designed for occupancy by one family.
 7. The wheels, tongue and traveling lights of the unit shall be removed upon installation of the unit.
 8. Any extension or attachment to the unit which is not part of the original factory manufactured mobile home, including space intended for storage purposes, will require a building permit.
 9. The unit shall have a shingle roof of either composition, wood or ceramic material.
 10. The unit shall have exterior wood siding.
 11. The unit shall be similar in appearance to surrounding homes.
 12. Off-street parking shall be provided as required by 46.080(7).

36.030 MANUFACTURED/MOBILE HOME SUBDIVISION STANDARDS

- A. Manufactured/Mobile home subdivisions are permitted as a conditional use in MR-5 Zoning District.
- B. In addition to the standards of the zoning district in which the project is located and other standards of this code, a mobile home subdivision proposal shall:
 - 1. Comply with all applicable State standards and other City standards for the subdivision including the Land Division provisions contained in Chapters 85 through 97 of this code.
 - 2. Be limited to mobile home housing types. All other types of residential units shall not be permitted.
 - 3. Have a minimum site size of five acres.
 - 4. Have a minimum lot size of 4,500 square feet.
 - 5. Be screened from the public right-of-way and adjacent residential areas by a 15 foot wide buffer. This may include a combination of a sight obscuring fence, wall, planting, berm, or any combination of the above as approved by the approval authority.
 - 6. Have a minimum front and rear yard setback requirement of 10 feet.

37.000 HOME OCCUPATIONS

37.010 PURPOSE

The purpose of this section is to provide for home occupations in residential zones in a manner that will ensure that the use is an accessory use to the primary residential use and that the use will have no disruptive effect on the residential area. The standards contained in this chapter are intended to assure that home occupations will be compatible and consistent with the residential uses and will not have a detrimental effect on neighboring properties.

37.020 CRITERIA

A. A Type I home occupation is an accessory use which meets all the following criteria --

1. It is a lawful use which shall be carried on by the occupants of the dwelling within:
 - a. The dwelling unit and the use and the storage of materials and products shall not occupy more than 20% of the gross floor area or 300 square feet of floor area, whichever is greater; or
 - b. An accessory building which meets the provisions of chapter 34.000.
2. The use shall be a secondary use to the primary use of the house as a residence.
3. There shall be no sales or services rendered on the premises except that five or fewer non-resident children may be cared for on the premises.
4. The outside of the dwelling and the yards shall not be altered to accomodate the use.
5. There shall be no advertising or display signs or exterior indication of a home occupation.
6. There shall be no noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity detectable at any property line.
7. There shall be no outdoor storage.

B. A Type II home occupation is an accessory use which meets all of the following criteria:

1. It is a lawful use which shall be carried on by the occupants of the dwelling within --
 - a. The dwelling unit and the use and storage of materials and products shall not occupy more than 30% of the gross floor area or 500 square feet whichever is greater; or
 - b. An accessory building which meets the provisions of Chapter 34.000.
2. The use shall be a secondary use to the primary use of the house as a residence.
3. The outside character of the dwelling and the yards shall not be altered to accommodate the use.
4. There may be limited sale of merchandise or services rendered from the premise.
5. The use shall not generate vehicular traffic measurably in excess of that normally associated with a single family residential use.
6. There shall be no on street parking and all vehicle parking will be on site on the existing driveway.
7. The privacy of the adjacent residential properties shall be maintained.
8. There shall be no advertising or display signs or exterior indication of a home occupation except that a two (2) foot by three (3) foot identification sign limited to the name of the occupation and address may be permitted.
9. There shall be no noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity detectable at any property line.
10. There shall be no outdoor storage.

37.030 THE APPLICATION

- A. A home occupation application shall be initiated by the occupant.
- B. A prerequisite to the filing of an application is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as set forth in 99.030B.
- C. An application for a Type II home occupation shall in addition to the completed application form(s) include 15 copies of a narrative which addresses the appropriate criteria set forth in 37.040.
- D. For a Type II home occupation the names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- E. The applicant shall pay the requisite fee.

37.040 ADMINISTRATION AND APPROVAL STANDARDS

- A. Type I Home Occupation
 - 1. A Type I Home Occupation is a decision made by the Planning Director in accordance with the provisions of 99.060A, except that no notice shall be required.
 - 2. The Planning Director shall approve, approve with conditions or deny an application for a Type I Home Occupation in accordance with the standards set forth in 37.020A for Type I Home Occupations.
 - 3. The Director's decision may be appealed by the applicant to the Planning Commission as provided in 99.240A.
- B. Type II Home Occupations
 - 1. A type II Home Occupation is a conditional use.
 - 2. The Planning Commission shall approve, approve with conditions or deny an application for a Type II Home Occupation in accordance with the procedures set forth

in 02.060B and upon the criteria set forth in 37.020B for Type II Home Occupations and the criteria set forth in 60.070.

3. The Planning Commission's decision may be reviewed by the Council as provided in 99.240B.

37.050 APPROVAL & STRICT COMPLIANCE IS A REQUISITE FOR A BUSINESS LICENSE

No business license will be issued for a home occupation until the home occupation application is approved and the applicant certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and the conditions of approval.

37.060 TIME LIMIT & REVOCATION

A. The Director may:

1. Approve a Type I, Home Occupation application subject to a one year time period.
2. At the termination of a Type I or Type II, Home Occupation there shall be a renewal application to determine if all of the conditions and provisions of the chapter have been satisfied. The permit shall be renewed if all of the conditions have been satisfied.
3. Revoke a home occupation approval if the conditions are not satisfied as provided by 99.110.

B. The Commission may approve a Type II, Home Occupation subject a one year time period.

38.000 ADDITIONAL YARD AREA REQUIRED; EXCEPTIONS TO YARD REQUIREMENTS;
STORAGE IN YARDS; PROJECTIONS INTO YARDS

38.020 NO YARD REQUIRED: STRUCTURE NOT ON PROPERTY LINE

In zones where a side yard or a rear yard setback is not required, a structure which is not to be built on the property line, shall be set back from the property line by at least three (3) feet.

38.030 SETBACK FROM STREET CENTERLINE REQUIRED

A. To assure improved light, air and sight distance and to protect the public health, safety and welfare, setback in addition to the yard requirements of the zone may be required where the right-of-way is inadequate. A determination shall be made based on the street standards contained in 93.030B.

B. The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a right-of-way width less than required by its functional classification on the City's Transportation Plan Map and in such case the setback shall be not less than the setback required by the zone plus one half of the projected road width as shown on the Transportation Map; however

C. The minimum distance from the wall of any structure to the centerline of an abutting street shall not be less than 25 feet plus the yard required by the zone. This provision

shall not apply to right-of-ways of 50 feet or greater in width.

38.040 EXCEPTIONS TO YARD REQUIREMENTS

- A. If there are dwellings on both abutting lots with front yard depths less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
- B. If there is a dwelling on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.

38.050 STORAGE IN FRONT YARD

Boats, trailers, campers, camper bodies, house trailers, recreation vehicles or commercial vehicles in excess of three quarter ton capacity shall not be stored in a required front yard in a residential zone.

38.060 PROJECTIONS INTO REQUIRED YARDS

- A. Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or project into a required yard not more than 36 inches provided the width of such side yard is not reduced to less than 3 feet.
- B. Fireplace chimneys may project into a required front, side or rear yard not more than three feet, provided the width of such side yard is not reduced to less than three feet.
- C. Open porches, decks, or balconies, not more than 36 inches in height and not covered by a roof or canopy, may extend or project into a required front or rear yard.
- D. Unroofed landings and stairs may project into required front or rear yards only.

40.000 BUILDING HEIGHT LIMITATIONS, EXCEPTIONS

40.010 PROJECTIONS NOT USED FOR HUMAN HABITATION

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flag poles and other similar objects not used for human occupancy, are not subject to the building height limitations of this code:

40.020 CHURCH OR GOVERNMENT BUILDINGS

The height of a church or governmental building may be built to a maximum height of fifty (50) feet provided:

1. The total floor area of the building does not exceed one and one half times the area of the site;
2. The yard dimensions in each case are equal to at least two-thirds of the building height of the principal structure; and
3. The approval of this exception is a part of the approval of the conditional use allowed under 60.000.

42.000 CLEAR VISION AREAS

42.020 CLEAR VISION AREAS REQUIRED, USES PROHIBITED

- A. A clear vision area shall be maintained on the corners of all property adjacent to an intersection as provided by section 42.040 through 42.050.
- B. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction (except for an occasional utility pole or tree) exceeding three and one-half feet in height, measured from the top of the curb, or where no curb exists, from the street center line grade, except that trees exceeding this height may be located in this area, provided all branches below eight feet are removed.

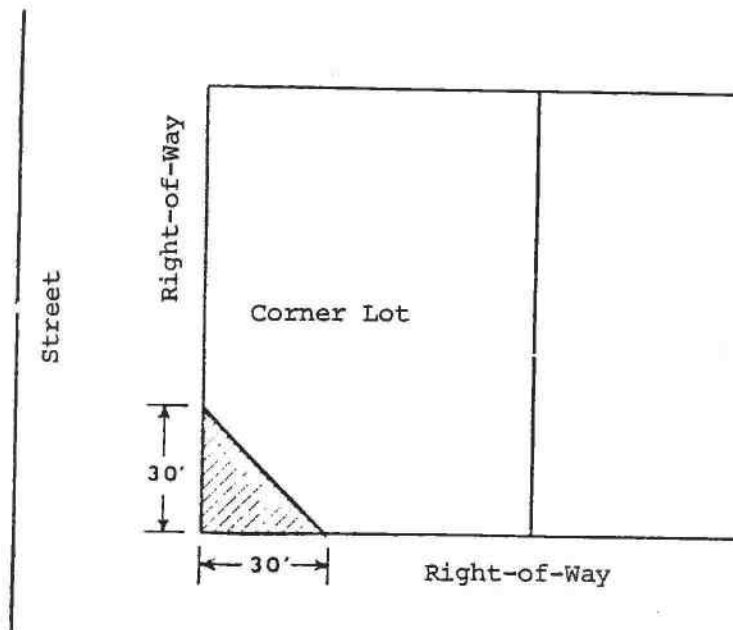
42.030 EXCEPTIONS

The following described area in Willamette shall be exempt from the provisions of this chapter. Beginning at the intersection of Seventh Avenue and Eleventh Street on Seventh Avenue to Sixteenth Street; on Sixteenth Street to Ninth Avenue; on Ninth Avenue to Fourteenth Street to the Tualatin River; following the Tualatin River and Willamette River to Twelfth Street; on Twelfth Street to Fourth Avenue; on Fourth Avenue to Eleventh Street; on Eleventh Street to Seventh Avenue. This described area does not include the northerly side of Seventh Avenue.

42.040 COMPUTATION: STREET & ACCESSWAY 24 FEET OR MORE IN WIDTH

The clear vision area for all street intersections and street and accessway intersections (accessways having twenty four (24) feet or more in width) shall be that triangular area formed by the right-of-way or property lines along such lots and a straight line joining the right-of-way or property line at points which are thirty (30) feet distance from the intersection of the right-of-way line and measured along such lines.

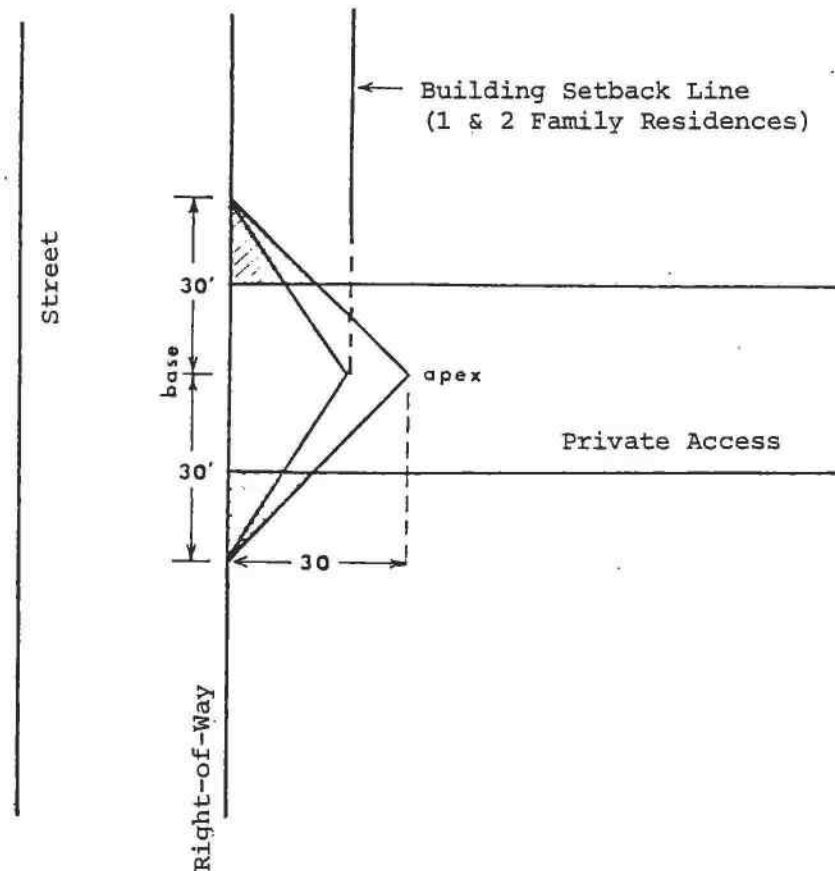
Clear Vision Area for Corner Lots and Driveways 24 Feet or Less in Width



42.050 COMPUTATION: ACCESSWAY LESS THAN 24 FEET IN WIDTH

The clear vision area for street and accessway intersections (accessways having less than twenty-four (24) feet in width) shall be that triangular area whose base extends thirty (30) feet along the street right-of-way line in both directions from the center line of the accessway at the front setback line of a single family and two family residence, and thirty (30) feet back from the property line on all other types of uses.

Clear Vision Area for Corner Lots & Driveways 24 Feet or More in Width



44.000 FENCES

44.020 SIGHT OBSCURING FENCE: SETBACK & HEIGHT LIMITATIONS

- A. A sight or non-sight obscuring fence may be located on the property line or in a yard set back area subject to the following:
1. The fence is located within --
 - a. A required front yard area, and it does not exceed three feet six inches;
 - b. A required side yard which abuts a street and it is within that portion of the side yard which is also part of the front yard set back area and it does not exceed three feet six inches;
 - c. A required side yard which abuts a street and it is within that portion of the side yard which is not also a portion of the front yard set back area and it does not exceed six feet provided the provisions of chapter 42 are met;
 - d. A required rear yard which abuts a street and it does not exceed six feet; or
 - e. A required side yard area which does not abut a street or a rear yard & it does not exceed six feet.

44.030 SCREENING OF OUTDOOR STORAGE

- A. All service, repair, and storage activities carried on in connection with any commercial, business or industrial activity and not conducted within an enclosed building shall be screened from view of all adjacent properties and adjacent streets by a sight obscuring fence at least six feet in height , as measured from the finished grade of adjacent portions of the development site.

- B. The sight obscuring fence shall be in accordance with provisions of chapter 44, Clear vision Areas and shall be subject to the provisions of chapter 55, Development Review.

44.040 LANDSCAPING

Land scaping which is located on the fence line and which impairs sight vision shall not be located within the clear vision area as provided in chapter 42.000

44.050 STANDARDS FOR CONSTRUCTION

- A. The structural side of the fence shall face the owners property; and
- B. The sides of the fence abutting adjoining properties and the street shall be maintained.

46.000 OFF-STREET PARKING, LOADING & RESERVOIR AREAS

46.010 APPLICABILITY & GENERAL PROVISIONS

- A. At the time a structure is erected or enlarged, or the use of a structure or parcel of land is changed within any zone, off-street parking spaces, loading areas and reservoir areas shall be provided in accordance with the requirements of this chapter unless other requirements are otherwise established as a part of the development approval process.
- B. The provision and maintenance of off-street parking and loading spaces are the continuing obligation of the property owner.
- C. No building or other permit shall be issued until plans are approved by the Design Review Board that show the property that is and will remain available for exclusive use as off-street parking and loading space as required by this chapter. The use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this chapter.
- D. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided and the plan approved by the Design Review Board.
- E. Required parking spaces and loading areas shall be improved to the standards contained in this chapter and shall be available for use at the time of the final building inspection except as provided in 46.150.

46.020 ADMINISTRATION & APPROVAL PROCESS

- A. The administration and approval process is set forth in chapter 55.000 Development Review, section 55.020.

- B. The provisions of chapter 55.000 apply except 55.080. The Application, does not apply where the application for approval is limited to the approval of changes to an existing parking, loading or reservoir area or the application does not involve approval of an overall site plan.
- C. Where the provisions of 55.080 do not apply, the applicant shall include the completed application form and 15 copies of each of the following except for each drawing submitted, there shall be eight copies of the original scale and seven copies reduced to a paper size not greater than 8 x 17 inches.
1. A copy of plan drawn to scale showing all the elements necessary to indicate that the requirements of 55.000 are met and it shall include but not be limited to --
 - a. The delineation of individual parking and loading spaces and their dimensions;
 - b. The location of the circulation area necessary to serve spaces;
 - c. The access point(s) to streets, alleys and properties to be served;
 - d. The location of curb cuts;
 - e. The location and dimensions of all landscaping, including the type and size of plant material to be used, as well as any other landscape material incorporated into the overall plan.
 - f. The proposed grading and drainage plans; and
 - g. Specifications as to signs and bumper guards.
 2. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- D. The requisite fee shall be paid.

46.030 APPROVAL STANDARDS

- A. Approval shall be based on the standards set forth in this chapter; Chapter 46, Access and Circulation; and the applicable standards set forth in 55.100, Development Review.

46.040 JOINT USE OF A PARKING AREA

- A. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the City in the form of deeds, leases, contracts to establish the joint use.
- B. If a joint use arrangement is subsequently terminated, the requirements of this chapter will thereafter apply to each use separately.

46.050 STORAGE IN PARKING & LOADING AREAS PROHIBITED

Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and the required parking spaces shall not be used for storage of vehicles or materials or for the parking of trucks connected with the business or use.

46.060 MAXIMUM DISTANCE ALLOWED BETWEEN PARKING AREA & USE

- A. Offstreet parking spaces for single and two family dwellings and town houses shall be located on the same lot with the dwelling.
- B. Offstreet parking spaces for uses not listed in A above shall be located not further than 200 feet from the building or use they are required to serve, measured in a straight line from the building with the following exceptions.
 - 1. Shared parking areas, as provided by 46.040 for commercial uses which require more than 40 parking spaces may provide for the spaces in excess of the required 40 spaces upto a distance of 300 feet from the commercial building or use.
 - 2. Industrial and manufacturing uses which require in excess of 40 spaces may locate the required spaces in excess of the 40 spaces upto a distance of 300 feet from the building.

46.070 COMPUTATION OF REQUIRED PARKING SPACES AND LOADING AREA

- A. Where several uses occupy a single structure or parcel of

land or a combination of uses are included in one business, the total off-street parking spaces and loading area shall be the sum of the requirements of the several uses, computed separately.

- B. Where square feet are specified, the area measured shall be gross floor area under the roof measured from the faces of the structure, excluding only space devoted to covered off-street parking or loading.
- C. Where employees are specified, the employees counted are the persons who work on the premises including proprietors, executives, professional people, production, sales and distribution employees, during the largest shift at peak season.
- D. Fractional space requirements shall be counted as a whole space.
- E. Parking spaces in the public street or alley shall not be eligible as fulfilling any part of the parking requirement.

46.080 MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS

A. Residential Parking Space Requirements

- | | |
|---|---|
| 1. Single-family Residences (attached or detached) on a local street. | 2 spaces for each dwelling unit, one of which may be covered. |
| 2. Single-family Residences (attached or detached) on a collector or arterial street. | Exclusive of garage
2 spaces for each dwelling unit. |
| 3. Two-family Residences. | Same as single-family. |
| 4. Multi-family Residences - | |
| (a) Studio | 1 space for each unit. |
| (b) 1 Bedroom Apartment | 1.5 spaces for each unit. |
| (c) 2 (or more) bedroom apartments | 2 spaces for each dwelling unit. |
| 5. Residential Hotel, rooming and boarding houses. | Spaces for 80% of the guest room or suites plus 1 space for each 2 employees. |
| 6. Convalescent home, home for the aged, home for children, welfare or correction institutions, sanitorium or nursing home. | 1 space for each 3 beds or patients plus 1 space for each 2 employees. |

- | | |
|---|---|
| 7. Manufactured/Mobile home. | Two spaces per mobile home unit. |
| 8. Senior Citizen/Handicapped Housing facilities. | One space for each 3 units plus 1 space for each 2 employees. |

B. Public & Semi Public Buildings & Uses

- | | |
|--|---|
| 1. Hospitals. | 1 and one-half space for each bed, including bassinettes. |
| 2. Club, lodge or association. | Spaces to meet the combination of uses 46.070(A). |
| 3. Library. | One space per 400 square feet of reading area plus one space per two employees. |
| 4. Churches, mortuaries, auditoriums, meeting rooms. | 1 space for every 4 fixed seats or every 8 feet of bench length or every 28 square feet where no permanent seats or benches are maintained (in main auditorium, sanctuary or place of worship). |
| 5. Museum, art gallery. | 1 space for each 500 square feet of floor area, plus 1 space for each 2 employees. |
| 6. Preschool, kindergarten, elementary school, junior high school or equivalent private or parochial school. | 1.5 spaces for every employee, plus 1 space for each 100 square feet of floor area in the auditorium or other assembly room, or 1 space for each 8 seats. |
| 7. Senior high, college, or commercial trade school or equivalent private or parochial school. | Exclusive of parking required for dormitory facilities, 1.5 spaces for each employee, plus 1 space for every 6 classroom seats, plus 1 space for each 100 square feet of floor area or 1 space for each 8 seats in the auditorium or other assembly room. |
| 8. Swimming pool, tennis courts or other similar recreational uses operated by a non-profit, neighborhood club or association. | 1 space per 200 feet of covered floor area. |

C. Commercial

1. Restaurants: Eating and drinking
 - (a) Cafe, Diner. 1 space for every 3 seats, plus 1 space for each 2 employees.
 - (b) Fast Food. 1 space for every 60 square feet of gross floor area.
 - (c) Tavern, Night Club. 1 space for every 2 seats, plus 1 space for each 2 employees.
2. General Retail Store except as provided below. 1 space for every 200 square feet of gross floor area, plus 1 space for each 2 employees.
3. Retail-Bulky (i.e. automobiles, furniture, appliances such as stoves, refrigerators, etc.) 1 space for every 600 square feet of gross floor area, plus 1 space for each 2 employees.
4. Service and Repair Shops (not directly attached or associated with furniture, appliance or automobile retail sales). 1 space for every 500 square feet of gross floor area, plus 1 space for each 2 employees.
5. Professional offices, banks and savings and loans. 1 space for every 400 square feet of gross floor area plus 1 space for each 2 employees.
6. Medical/Dental Clinics. 1 space for every 200 square feet of gross floor area.
7. Hotel, motel or tourist court. 1 space for each guest room plus 1 space for each 2 employees.

D. Commercial Recreation

1. Auditorium, stadium, gymnasium, indoor arena or theater. 1 space for each 4 seats or 8 feet of bench length or 1 space for each 40 square feet of floor area.
2. Bowling Alley 5 spaces for each alley, plus 1 space for each 2 employees
3. Pool Hall or Billiard Hall 1 space per table plus 1 space per 2 employees

- | | |
|--------------------------------|---|
| 4. Dance Hall or skating rink. | 1 space for each 50 square feet of gross floor area, plus 1 space for each 2 employees. |
| 5. Amusement Park. | 1 space for each 1,000 square feet of gross area, plus 1 space for each 2 employees. |
| 6. Go-Kart track. | 1 space per kart plus one space per employee |
| 7. Golf driving range. | 1 space per 10 linear feet of driving line. |
| 8. Indoor area or theater. | 1 space per four seats or eight feet of bench length. |
| 9. Race track or stadium. | 1 space per six seats or 12 feet of bench length. |
| 10. Shooting gallery. | 1 space per 500 square feet of floor area plus one space per two employees. |
| 11. Swimming pool. | 1 space per 100 square feet of floor area plus one space per two employees. |
| 12. Tennis court. | 1 space per court. |
| E. <u>Industrial</u> | |
| 1. Manufacturing use | 1 space per employee. |
| 2. Storage or wholesale use. | 1 space per employee plus one space per 700 square feet of patron serving area. |

46.090 PARKING REQUIREMENTS FOR UNLISTED USES

- A. Upon application and payment of fees, the Council as provided by 99.060D may rule that a use, not specifically listed in 46.080 is a use similar to a listed use and that the same parking standards shall apply. The ruling on parking requirements shall be based on the requirements of chapter 02 and findings that:
1. The use is similar to and of the same general type as a listed use;
 2. The use has similar intensity, density and off-site impacts as the listed use; and
 3. The use has similar impacts on the community facilities as the listed use.

- B. This section does not authorize the inclusion of a use in a zone where it is not listed or a use which is specifically listed in another zone or which is of the same general type and is similar to a use specifically listed in another zone.
- C. The Planning Director shall maintain a list of approved unlisted uses parking requirements which shall have the same affect as an amendment to this chapter.

46.100 RESERVOIR AREAS REQUIRED FOR DRIVE-IN USES

All uses providing drive-in service as defined by this code shall provide on the same site a reservoir for inbound vehicles as follows:

<u>Use</u>	<u>Reservoir Requirement</u>
Drive-in Banks.	5 spaces/service terminal.
Drive-in Restaurants.	10 spaces/service window.
Drive-in Theatres.	10% of the theatre capacity.
Gasoline Service Stations.	3 spaces/pump.
Mechanical Car Washes.	3 spaces/washing unit.
Parking Facilities --	
Free flow entry.	1 space/entry driveway.
Ticket dispense entry.	2 spaces/entry driveway.
Manual ticket dispensing.	8 spaces/entry driveway.
Attendant parking.	10% of that portion of parking capacity served by the drive-way.

46.110 DRIVEWAYS REQUIRED ON SITE

A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school or other meeting place which is designed to accomodate more than 25 people at one time.

46.120 OFF-STREET LOADING SPACES

- A. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading and maneuvering space as follows:

--- Gross Floor Area ---

<u>Land Use</u>	<u>At Which 1st Berth is Required</u>	<u>At Which 2nd Berth is Required</u>
Industrial:		
Manufacturing	5,000 sq. ft.	40,000 sq. ft.
Warehouse	5,000	40,000
Storage	10,000	100,000
Commercial:		
Wholesale	10,000	40,000
Retail	10,000	20,000
Service Establishments	10,000	40,000
Comm. Recreational (incl. bowling alley)	10,000	100,000
Restaurants	5,000	25,000
Laundry	10,000	25,000
Office Building	10,000	100,000
Hotel	10,000	100,000
Institutional:		
Schools	10,000	100,000
Hospitals	10,000	100,000
Sanitariums (homes)	10,000	100,000
Public Buildings:		
Terminals	5,000	40,000
Auditoriums	10,000	100,000
Arenas	10,000	100,000
Funeral Homes	10,000	100,000

A. The following standards, including Figures 1 and 2 in this chapter, and the applicable standards set forth in 55.000 apply to the design and improvement of areas used for vehicle parking, storage, loading and travel:

1. Except as otherwise defined in this code, "one standard parking space" means a minimum for a parking stall of 9 feet in width and 20 feet in length. To accommodate compact cars more efficiently, up to 25% of the available parking spaces may have a minimum dimension of 8 feet in width and 18 feet in length so long as they are identified as compact car stalls and are not readily accessible to large cars.
2. Excluding single-family and duplex residences, groups of more than five parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way would be required.
3. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site.
4. Each parking and/or loading space shall be accessible from a street and the access shall be of a width and location as described in this code.
5. Parking space configuration, stall and access aisle size shall be of sufficient width for all vehicles turning and maneuvering, and according to the minimum standard as shown in figures 1 and 2 of this chapter.
6. Except for single and two-family residences, any area intended to be used to meet the off-street parking requirements as contained in this chapter shall have all parking spaces clearly marked using a permanent

paint. All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.

7. Except for single and two-family residences, all areas used for the parking and/or storage and/or maneuvering of any vehicle, boat and/or trailer shall be improved with asphalt or concrete surfaces according to the same standards required for the construction and acceptance of city streets.
8. Off-street parking spaces for single and two-family residences shall be improved with an asphalt or concrete surface to specifications as approved by the Building Official.
9. Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site. The number of access drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives.
10. Access drives shall have a minimum vision clearance as provided in chapter 42.000, Clear Vision Areas.
11. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least 4 inches high located 3 feet back from the front of the parking stall as defined in Figure 1, of this chapter.
12. Off-street parking and loading areas shall be drained in accordance with specifications approved by the City Engineer to assure that ponding does not occur.
13. Artificial lighting on all off-street parking facilities shall be designed to deflect all light away from

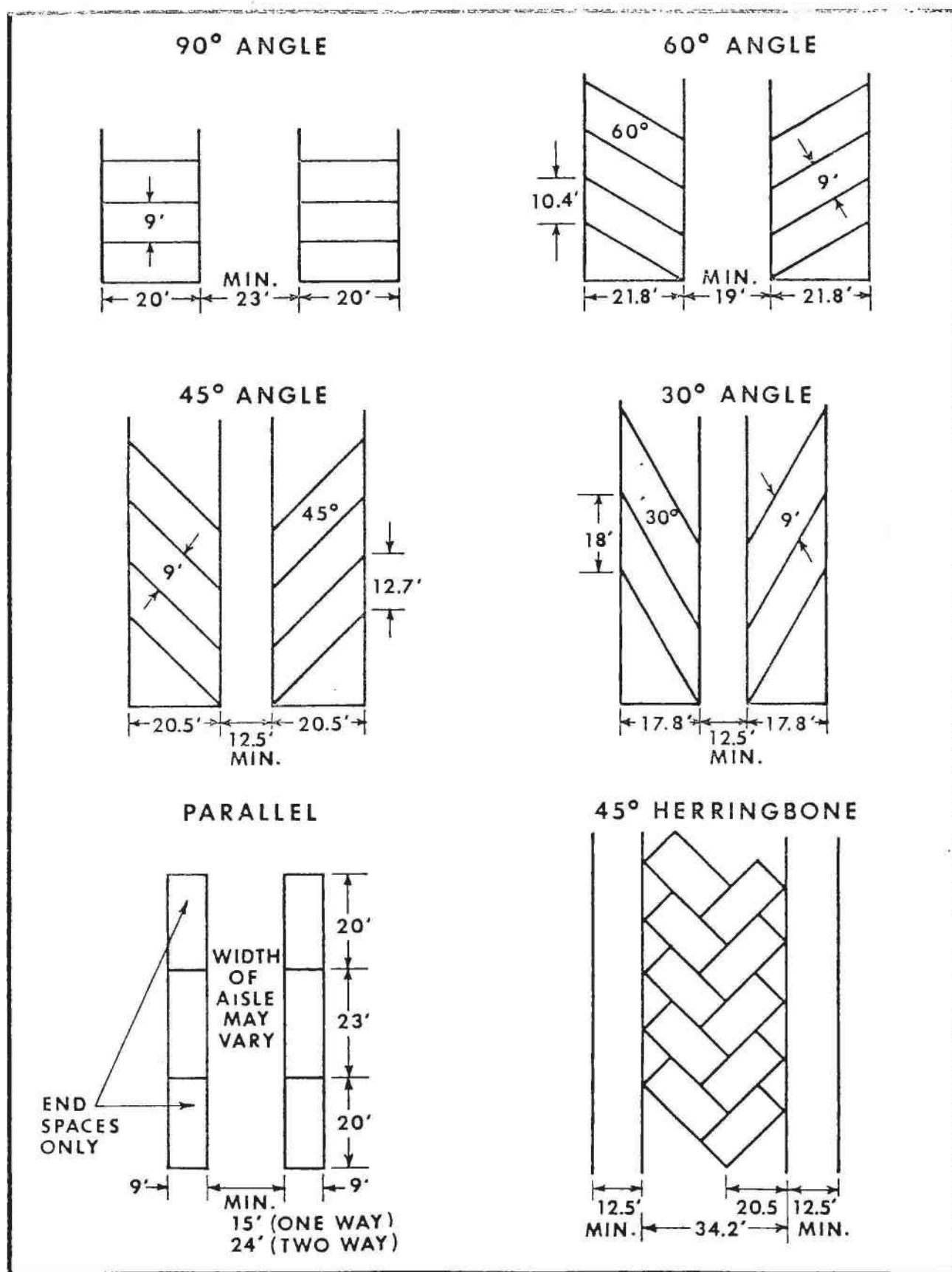
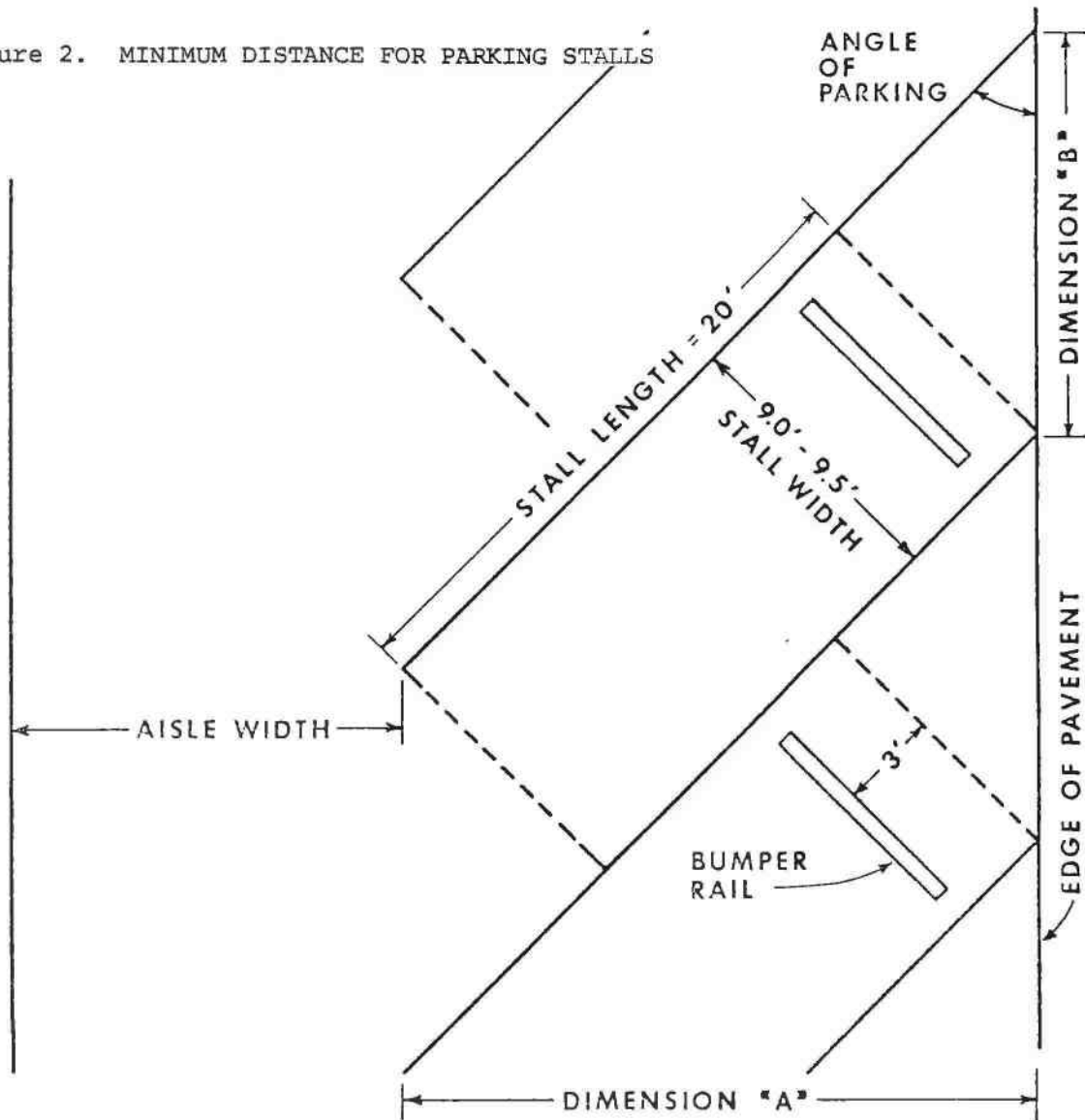


Figure 1. MINIMUM STANDARDS FOR PARKING LOT LAYOUT

Figure 2. MINIMUM DISTANCE FOR PARKING STALLS



ANGLE OF PARKING	DIRECTION OF PARKING	AISLE WIDTH		DIMENSION "A"		DIMENSION "B"	
		STALL WIDTH		STALL WIDTH		STALL WIDTH	
		9.0'	9.5'	9.0'	9.5'	9.0'	9.5'
30°	DRIVE-IN	12.5'	12.5'	17.8'	18.2'	18.0'	19.0'
45°	DRIVE-IN	12.5'	12.5'	20.5'	20.9'	12.7'	13.4'
60°	DRIVE-IN	19.0'	18.0'	21.8'	22.1'	10.4'	11.0'
60°	BACK-IN	17.0'	17.0'	21.8'	22.1'	10.4'	11.0'
90°	DRIVE-IN	23.0'	23.0'	20.0'	20.0'	9.0'	9.6'
90°	BACK-IN	22.0'	22.0'	20.0'	20.0'	9.0'	9.6'

surrounding residences and so as not to create a hazard to the public use of any road or street.

14. Signs which are placed on parking lots shall be as prescribed in chapter 55.000 and chapter 52.000 Signs.
15. All parking lots shall be kept clean and in good repair at all times. Breaks in paved surfaces shall be repaired promptly and broken or splintered wheel stops shall be replaced so that their function will not be impaired.

46.140 DRAINAGE OF OFF-STREET PARKING AND LOADING FACILITIES

Except for single and two-family residences, off-street parking and loading facilities shall be drained to avoid flow of water across public sidewalks.

46.150 PERFORMANCE BOND, OR SECURITY REQUIRED

If due to weather conditions, the lack of available surfacing material or other circumstances beyond the control of the owner, make completion of the parking lot impossible, the owner may apply for an extension of up to 12 months by posting "security" equal to 125% of the cost of the parking lot with the City, assuring installation within 12 months. "Security" may consist of a performance bond payable to the City, cash, certified check, time certificates of deposit, assignment of a savings account or other such assurance of access to funds necessary for completion as shall meet the approval of the City Attorney. Upon acceptance by the Planning Director or his designee of the approved "security", the owner may be allowed occupancy for a period of 12 months. If the installation of the parking improvement is not completed within the 12 months, the City shall have access to the security to complete the installation and/or revoke occupancy. Upon completion of the installation, any portion of the remaining security minus administrative charges of 15% shall be returned to the owner. Costs in excess of the posted security shall be assessed against the property and the City shall thereupon have a valid lien against the property which shall become due and payable. Application for acceptance of security shall be accompanied by a fee established by Council resolution.

48.000 ACCESS, EGRESS & CIRCULATION

48.010 APPLICABILITY & GENERAL PROVISIONS

- A. The provisions of this chapter do not apply where the provisions of the Land Division Code are applicable and set forth differing standards.
- B. All lots shall have access from a public street or from a private street approved under the Land Division Code.
- C. No building or other permit shall be issued until scaled plans are presented to the city and approved by the city as provided by this chapter, that show how access, egress and circulation requirements are to be fulfilled.
- D. Should the owner or occupant of a lot or building enlarge or change the use to which the lot or building is put, resulting in increasing any of the requirements of this chapter, it shall be unlawful and a violation of this code to begin or maintain such altered use until the provisions of this chapter have been met, and, if required, until the appropriate Approval Authority under Chapter 99 has approved the change.
- E. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements as designated in this Code provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.

48.020 MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

Access, egress and circulation system for residential uses shall not be less than the following:

- 1. Direct individual access to arterial streets as designated in the Transportation Element of the West Linn Comprehensive Plan, from single family dwellings and duplex lots established after the effective date of this code is hereafter prohibited, except that the city may permit direct access to an arterial for lots of sub-

divisions approved prior to the effective date of this code.

2. Single family dwellings shall be required to have a minimum of one driveway, fully improved with hard surface pavement with a minimum width of 10 feet.
3. Two family dwellings shall be required to have either one driveway, fully improved with hard surface pavement with a minimum width of 20 feet, or two driveways, fully improved with hard surface pavement with a minimum width of 10 feet each.
4. Groups of more than five parking spaces, except those in conjunction with single or two family dwellings on a single lot, shall be served by one or more service drives as determined necessary to provide convenient and safe access to the property designed according to section 48.050. In no case shall the design of said service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle within a street, other than an alley.
5. Service drives for multi-family dwellings shall be fully improved with hard surface pavement:
 - a. With a minimum of 24 feet width when accomodating two-way traffic; or
 - b. With a minimum of 15 feet width, when accomodating one-way traffic.
6. Where on site maneuvering and/or access drives are necessary to accommodate required parking, in no case shall said maneuvering and/or access drives be less than that required in section 46.130 of this code.

48.030 MINIMUM VEHICLE REQUIREMENTS FOR NON RESIDENTIAL USES

Access, egress and circulation system for all non residential uses shall not be less than the following:

- A. Service drives for non residential uses shall be fully improved with hard surface pavement:
 1. With a minimum of 24 width when accomodating two-way traffic; or
 2. With a minimum of 15 feet width, when accomodating one-way traffic.

- B. All non residential uses shall be served by one or more service drives as determined necessary to provide convenient and safe access to the property and designed according to section 48.030A. In no case shall the design of the service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle with a street, other than an alley.
- C. All onsite maneuvering and/or access drives shall be maintained pursuant to section 46.130 of this code.

48.040 ONE WAY VEHICULAR ACCESS POINTS

Where a proposed parking facility plan indicates only one-way traffic flow on the site, it shall be accommodated by a specific drive-way serving the facility, and the entrance drive shall be situated closest to on-coming traffic, and the exit drive shall be situated farthest from on-coming traffic.

48.050 WIDTH AND LOCATION OF CURB CUTS & ACCESS SEPARATION REQUIREMENTS

- A. Minimum curb cut width shall be 15 feet.
- B. Maximum curb cut width shall be 30 feet.
- C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:
 - 1. On an arterial when intersected by another arterial, 150 feet.
 - 2. On an arterial when intersected by a collector, 75 feet.
 - 3. On an arterial when intersected by a local street, 50 feet.
 - 4. On a collector when intersecting an arterial street, 50 feet.
 - 5. On a collector when intersected by another collector or local street, 35 feet.
 - 6. On a local street when intersecting any other street, 35 feet.
- D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street as follows:
 - 1. On an arterial street, 150 feet.
 - 2. On a collector street, 75 feet.
 - 3. Between any two curb cuts on the same lot on a local street, 30 feet.
- E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.

48.060 PLANNING DIRECTORS AUTHORITY TO RESTRICT ACCESS -- APPEAL PROVISIONS

- A. In order to provide for increased traffic movement in congested streets and eliminate turning movement problems, the Planning Director or his designee may restrict the location of driveways on said street and require the location of driveways on adjacent streets upon the finding that the proposed access would:
 - 1. Cause or increase existing hazardous traffic conditions; or
 - 2. Provide inadequate access for emergency vehicles; or
 - 3. Cause hazardous conditions to exist which would constitute a clear and present danger to the public health safety and general welfare
- B. A decision by the Planning Director may be appealed to the Planning Commission as provided by 99.060B.

48.070 VARIANCES, APPROVAL STANDARDS & REQUIREMENTS

- A. In all zones where the spacing of access and egress drives cannot be readily achieved within a particular parcel, joint access with an adjoining property shall be sought. If joint access cannot be achieved, the Planning Commission may grant a variance to the access spacing requirements of this chapter in the manner provided by 99.060.
- B. The Approval Authority may approve, approve with conditions or deny a request for a variance based on findings that --
 - 1. It is not possible to share access;
 - 2. There are no other alternative access points on the street in question or from another street;
 - 3. The access separation as requested by section 48.050 cannot be met;
 - 4. The request is the minimum variance required to provide adequate access;
 - 5. The approved access or access approved with conditions will result in a safe access; and
 - 6. The Clear Vision Requirements of chapter 42 will be met.

- C. A variance request shall be initiated by the property owner or the owners authorized agent.
- D. A prerequisite to the filing of an application is a preapplication conference at which time the Planning Director shall explain the requirements and provide the appropriate form(s)
- C. An application for a variance shall include the completed application form and 15 copies of the following.
 - 1. A narrative which addresses the approval criteria set set forth in B of this section and which sustains the applicants burden of proof.
 - 2. A plot plan as provided by H below.
- F. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- G. The applicant shall pay the requisite fee.
- H. The applicant shall submit a plot plan drawn to an appropriate scale (in order of preference, 1"=10' to 1"=50') which shows the following:
 - 1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 - 2. The relationship of the lot to the road system.
 - 3. The location of access points on adjoining lots and on the lots across the street.
 - 4. The location and setback of structures and parking areas on the lot and on the adjoining lots.
 - 5. The location of the proposed access.
 - 6. The site distances from the proposed access point.

48.080 PEDESTRIAN CIRCULATION

- A. Within all attached housing (except two family dwellings) and multi-family developments, each residential dwelling shall be connected to vehicular parking stalls, and common open space and recreation facilities by a pedestrian pathway system having a minimum width of four feet and constructed of an all weather material.

- B. For other than single family detached and duplex units, private sidewalks, a minimum width of four feet, shall extend from the ground floor entrances or the ground floor landing of stairs, ramps or elevators to the public sidewalk or curb of the public street or streets which provide the required access and egress.

48.090 BICYCLE & PEDESTRIAN WAYS

Bicycle and pedestrian ways within a subdivision shall be constructed according to the provisions in chapter 91.000, Design standards.

52.000 SIGNS

(Note: For the regulations covering signs see chapter 15.20
of the West Linn Municipal Code).

54.000 INSTALLATION & MAINTENANCE OF LANDSCAPING

54.010 PURPOSE

The purpose of this section is to provide for the installation and maintenance of landscaping required by the provisions of this code.

54.020 INSTALLATION

- A. All landscaping shall be installed according to accepted planting procedures.
- B. The plant materials shall be of good quality.
- C. Landscaping shall be installed in accordance with the provisions of this code.
- D. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the city such as the posting of a bond.

54.030 MAINTENANCE

- A. The owner, tenant and their agent, if any, shall be jointly and severably responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.
- B. All plant growth in interior landscaped areas shall be controlled by pruning, trimming or otherwise so that --
 - 1. It will not interfere with the maintenance or repair of any public utility;
 - 2. It will not restrict pedestrian or vehicular access; and
 - 3. It will not constitute a traffic hazard because of reduced visibility.

55.000 DESIGN REVIEW

55.010 PURPOSE & INTENT

The purpose of the design review provisions is to establish a process and standards for the review of development proposals to assist in conserving and enhancing the appearance of the city and assist in promoting functional, safe and innovative site development which in terms of its scale, layout and design is compatible with the surrounding natural environment and the character of the surrounding neighborhood or area.

The intent is to assure that there is compatibility between adjoining uses, that privacy is maximized, that private and common outdoor space is provided, that vehicular access and circulation is safe, that parking areas are made aesthetically attractive, and safe in terms of crime prevention, well drained and that the needs of the handicapped are met, that adequate landscaping is provided to assure visual quality, and that crime prevention and public safety factors are considered.

55.020 ADMINISTRATION & APPROVAL PROCESS

- A. A preapplication conference is a precondition to filing a tentative development plan application for design review as provided by sections 99.030(B) and 55.090 of this chapter.
- B. The application shall be filed by the record owner(s) of the property or authorized agent.
- C. Action on the tentative development plan application shall be as provided by the Administrative Procedures section 99.060C and the following:
 - 1. The Design Review Board shall hold a public hearing and 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 except that an applicant shall not have the burden of showing conformance with the statewide planning goals and the comprehensive plan policies as provided by sections 99.110 A 1 and A 2.

2. A decision by the Design Review Board may be reviewed by the Commission as provided by 99.240B.
- D. Within one year after the date that tentative approval is given, the owner shall prepare and file with the Planning Director a final development plan unless otherwise provided as a part of the approval of the tentative development plan.
- E. Action on the final development plan shall be ministerial and taken by the Planning Director and:
 1. The Planning Director shall approve the final development plan upon finding that the final plan substantially conforming with the tentative development plan approved or approved with conditions by the board. Otherwise, approval of the final plan shall be denied unless the Planning Director finds--
 - a. The change does not increase the residential densities; the lot coverage by buildings or reduce the amount or parking;
 - b. The change does not reduce the amount of open space and landscaping;
 - c. The change does not involve a change in use;
 - d. The change does not commit to development land which is environmentally sensitive or subject to a potential hazard; and
 - e. The change merely involves only a minor shift in the location of buildings, proposed streets, parking lot configuration, utility easement, landscaping or other site improvements.
 2. A decision by the Director may be appealed by the applicant to the board and the board shall decide whether the final development plan substantially conforms to the approved tentative plan based on the criteria set forth in 1 above in this subsection. The decision shall be based on testimony from the applicant and the staff exclusively and no notice shall be required.
- F. Substantial modifications made to the approved tentative development plan will require a public hearing as provided by 99.060C.

55.030 EXPIRATION OF APPROVAL - CONTINUATION

- A. If no substantial construction has occurred within one year from the date of approval of the final development plan, the Planning Director shall schedule a public hearing before the Board to determine the question of whether continuation of approval, in whole or in part, is in the public interest.
- B. The Board may approve the extension of time, approve the extension of time subject to modifications and condition or deny the extension of time.
- C. The decision shall be based on findings that:
 - 1. There has been no change in the facts on which the approval was based; and
 - 2. There has been no change in the policies and ordinance provisions on which the approval was based.
- D. The decision may be reviewed by the Council as provided by section 99.240B.

55.040 NON-COMPLIANCE - BOND

- A. Non-compliance with an approved final development plan shall be a violation of this code.
- B. The development shall be completed in accordance with the approved final development plan including landscaping and recreation areas before an occupancy permit will be issued except that: When the Planning Director determines that immediate execution of any feature of an approved final development plan is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director shall as a precondition to the issuance of a required permit, require the posting of a performance bond, or other surety, to secure execution of the feature at a time certain.

55.050 APPLICABILITY.

The provisions of this chapter apply to all zones and to all uses except to a single family detached dwelling and except for a single

family detached dwelling , no building, parking, land use, sign or other required permit shall be issued for a use subject to the provisions of this chapter, nor shall a new use be commenced, or an existing use enlarged structurally altered or structurally changed on the exterior until a final development plan is approved by the Planning Director.

55.060 STAGED DEVELOPMENT

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of section 02.125.

55.070 APPLICABLE BASE ZONE PROVISIONS

All the provisions of the base zone shall apply unless modified through the approval of a planned unit development, chapter 24, the approval of variances, chapter 74 or by chapter 33, Density Computation.

55.080 THE APPLICATION - THE TENTATIVE DEVELOPMENT PLAN

- A. The applicant for a Design Review application shall be initiated by the property owner or the owners agent.
- B. A preapplication conference shall be a prerequisite to the filing of an application.
- C. The applicant shall submit a completed application together with 15 copies of each of the following except for each drawing submitted there shall be eight copies at the original scale and seven copies reduced to a paper size not greater than 11 x 17 inches.
 - 1. The Tentative Development Plan which shall contain the following elements --
 - a. A Site Analysis 55.110;
 - b. A Site Plan, 55.120;
 - c. A Grading Plan, 55.130;
 - d. Architectural Drawings, indicating floor plan and elevation, 55.140;

- e. A Landscape Plan, 55.150; and
- f. A Sign Plan, 55.160.
- 2. A narrative, based on the standards contained in this code, which supports any requested exceptions as provided under section 55.170.
- D. The applicant shall submit drafts of the proposed restrictive covenants, property owners agreements, dedications, deeds, easements and reservations of public open space not dedicated
- E. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- F. The applicant shall pay the required fee.

55.085 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

- A. The Planning Director may require additional information as part of the application subject to the provisions of section 99.035A.
- B. The Planning Director may waive any requirements for the application subject to the provisions of section 99.035 B and C.

55.090 PREAPPLICATION CONFERENCE

- A. All applicants shall participate in a preapplication conference prior to the submission of a tentative development plan.
- B. The Director shall explain all the applicable policies, ordinance provisions, opportunities and constraints which may be applicable to the site and type of proposed development.
- C. The following subjects shall be reviewed at the preapplication conference:
 - 1. The existing site conditions and factors which must be considered; for example:
 - a. The parcel's location and size, the comprehensive plan, zoning, and other possible and applicable ordinance provisions.

- b. The proposed use and types of adjacent land uses and the opportunities for shared use such as parking or for the need for buffers or sound barriers.
- c. The natural features on the site; topography, drainage courses, vegetation and soil conditions and stability as these features relate to plan policies and ordinance provisions and the site development plan.
- d. The availability of utilities.
- d. The site access and potential traffic problems.
- f. The availability of transit, capacity of the road system and existence of plans for bicycle and pedestrian ways.
- g. Existing or potential noise sources.
- 2. The intent of this code with respect to the various requirements.
- 3. Conditions placed on previous applications.

55.100 APPROVAL STANDARDS

- A. The Board shall make a finding with respect to the following criteria when approving, approving with conditions or denying an application:
 - 1. The provisions of the following chapters shall be met:
 - a. Chapter 33, Density Computation and Limitations.
 - b. Chapter 34, Accessory Structure.
 - c. Chapter 38, Additional Yard Area Required.
 - d. Chapter 40, Building Height Limitations and Exceptions.
 - e. Chapter 42, Clear Vision Areas.
 - f. Chapter 44, Fences & Screening Outdoor Storage.
 - g. Chapter 46, Off-street Parking and Loading.

- h. Chapter 48, Access.
- i. Chapter 52, Signs.
- 2. Relationship to the Natural and Physical Environment:
 - a. The buildings and other site elements shall be designed and located to preserve the existing trees, topography, and natural drainage, to the degree possible.
 - b. The structures shall not be located in areas subject to slumping and sliding.
 - c. 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.
 - d. The proposed structure(s) shall be of a comparable scale with the existing structure(s) on site and on adjoining sites and shall have comparable architectural features with the structures on the site and on adjoining sites. This does not require the same architectural styles.
 - e. The structures shall be oriented with consideration for the sun and wind directions, where possible.
 - f. Trees having a six inch caliper at five feet in height shall be saved, where possible.
- 3. Compatibility between Adjoining Uses, Buffering, and Screening:
 - a. In addition to the compatibility requirements contained in chapter 33, buffering shall be provided between different types of land uses (for example, between single family and multiple family residential and residential and commercial) and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:
 - (1) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust or to provide a visual barrier.

- (2) The size of the buffer required to achieve the purpose in terms of width and height.
 - (3) The direction(s) from which buffering is needed.
 - (4) The required density of the buffering.
 - (5) Whether the viewer is stationary or mobile.
 - b. 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:
 - (1) What needs to be screened.
 - (2) The direction from which it is needed.
 - (3) How dense the screen needs to be.
 - (4) Whether the viewer is stationary or mobile.
 - (5) Whether the screening needs to be year around.
 - c. Roof top air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.
4. Privacy and Noise:
- a. Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view by adjoining units.
 - b. Structures abutting existing residential dwellings shall be designed in a manner, to the maximum degree possible, to protect the private areas on the adjoining properties from view and noise.
 - c. Residential dwelling units shall be placed on the site in areas having minimal noise levels, or landscaping shall be used to lessen noise impacts.
 - d. Structures or on site activity areas which generate noise, lights or glare shall be buffered from adjoining residential uses by buffering in accordance with the standards in section 55.100B 3 (a).
5. Private Outdoor Area:
- a. In addition to the requirements of section 55.100B 4.

each ground level residential living unit shall have an outdoor private area (patio, terrace, porch) of not less than forty-eight (48) square feet in area;

- b. The outdoor space shall be oriented towards the sun where possible; and
- c. The area shall be screened or designed to provide privacy for the users of the space.

6. Shared Outdoor Recreation Areas:

- a. In addition to the requirements of subsection four and the requirements of subsection five, useable outdoor recreation space shall be provided in residential developments for the shared or common use of all the residents in the following amounts:

- (1) Studio up to and including two-bedroom units: 200 square feet per unit.
- (2) Three or more bedroom units: 300 square feet per unit.

- b. The required recreation space may be provided as follows:

- (1) It may be all outdoor space; or
- (2) It may be part outdoor space and part indoor space; for example, an outdoor tennis court and indoor recreation room; and
- (3) It may be all public or common space; or
- (4) It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room and balconies on each unit; and
- (5) Where balconies are added to units, the balconies shall not be less than forty-eight square feet.

- c. The shared space shall be readily observable for reasons of crime prevention and safety.

7. 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--

- a. A deck, patio, low wall, hedge, or draping vine;
- b. A trellis or arbor;
- c. A change in level;
- d. A change in the texture of the path material;
- e. Sign; or
- f. Landscaping.

8. Access and Circulation: In addition to the provisions of chapter 42, Clear Vision Areas and chapter 48, Access, the following shall apply:

- a. The number of access points, multiple family and non-residential uses, shall be determined by the lot size; vehicle turn over rate; and relationship with adjoining streets.
- b. The circulation pattern shall be clear to facilitate emergency vehicles.
- c. Provisions shall be made for pedestrian and bicycle ways if such facilities are shown on an adopted plan.

9. Public Transit:

- a. Provisions for public transit may be required where the site abuts a public transit route. The required facilities shall be based on the following:
 - (1) The location of other transit facilities in the area.
 - (2) The size and type of the proposed development.
- b. The required facilities shall be limited to such facilities as the following:
 - (1) A waiting shelter.
 - (2) A turn-out area for loading and unloading.
 - (3) Hardsurface paths connecting the development to the waiting area.

10. Parking: In addition to the provisions of chapter 42, Clear Vision Areas, chapter 48, Access, and chapter 46,

Off-Street Parking & Loading, the following shall apply to all uses:

- a. The parking area shall have less than a five percent grade, and shall be free of areas which pond water;
- b. The parking lot shall be designed into areas of 12 or less spaces through the use of defined landscaped areas. Groups of 12 or less spaces are defined as:
 - (1) Twelve spaces in a row provided there are no abutting parking spaces in which case there would be 24 spaces in a group; or
 - (2) Twelve spaces in a group with six spaces abutting another.
- c. Pedestrian walk ways shall be provided in parking areas having 20 or more spaces;
- d. Customer and employee parking shall be separated;
- e. The parking and circulation patterns shall be clear to minimize traffic hazards and congestion and to facilitate emergency vehicles;
- f. The parking spaces shall be close to the related use;
- g. The needs of the handicapped shall be considered as required by ORS 447.233 and the following:
 - (1) Parking spaces marked for the handicapped shall be provided near the building entrance.
 - (2) The parking spaces marked for the handicapped shall be 12 feet in width to allow maneuvering space for the wheel chair.

11. Landscaping:

- a. Residential Uses. In addition to the open space and recreation area requirements of subsection five and subsection six, a minimum of 15 percent of the gross area including parking, loading and service areas shall be landscaped.
- b. Non-Residential Uses. A minimum of 15 percent of the gross site area shall be landscaped.

c. All Uses.

- (1) An area having 10 or more vehicle spaces including both parking and loading spaces shall be landscaped in the amount of 25 square feet per parking space -- and
 - (a) The landscaping shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area; and
 - (b) The landscaped areas shall not have a width of less than five feet.
- (2) A parking, loading or service area which abuts a street shall be setback from the right-of-way line by a landscaped strip at least 10 feet in width and the landscaped area shall contain--
 - (a) Street trees spaced as appropriate to the species, not to exceed 50 feet apart on the average;
 - (b) Shrubs, not to reach a height greater than three foot six inches, spaced no more than five feet apart on the average; and
 - (c) Vegative ground cover, bark dust or other landscape material.
- (3) A parking, loading or a service area which abuts a property line shall be separated from the property line by a landscaped area at least five feet in width and which shall act as a screen and noise buffer and the adequacy of the screen and buffer shall be determined by the criteria set forth in 55.100B 3 except where shared parking is approved under 46.040.
- (4) All areas in a parking lot not used for parking, maneuvering or circulation, shall be landscaped.
- (5) The landscaping in parking areas shall not obstruct sight distances.
- (6) Outdoor storage areas, service areas (loading docks, refuse deposits and delivery areas) and above ground utility facilities shall be buffered and screened to obscure their view from adjoining properties and to reduce noise levels to a level which cannot be heard beyond the property line. The adequacy of the buffer and screening shall be determined by the criteria set forth in 55.100 B 3.
- (7) Crime prevention shall be considered and plant materials shall not be located in a manner which prohibits surveillance of public and semi-public areas (shared or common areas).

- (8) Irrigation facilities shall be located so that landscaped areas can be properly maintained and so that the facilities do not interfere with vehicular or pedestrian circulation.

12. Drainage.

- a. A statement by a registered civil engineer supported by factual data that all increase in intensity of runoff caused by development will be facilitated on the site and that the intensity of runoff leaving the site will not increase over that runoff rate of the site in its undeveloped state. This statement shall include as a minimum a storm frequency of occurrence of five years or greater depending upon an evaluation of potential for damage when a storm of higher frequency occurs.
- b. Where on site detention of the increased volume of water caused by development is not feasible or acceptable, a plan which identifies and which mitigates any off site adverse effects resulting from increased runoff shall be prepared by a registered civil engineer

13. Crime Prevention & Safety--

- a. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants;
- b. Interior laundry and service areas shall be located in a way that they can be observed by others;
- c. Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic;
- d. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime;
- e. 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; and
 - (1) Fixtures shall be placed at a height so that light patterns overlap at a height of 7 feet which is sufficient to illuminate a person.

14. Provisions for the Handicapped:

- a. The needs of the handicapped shall be considered and access ramps constructed of non-slip material and having a grade of less than eight percent and a hand rail shall be provided.

15. Signs:

- a. Based on considerations of crime prevention and the needs of emergency vehicles, and a system of signs for identifying the location of each residential unit, store or industry shall be established.
- b. The signs, graphics and letter styles shall be designed to be compatible with surrounding development, to contribute to a sense of project identity and to reflect a sense of the history of the area and the architectural style.
- c. The sign graphics and letter styles shall announce, inform and designate particular areas or uses as simply and clearly as possible.
- d. The signs shall not obscure vehicle driver's sight distance.

55.110 THE SITE ANALYSIS

The site analysis shall include:

- 1. A vicinity map showing the location of the property in relation to adjacent properties, roads, pedestrian and bikeways, transit stops and utility access.
- 2. A site analysis on a drawing at a suitable scale (in order of preference 1" = 10' to 1" = 30') which shows--
 - a. The parcel boundaries, dimensions and gross area;
 - b. Contour lines at the following minimum intervals--
 - (1) Two foot intervals for slopes from 0-25 percent; and
 - (2) Five or ten foot intervals for slopes in excess of 25 percent.
 - c. A slope analysis which identifies portions of the site according to the slope ranges as follows--
 - (1) 0-5 percent;
 - (2) 10-25 percent;
 - (3) 15-25 percent;
 - (4) 25-35 percent; and

- (5) 35 percent or greater slopes.
- (6) Approximate area calculations may be made for areas in excess of 35 percent.
- d. The location and width of adjoining streets
- e. The drainage patterns and drainage courses on the site and on adjacent lands.
- f. Potential natural hazard areas including--
 - (1) Flood plain areas;
 - (2) Areas subject to a high-water table;
 - (3) Landslide areas; and
 - (4) Areas having a high erosion potential.
- g. Resource areas including--
 - (1) Marsh and wetland areas; and
 - (2) Wildlife habitat areas identified by the city in its comprehensive plan.
- h. The site features including--
 - (1) Large rock outcroppings;
 - (2) Areas having unique views; and
 - (3) Streams and stream corridors.
- i. Potential historic landmarks and registered archaeological sites. The existence of such sites on the property shall be verified from records maintained by the Planning Department.
- j. The location of trees having a six inch caliper at five feet and where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be submitted and only those trees that will be affected by the proposed development need be sited accurately.
- k. The location and type of noise sources.
- l. The direction of the sun and wind.
- m. Identification information including the name and address of the owner, developer and project designer and the scale and north arrow.

55.120 THE SITE PLAN

The site plan shall be at the same scale as the site analysis (55.110) and shall show:

- 1. The applicants entire property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development and adjacent property and development.
- 2. Boundary lines and dimensions for the perimeter of the property and the dimensions for all proposed lot lines;

- section lines, corners and monuments.
3. The location of at least one temporary benchmark and contours as provided by section 55.110A 2 b.
 4. Identification information, including the name and address of the owner developer and project designer and the scale and north arrow.
 5. The location, dimensions and names of all--
 - a. Existing and platted streets and other public ways and easements on adjacent property and on the site;
 - b. Proposed streets or other public ways, easements, on the site.
 6. The location, dimensions and set back distances of all;
 - a. Existing structures, improvements and utility facilities on adjoining properties.
 - b. Existing structures, improvements and utility facilities to remain on the site.
 - c. Proposed structures, improvements and utility facilities on the site.
 7. The location and dimensions of--
 - a. The entrances and exits to the site;
 - b. The parking and circulation areas;
 - c. Loading and service areas for waste disposal, loading and delivery;
 - d. Pedestrian and bicycle circulation areas;
 - e. On site outdoor recreation spaces and common areas; and
 - f. Above ground utilities.
 8. The location of areas to be landscaped.
 9. The location and type of outdoor light with specific consideration given to crime prevention.
 10. The orientation of structures showing the location of windows and doors.
 11. The location of mail boxes.

55.130 GRADING PLAN

The grading and drainage plan shall be at the same scale as the site analysis (55.110) and shall include the following:

1. The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals.
2. A statement by a registered civil engineer supported by factual data that all increase in intensity of runoff caused by development will be facilitated on the site and that the intensity of runoff leaving the site will not increase over that runoff rate of the site in its undeveloped state. This statement shall include as a minimum a storm frequency of occurrence of five years or greater, depending upon an evaluation of potential for damage when a storm of higher frequency occurs.
3. Where on site detention of the increased volume of water caused by development is not feasible or acceptable, a plan which identifies and which mitigates any off site adverse effects resulting from increased runoff shall be prepared by a registered civil engineer.
4. Identification, information, including the name and address of the owner, developer, project designer and the project engineer.

55.140 ARCHITECTURAL DRAWINGS

Architectural drawings shall be submitted showing--

1. Building elevations and sections;
2. Building materials; color and type;
3. The floor plan; and
4. The name of the owner developer and the architect or designer.

55.150 THE LANDSCAPE PLAN

A. The landscape plan shall be prepared on the Site Plan 55.150 and in addition shall show the following:

1. The location of the underground irrigation system or hose bibs.
2. The location and height of fences and other buffering of screening materials.
3. The location of terraces, decks, patios, shelters and play areas.

4. The location, size and species of the existing and proposed plant materials.
- B. The landscape plan shall be accompanied by a narrative description of:
 1. The soil conditions and the plan selection requirements relating to the soil conditions.
 2. Plans for soil treatment such as stockpiling the top soil.
 3. The erosion controls which will be used if necessary.

55.160 SIGN DRAWINGS

- A. Free-Standing sign--
 1. The location of any free standing signs shall be shown on the Site Plan; and
 2. A drawing to scale shall be submitted showing the dimensions, height, color, materials and means of illumination of the sign.
- B. On-building sign:
 1. The location of any on-building sign shall be shown on the architectural drawings of the building and the size, color, materials and means of illumination shall be indicated.
 2. The plot plan shall show the location of the signs on the building in relation to adjoining property.

55.170 EXCEPTIONS TO UNDERLYING ZONE, YARD, PARKING & SIGN PROVISIONS
& THE LANDSCAPING PROVISIONS

- A. The board may grant an exception to the dimensional building setback or yard requirements in the applicable zone based on findings that the approval will result in the following:
 1. A minor exception which is not greater than 20 percent of the required setback.
 2. A more efficient use of the site.
 3. The preservation of natural features which have been incorporated into the overall design of the project.
 4. No adverse affect to adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazard.

5. Safe vehicular and pedestrian access to the site and safe on site vehicular and pedestrian circulation.
- B. The board may grant an exception to the off street parking dimensional and minimum number of space requirements in the applicable zone based on the following findings;
1. The minor exception is not greater than ten percent of the required parking;
 2. The application is for a use designed for a specific purpose which is intended to be permanent in nature (for example, a nursing home) and which has a low demand for off-street parking; or
 3. There is an opportunity for sharing parking and there is written evidence that the property owners are willing to enter into a legal agreement; or
 4. Public transportation is available to the site reducing the standards and will not adversely affect adjoining uses and there is a community interest in the preservation of particular natural feature(s) of the site which make it in the public interest to grant an exception to parking standards.
- C. The board may grant an exception to the sign dimensional requirements in the applicable zone based on the following findings:
1. The minor exception is not greater than ten percent of the required applicable dimensional standard for signs;
 2. The exception is necessary for adequate identification of the use on the property; and
 3. The sign will be compatible with the overall site plan, the structural improvements and with the structures and uses on adjoining properties.
- D. The board may grant an exception to the landscaping requirements of this ordinance 55.100B 11 upon a finding that the overall landscape plan provides for 15 percent of the gross site area to be landscaped.

55.180 MAINTENANCE

All on-site improvements shall be the ongoing responsibility of the property owner or occupant.

55.190 SHARED OPEN SPACE

A. Where the open space is designated on the plan as common open space the following shall apply:

1. The open space area shall be shown on the final plan and recorded with the Planning Director.

2. The open space shall be conveyed in accordance with one of the following methods:

a. By dedication to the city as publicly owned and maintained as open space. Open space proposed for dedication to the city must be acceptable to it with regard to the size, shape, location, improvement, and budgetary and maintenance limitations.

b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity with the city retaining the development rights to the property. The terms of such lease or other instrument of conveyance, must include provisions suitable to the City Attorney for guaranteeing the following:

- (1) The continued use of such land for intended purposes.
- (2) Continuity of property maintenance.
- (3) When appropriate, the availability of funds required for such maintenance.
- (4) Adequate insurance protection.
- (5) Recovery for loss sustained by casualty and condemnation or otherwise.

c. By any method which achieves the objectives set forth in (2) above.

ADMINISTRATION

60.000 CONDITIONAL USES

60.010 PURPOSE

The purpose of this chapter is to provide standards and procedures under which conditional uses may be permitted, enlarged, or altered if the site is appropriate and if other conditions can be met.

- A. The Planning Commission may approve an application subject to a specific time period, at the termination of which there will be a renewal hearing. The decision at the renewal hearing shall be based on the factors in B1 and B2 below.
- B. Approval of a conditional use shall be void after one year or such lesser time as the approval may specify, unless substantial construction pursuant thereto has taken place. The Planning Commission after a public hearing as provided by 99.060B may extend authorization for an additional period not to exceed one year, on request and a finding that --
 - 1. There have been no changes in the facts on which the approval was based; and
 - 2. There have been no changes in the policy or applicable standards on which the approval was based.

60.030 ADMINISTRATION & APPROVAL PROCESS

- A. Conditional use applications shall be decided by the Planning Commission in the manner set forth in 99.060B. A Petition for Review by Council may be filed as provided by 99.240B.
- B. All approved conditional use applications shall be subject to approval by the Development Review Board under the provisions of Chapter 55 and in the manner set forth in 99.060C.

60.040 TIME LIMIT ON A CONDITIONAL USE APPROVAL

- A. Approval of a Conditional Use by the Commission shall be void after one year if:
 - 1. Substantial construction of the approval plan has not begun within that one year period.
 - 2. Construction on the site is a departure from the approved plan.
- B. The Director shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed six months provided that:
 - 1. No changes are made on the original Conditional Use plan as approved by the Commission.
 - 2. The applicant can show intent of initiating construction of the site within the six month extension period.
 - 3. There have been no changes in the applicable policies and ordinance provisions on which the approval was based.

60.050 BUILDING PERMITS FOR AN APPROVED CONDITIONAL USE

- A. Building permits for all or any portion of a conditional use shall be issued only on the basis of the conditional use plan and conditions as approved by the Planning Commission and Development Review Board.

- B. Any change in the conditional use plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and 99.120B.

60.060 THE APPLICATION

- A. A conditional use application shall be initiated by the property owner or the owners authorized agent.
- B. A prerequisite to the filing of an application is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms (99.030B).
- C. An application for a conditional use shall include the completed application form and 15 copies of each of the following, except for each drawing submitted, there shall be eight at the original scale and seven copies reduced to a paper size not greater than 11 x 17 inches.
 - 1. A narrative which addresses the approval criteria set forth in 60.070 and which sustains the applicants burden of proof; and
 - 2. A site plan as provided by 60.080.
- D. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- E. The applicant shall pay the requisite fees.

60.070 APPROVAL STANDARDS & CONDITIONS

- A. The Planning Commission shall approve, approve with conditions or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:
 - 1. The site size and dimensions provide --
 - a. Adequate area for the needs of the proposed use, and
 - b. Adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses.
 - 2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features.

3. The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.
 4. All required public facilities have adequate capacity to serve the proposal.
 5. The applicable requirements of the zone are met except as modified by this chapter.
 6. The supplementary requirements set forth in chapters 52 to 55, if applicable, are met.
 7. The use will comply with the applicable policies of the comprehensive plan.
- B. An approved conditional use or enlargement or alteration of an existing conditional use shall be subject to the development review provisions set forth in Chapter 55.
- C. The Planning Commission may impose conditions on its approval of a conditional use which it finds are necessary to assure the use is compatible with other uses in the vicinity. These conditions may include, but are not limited to, the following:
1. Limiting the hours, days, place and manner of operation.
 2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust.
 3. Requiring additional set back areas, lot area or lot depth or width.
 4. Limiting the building height, size or lot coverage, or location on the site.
 5. Designating the size, number, location and design of vehicle access points.
 6. Requiring street right-of-way to be dedicated and the street to be improved.
 7. Requiring landscaping, screening, drainage and surfacing of parking and loading areas.
 8. Limiting the number, size, location, height and lighting of signs.

8. Limiting or setting standards for the location and intensity of outdoor lighting.
9. Requiring berming, screening or landscaping and the establishment of standards for their installation and maintenance.
10. Requiring and designating the size, height, location and materials for fences.
11. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.

60.080 SITE PLAN & MAP

- A. All site plans and maps shall include the name, address and telephone number of the applicant, the scale of the site plan, north arrow and a vicinity map.
- B. The applicant shall submit a site plan drawn to an appropriate scale (in order of preference, 1"=10' to 1"= 30') which contains the following information:
 1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 2. The parcel boundaries, dimensions and gross area.
 3. The applicant's property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.
 4. The location, dimensions and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.
 5. The location, dimensions and set back distances of all --
 - a. Existing structures, improvements , utilities and drainage facilities on adjoining properties;
 - b. Existing structures, improvements, utilities and drainage facilities to remain on the site; and
 - c. Proposed structures or charges to existing structures, improvements, utilities and drainage facilities.

6. The existing and proposed dimensions of
 - a. The entrances and exits to the site;
 - b. The parking and circulation areas;
 - c. Loading and service areas for waste disposal, loading and delivery;
 - d. Pedestrian and bicycle circulation areas;
 - e. On site outdoor recreation spaces and common areas; and
 - f. Above ground utilities.
 7. The location of areas to be landscaped and the proposed landscape plan.
 8. The location of all trees having a six (6) inch caliper at a height of five (5) feet.
- C. The applicant shall submit the site plan on a map showing two (2) foot contours up to 20% grade and ten foot contours on grades above 20%.

65.000 NON CONFORMING USES INVOLVING A STRUCTURE

65.010 PURPOSE

The zones applied within the city after the effective date of this Code may cause some existing uses in structures to become prohibited uses in the particular zone in which they are located. The purpose of this chapter is to permit these nonconforming uses to be continued until they are removed or discontinued. Non-conforming uses are incompatible with the permitted uses in the zone and therefore standards are required to assure that changes in the scope of the use are or can be made compatible with the permitted uses in the zone.

65.030 EXCEPTIONS TO THE NON-CONFORMING USE PROVISIONS

- A. Prior Listed Permitted Uses. This provides for an exception to the non-conforming use provisions for uses which were prior listed permitted uses in the following zones (Neighborhood Commercial, General Commercial, Office-Business Center, Campus Industrial and General Industrial), which were superceded by the code and which were legally established prior to the effective date of this code. The following shall apply.
1. A use which was permitted outright and is not listed in the applicable zone as a use permitted outright shall be deemed to be a conforming conditional use and shall be subject to the provisions of 60.000, Conditional Uses and 55.000, Development Review.
 2. A use which was permitted outright, but which is a conditional use in the applicable zone shall be deemed to be a conforming conditional use and change shall be subject to the provisions of 60.000, Conditional Uses and 55.000 Development Review.
- B. Prior Listed Conditional Uses. This subsection provides for an exception to the non-conforming use provisions for uses which were prior listed conditional uses in the following zones (Neighborhood Commercial, General Commercial, Office-Business Center, campus Industrial and General Industrial), which were superceded by this code and

which were legally established prior to the effective date of this code, and which are not a listed conditional use in the applicable zone, shall be deemed to be a conforming conditional use and any changes shall be subject to the provisions of 60.000, Conditional Uses, and to 55.000, Design Review.

C. Uncompleted Construction.

1. In order to avoid undue hardship, this code does not require any change in the location, plans, construction, size or use of a lot or structure, or part thereof, for which a final development approval or building permit was received prior to the date of adoption of this ordinance if construction of the structures or the use is established within one year of the effective date or in accordance with an approved development schedule; however --
 - a. If a building permit is revoked or for any reason becomes void, all rights granted by this section are extinguished and thereafter all requirements of the code shall be met; and
 - b. The structure and uses shall be controlled by the provisions of this chapter and chapters 66 and 67.

65.040 STANDARDS APPLICABLE TO EXCEPTIONS TO THE NON-CONFORMING USE PROVISIONS

- A. Uses made exceptions to the non-conforming use provisions by section 65.030 (A) and (B) shall be governed by the following:
 1. Upon discontinuance of the use as provided by section 65.070(1-4), any new use shall conform to the provisions of the applicable zone in this code.

65.050 DETERMINATION OF NON-CONFORMING USE STATUS

- A. The Planning Director shall make a determination regarding non-conforming use status.
- B. Upon application and payment of fees, the determination by the Planning Director of the non-conforming status may be appealed to the Planning Commission sitting as a fact-finding body pursuant to 103.040.
- C. A petition for review by the Council sitting as a fact finding body may be taken pursuant to 103.040.

65.060 STATUS OF NON-CONFORMING USES

A non-conforming use may be continued, although, it does not conform to the provisions of the applicable zone in which it is located subject to the provisions of 65.070 through 65.100.

65.070 DISCONTINUATION OF NON-CONFORMING USE

A. If a non-conforming use is discontinued or abandoned for a period of one year, any use of the property from that time forward shall be in full conformity with the provisions of the applicable zone. For the purpose of computing the time period, a use is deemed discontinued or abandoned upon the occurrence of the first of any of the following events:

1. On the date when the structure and/or premises are vacated.
2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services.
3. On the date of termination of any lease or contract under which the non-conforming use has occupied the premises.
4. On the date a request for final reading of water and power meters is made to the City Utilities Department.
5. The structure is damaged, removed or moved as provided by section 66.060.

65.080 ALTERATIONS REQUIRED BY LAW

The Planning Director shall permit the alteration of any non-conforming use when it is required by law, rule, ordinance or regulation.

65.090 MAINTENANCE

A structure or portion of a structure containing a non-conforming use may be maintained in terms of normal repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing performed in a manner not in conflict with the other provisions of the City Code. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition

of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

65.100 EXPANSION OF THE USE WITHIN THE SAME STRUCTURE OR ALTERATION TO THE STRUCTURE

An expansion of the use within the same structure or an alteration to the structure may be permitted subject to review and approval by the Planning Commission under the provisions of 65.110 to 65.140 of this chapter.

65.110 BUILDING PERMITS FOR AN APPROVED NON-CONFORMING USE

- A. Building permits for all or any portion of a non-conforming use shall be issued only on the basis of the site plan and conditions as approved by the Planning Commission and Development Review Board.
- B. Any change in the site plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and 99.120(B).

65.120 THE APPLICATION

- A. An application to enlarge a non-conforming use or to alter a structure containing a non-conforming use shall be initiated by the property owner or the owners authorized agent.
- B. A pre-requisite to the filing of an application is a pre-application conference at which time the Planning Director shall explain the requirements and provide the appropriate forms.
- C. An application shall include the completed application form and 15 copies each of the following; except for each drawing submitted, there shall be eight copies at the original scale and seven copies reduced to a paper size not greater than 11 x 17 inches.
 - 1. A narrative which addresses the approval standards set forth in 65.130 and which sustains the applicants burden of proof.
 - 2. A site plan as provided by 65.140.
- D. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.

E. The applicant shall pay the requisite fees.

65.130 APPROVAL STANDARDS & CONDITIONS

A. The Planning Commission shall approve, approve with conditions or deny an application to enlarge a non-conforming use or alter a structure containing a non-conforming use based on the provisions set forth in 99.060B and findings of fact on each of the following.

1. The granting of the enlargement or alteration will provide for a facility that is consistent with the overall needs of the community;
2. The characteristics of the site can accomodate the change considering size, shape, location, topography and natural features;
3. The site size and dimensions provide adequate area for aesthetic design treatment to eliminate any possible adverse effects from the use on surrounding properties and uses;
4. All required public facilities have adequate capacity to serve the proposal;
5. The alteration to the structure or expansion of the use will have no greater impact on the surrounding properties, community or public facilities than existed at the time this application was made;
6. The applicable dimensional requirements of the zone are met;
7. The applicable supplementary requirements set forth in chapter 33 to 55 are met; and
8. The use will comply with the applicable policies of the comprehensive plan.

B. All approved enlargements or alterations to an existing non-conforming use shall be subject to the development review provisions set forth in chapter 55.

C. The Planning Commission, as provided by 99.120, may impose conditions on its approval which it finds are necessary to assure the use is compatible with other uses in the vicinity. These conditions may include, but are not limited to the following --

1. Limiting the hours, days, place and manner of operation;
2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;
3. Requiring additional set back areas, lot area or lot depth or width;
4. Limiting the building height, size or lot coverage, or location on the site;
5. Designating the size, number, location and design of vehicle access points;
6. Requiring street right-of-way to be dedicated and the street to be improved;
7. Designating the location and size of the vehicle access points;
8. Requiring landscaping, screening, drainage and surfacing of parking and loading areas;
9. Limiting the number, size, location, height and lighting of signs;
10. Limiting or setting standards for the location and intensity of outdoor lighting;
11. Requiring berming, screening or landscaping and the establishment of standards for the installation and maintenance;
12. Requiring and designating the size, height, location and materials for fences; and
13. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.

65.140 SITE PLAN(S) & MAP

- A. All site plans and maps shall include the name, address and telephone number of the applicant, the scale of the site plan, north arrow and vicinity map.
- B. The applicant shall submit a site plan drawn to an appropriate

scale (in order of preference; 1"=10' to 1"= 30) which contains the following:

1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 2. The parcel boundaries, dimensions and gross area.
 3. The applicants property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.
 4. The location, dimensions and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.
 5. The location, dimensions and set back distances of all --
 - a. Existing structures, improvements, utility and drainage facilities on adjoining properties
 - b. Existing structures, improvements, utility and drainage facilities to remain on the site; and
 - c. Proposed structures or changes to existing structures, improvements, utility and drainage facilities on the site.
 6. The existing and proposed location and dimensions of --
 - a. The entrances and exits to the site;
 - b. The parking and circulation areas;
 - c. Loading and service areas for waste disposal, loading and delivery;
 - d. Pedestrian and bicycle circulation areas;
 - e. On site outdoor recreation spaces and common areas; and
 - f. Above ground utilities.
 7. The location of areas to be, landscaped and proposed landscaping.
 8. The location and type of outdoor light with specific consideration given to crime prevention.
- C. The applicant shall submit the site plan on a map showing two foot contours up to a 20 percent grade and 10 foot contours on grades above 20 percent.

66.000 NON-CONFORMING STRUCTURES

66.010 PURPOSE

The zones applied within the City after the effective date of this code may cause some existing structures to become non-conforming in terms of meeting the zone lot coverage, setback, parking, building height, or landscaping requirements. The purpose of this chapter is to permit these non-conforming structures to be used until they are destroyed or made conforming.

66.030 EXCEPTIONS

- A. The provisions of this chapter do not apply to lawful pre-existing single family dwellings except that the enlargement or alterations to a single family dwelling shall be as provided by 66.070.
- B. A structure for which a variance was granted under the zoning provisions in effect prior to the effective date of this code is not considered non-conforming solely due to fact that the structure for which the variance was granted fails to comply with the requirements of this code. The existence of such a variance does not prevent the structure from being classified as non-conforming if some other characteristics of the use or structure fail to comply with the requirements of this chapter.

66.040 DETERMINATION OF STATUS

- A. The Planning Director shall make a determination regarding non-conforming status without giving notice; however
- B. Upon application and payment of fees, the determination by

the Planning Director of the non-conforming status may be appealed to the Planning Commission sitting as a fact finding body pursuant to 03.040.

- C. A petition for review by the Council sitting as a fact finding body may be taken pursuant to 103.080.

66.050 STATUS OF NON-CONFORMING STRUCTURES

A non-conforming structure may be maintained although it does not conform to the provisions of the applicable zone in which it is located subject to the provisions of 66.060 through 66.090.

66.060 DESTRUCTION, MOVEMENT OF STRUCTURE

- A. If a non-conforming structure is damaged or destroyed by any means to the extent that the cost of rebuilding the damaged portions would exceed 50% of the then current replacement cost of the entire building, the rebuilding shall conform fully to City Codes and standards. Determination of the rebuilding costs shall be made by the Building Official, who may utilize an appraisal to determine current replacement costs. If the damage is 50% or less the rebuilding or reconstruction shall be commenced within one year of the date of damage or destruction, and shall be completed within two years. Under such circumstances, the reconstruction shall comply with the terms of this code.
- B. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is newly located.

66.070 ENLARGEMENT OR ALTERATION TO A NON-CONFORMING STRUCTURE: PROCESS & APPROVAL STANDARDS

- A. An enlargement or alteration to a non-conforming structure containing a non-conforming use may be permitted subject to review and approval by the Planning Commission under the provisions of 99.060B and 65.120 through 65.140.
- B. An enlargement or alteration to a non-conforming structure containing a conforming use may be permitted subject to review and approval by the Planning Commission under the provisions of 99.060B and the following standards.

1. The Planning Commission shall approve, approve with conditions or deny an application based on findings that --
 - a. The enlargement or alteration will not change the non-conformity or will decrease the non-conformity; and
 - b. All other applicable ordinance provisions will be met.
2. All approved enlargements or alterations shall be subject to the development review provisions set forth in Chapter 55.

66.080 NON-CONFORMING STRUCTURE UNSUITED FOR A CONFORMING USE.

A non-conforming use involving a structure is replaced by another use, the new use shall conform to this code unless the Planning Commission determines that such a structure is suitable only for another non-conforming use, after a public hearing held pursuant to chapter 99. The determination by the Planning Commission shall be based on findings of fact which support its determination of suitability.

66.090 BUILDING PERMITS FOR AN APPROVED NON-CONFORMING STRUCTURE
The provisions of 65.110 shall apply.

67.000 NON-CONFORMING USES OF LAND

67.010 PURPOSE

The zones applied within the city after the effective date of this Code may cause some existing uses of land to become prohibited uses in the particular zone in which they are located. The purpose of this chapter is to permit these non-conforming uses to be continued until they are removed or discontinued. Non-conforming uses are incompatible with the permitted uses in the zone; and, therefore, standards are required to assure that changes in the scope of the use are or can be made compatible with the permitted uses in the zone.

67.030 DETERMINATION OF STATUS

- A. The Planning Director, without giving notice, shall make a determination regarding the non-conforming status; however
- B. Upon application and payment of fees, the determination by the Planning Director of the non-conforming status may be appealed to the Planning Commission sitting as a fact-finding body pursuant to 103.040.
- C. A petition for review by the Council sitting as a fact-finding body may be taken pursuant to 103.080.

67.040 STATUS

- A. A non-conforming use of land shall be allowed to continue, however it shall not be --
 - 1. Enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of this code; or
 - 2. Moved in whole or in part to any portion of the lot other than that occupied on the effective date of this code.
- B. No additional structure, building or sign shall be constructed on the land in conjunction with the non-conforming use of land.

67.050 DISCONTINUANCE

- A. If a non-conforming use of land shall be discontinued or abandoned for any reason for a period of 120 days, any subsequent use of the land shall be for a conforming use.
- B. A use is deemed discontinued or abandoned for purpose of computing the time period upon the first time any of the events listed in 65.070 occur.

68.000 NON-CONFORMING LOTS, LOTS OF RECORD

68.010 PURPOSE

The zones applied within the city after the effective date of this Code may cause some existing lots of record to be non-conforming lots in the zone in which they are located. The purpose of this chapter is to permit certain non-conforming lots to be developed provided all use, setback and other applicable standards can be met.

68.030 DETERMINATION OF STATUS

- A. The Planning Director, without giving notice, shall make a determination regarding the non-conforming lot status.
- B. Upon application and payment of fees, the determination by the Planning Director of the non-conforming lot of record status may be appealed to the Planning Commission sitting as a fact-finding body pursuant to 103.040.
- C. A petition for review by the Council sitting as a fact-finding body may be taken pursuant to 103.080.

68.040 STATUS

- A. A lot of record may be developed for a use allowed within the applicable zone provided --
 - 1. The lot is 5000 square feet or greater in size; and
 - 2. All applicable code provisions are met except for the lot dimensional requirements; or
 - 3. Variances have been granted under the provisions of 75.000.

75.000 VARIANCE

75.010 PURPOSE

The purpose of this chapter is to provide standards for the granting of variances from the applicable zoning requirements of this code where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the provisions of applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted.

75.020 CLASSIFICATION OF VARIANCES

A. A class I variance will involve a small change from the zoning requirements and will have a minor effect or no effect on adjacent property or occupants and includes the following variances:

1. A variance which allows a structure to encroach into a required setback area as follows:
 - a. Front yard setback by two (2) feet or less.
 - b. Side yard setback by two (2) feet or less.
 - c. Rear yard setback by five (5) feet or less.
2. A variance to the minimum lot dimensional requirements as follows:
 - a. Lot width by five (5) or less feet.
 - b. Lot frontage by five (5) or less feet.

B. A class II variance will involve a significant change from the zoning requirements and may create adverse impacts on adjacent property or occupants and includes the following variances:

1. A variance which allows a structure to encroach into a required setback area as follows:
 - a. Front yard setback by more than two (2) feet.
 - b. Side yard setback by more than two (2) feet.
 - c. Rear yard setback by more than five (5) feet.
2. Variances to the minimum lot dimensional requirements as follows:

- a. Lot width by more than five (5) feet;
 - b. Lot frontage by more than five (5) feet; and
 - c. Lot depth requirement.
- 3. A variance to any of the other zoning provisions including but not limited to the lot coverage building height and bulk, and lot area provisions.
- C. No variances shall be granted which will allow a use which is not a permitted or a conditional use in the district and no variance shall be granted to the density provisions.

75.030 ADMINISTRATION & APPROVAL PROCESS

- A. Class I variances shall be decided by the Planning Director in the manner set forth in 99.060(A). An appeal may be taken as provided by 99.240 A
- B. Class II variances shall be decided by the Planning Commission in the manner set forth in 99.060(B). A Petition for Review by the Council may be filed as provided by 99.240 B.

75.040 TIME LIMIT ON A VARIANCE

Approval of a variance shall be void after two (2) years unless substantial construction pursuant thereto has taken place.

75.050 THE APPLICATION

- A. A variance request shall be initiated by the property owner or the owners authorized agent.
- B. A prerequisite to the filing of an application is a preapplication conference at which time the Planning Director shall explain the requirements and provide the appropriate form(s).
- C. An application for a variance shall include the completed application form and 15 copies of each of the following except for each drawing submitted, there shall be eight copies of the original scale and seven copies reduced to a paper size not greater than 11 x 17 inches.
 - 1. A narrative which addresses the approval criteria set forth in 75.060 and which sustains the applicants burden of proof.
 - 2. A site plan as provided by 75.070

D. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.

E. The applicant shall pay the requisite fee.

75.060 THE APPROVAL CRITERIA

The appropriate Approval Authority shall approve, approve with conditions or deny the variance request based on findings of fact for each of the following criteria:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.
2. The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as owners of other property in the same zone or vicinity.
3. The authorization of the variance will not be materially detrimental to the purposes of this code, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the goals and policies of the West Linn Comprehensive Plan.
4. The hardship is not self-imposed and the variance request is the minimum variance which would alleviate the hardship.
5. The hardship does not arise from a violation of this ordinance.

75.070 SITE PLANS & MAP

- A. All plot plans and maps shall include the name, address and telephone number of the applicant, the scale, north arrow, and a vicinity map.
- B. The applicant shall submit a plot plan drawn to an appropriate scale (in order of preference; 1"=10' to 1"=30') which shows the following:
 - 1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 - 2. In the case of a request for a variance to a lot dimensional or building setback requirement --
 - a. The lot configuration and dimensions and the location of all existing structures on the lot and the setbacks distances and the location of all structures on abutting lots and the setback distances; and
 - b. The proposed variances.
 - 3. In the case of a request for a variance to the building height provisions --
 - a. An elevation drawing of the structure and the proposed variances; and
 - b. A drawing(s) to scale showing the impact on adjoining properties; for example, will the height variance if granted, block a viewpoint from an adjoining property of a significant land feature.

80.000 UNLISTED USES; AUTHORIZATION OF SIMILAR USES

80.010 PURPOSE

It is not possible to contemplate all of the various uses which will be compatible within a particular zone. Therefore, unintentional omissions occur. The purpose of these provisions is to establish a procedure for determining whether certain specific uses would have been permitted in a zone had they been contemplated and whether such unlisted uses are compatible with the listed uses.

80.030 DETERMINATION PROCESS

- A. Upon application and payment of fees, the determination regarding an unlisted shall be made by the Commission pursuant to the provisions of 99.06D and 80.050 of this chapter subject to the limitation set forth in 80.040.
- B. The Planning Director shall maintain a list by zone of approved unlisted uses and the list shall have the same affect as an amendment to the use provisions of the applicable zone.

80.040 LIMITATION

The Commission shall not authorize an unlisted use in a zone if the use is specifically listed in another zone as either a permitted use or a conditional use.

80.050 APPROVAL STANDARDS

Approval or denial of an unlisted use application by the Commission shall be based on findings that:

- 1. The use is consistent with the Comprehensive Plan;
- 2. The use is consistent with the intent and purpose of the applicable zone;
- 3. The use is similar to and of the same general type as

the uses listed in the zone;

4. The use has similar intensity, density and off-site impacts as the uses listed in the zone; and
5. The use has similar impacts on the community facilities as the listed use.

COMMUNITY
DEVELOPMENT
CODE

LAND DIVISION

Contents

LAND DIVISION

85.000 General Provisions

- .020 Purpose
- .030 Scope - Conformity Required
- .040 Negotiation of Sale of Lots Prohibited Until Approval Granted
- .050 Sale of Lots Prohibited Until Subdivision Plat Recorded
- .060 Approval Required Before Creating Street or Road to Partition Land
- .070 Incomplete Applications - The Decision Making Period
- .080 Additional Notice Required
- .090 Administration & Approval Process
- .100 Effect of Tentative Approval
- .110 Expiration of Approval - Continuation
- .120 Non Compliance - Bond
- .130 Staged Development
- .140 Partial Development
- .150 Land Division Applications in Conjunction with Other Land Use Applications

87.000 Tentative Subdivision Plan & Tentative Major Partition Map

- .010 The Application - The Tentative Plan or Map
- .020 Preapplication Conference Required
- .030 Requirements for the Tentative Plan or Map
- .040 Supplemental Information Required for a Tentative Subdivision Plan or Partition Map
- .050 Required Written Information in Support of the Plan or Map
- .060 Additional Information Required & Waiver of Requirements
- .070 Approval Criteria

88.000 Final Subdivision Plat or Final Major Partition Map

- .010 Submission of Final Subdivision Plat or Final Major Partition Map
- .020 Information Required on the Plat or Map
- .030 Supplemental Information Required for a Final Plat or Map
- .040 Technical Plat Review
- .050 Approval & Approval Criteria
- .060 Process Following Approval by the Planning Director and City Engineer of a Plat for a Subdivision
- .070 Process Following Approval by the Planning Director and City Engineer of a Map for a Major Partition
- .080 Filing of Plat
- .090 Final Plat Filing Fee
- .100 Effective Date of Final Approval

89.000 Minor Land Partition

- .010 The Application - The Map
- .020 Preapplication Conference Required
- .030 Requirements for the Map

- .040 Required Written Information in Support of the Plan or Map
- .050 Additional Information Required & Waiver of Requirements
- .060 Approval Criteria
- .070 Return of Approved Minor Partitions
- .085 Filing of Minor Partition
- .090 Expiration of Minor Partition Approval
- .095 Deviation from Approved Plan Prohibited
- .100 Lot Line Adjustments - Approval Standards

- 91.000 Improvement Guarantee
 - .010 Agreement for Improvements
 - .020 Performance Bond with Improvements Required
 - .030 Open Space Conveyance

- 92.000 Required Improvements
 - .010 Improvements in Subdivision and Major Partitions
 - .020 Improvements in Major and Minor Partitions
 - .030 Improvement Procedures
 - .040 Specifications for Improvements

- 93.000 Design Standards
 - .010 Principles of Acceptability
 - .020 General Provisions
 - .030 Streets
 - .040 Blocks
 - .050 Easements
 - .060 Lots, General Requirements
 - .070 Large Lots
 - .080 Lot Grading
 - .090 Building Lines
 - .100 Utility Easements

- 94.000 Hillside Protection & Erosion Control
 - .010 Purpose
 - .020 Standards for Approval
 - .030 Standards for Construction
 - .040 Standards for Maintenance
 - .050 Procedures

- 95.000 Variance
 - .010 Purpose
 - .020 Relationship Between Variance to Zoning Code Requirements & Land Division Code Requirements
 - .030 The Application
 - .040 The Approval Criteria
 - .050 Plot Plans & Map

96.000 Street Improvement Construction

.010 Construction Required

.020 Standards

.030 Sidewalk Requirement Waives

LAND DIVISION

85.000 GENERAL PROVISIONS

85.020 PURPOSE

The purpose of the land division provisions of this Code is: to implement the Comprehensive Plan; to provide rules, regulations and standards governing the approval of plats of subdivisions; to carry out the development pattern and plan of the City; to promote the public health, safety and general welfare; to lessen congestion in the streets, secure safety from fire, flood, pollution and other dangers; to provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage, and drainage; and to encourage the conservation of energy resources.

85.030 SCOPE - CONFORMITY REQUIRED

- A. This division shall apply to all subdivisions, major land partitions or minor land partitions within the city limits of West Linn.
- B. No person shall subdivide or create a major or minor partition except in conformity with the provisions of this code, and ORS ch 92.
- C. No building permit or certificate of occupancy shall be issued for any parcel or lot which was created by subdivision or major partition or minor partition if it is not approved and in conformity with the provisions of this code.
- D. No excavation of land or construction of any public or private improvement shall take place or be commenced except in conformity with the provisions of this code.

85.040 NEGOTIATION OF SALE OF LOTS PROHIBITED UNTIL APPROVAL GRANTED

- A. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved; but
- B. A person may negotiate to sell any parcel in a major or minor partition for which approval of a tentative plan is required, but shall not sell a lot until the tentative plan has been approved.

85.050 SALE OF LOTS PROHIBITED UNTIL SUBDIVISION PLAT RECORDED

- A. No person shall sell any lot in any subdivision until the plat has been acknowledged under chapter 88 and recorded with the recording officer of the county.
- B. No person shall sell any lot in any subdivision by reference to or exhibition or other use of a plat of such subdivision before the plat for such subdivision has been so recorded.

85.060 APPROVAL REQUIRED BEFORE CREATING STREET OR ROAD TO PARTITION LAND

- A. No person shall create a street or road for the purpose of partitioning an area or tract of land without approval by the Planning Commission under the provisions of 99.060B.
- B. No instrument dedicating land to public use shall be accepted for recording unless such instrument bears the approval of the Planning Commission under the provisions of 02.060B.

85.070 INCOMPLETE APPLICATIONS - THE DECISION MAKING PERIOD

- A. The director shall not accept incomplete applications, however, if an application for approval of a tentative plan for a subdivision or tentative map for a major partition is incomplete, the Planning Director shall notify the applicant of the fact within 30 days of the receipt of the application and allow the applicant to provide the additional required information.
- B. The Planning Commission shall take final action on an application for approval of a tentative plan for a subdivision or a tentative map for a major partition within 120 days after the application is found to be complete.

- C. If action is not taken within the 120 day period, the applicant may apply to the circuit court for a writ of mandamus to compel the issuance of approval.

85.080 ADDITIONAL NOTICE REQUIRED

- A. The Planning Director shall mail a copy of the tentative subdivision plan or major or minor partition map to other affected service districts, utilities and city departments and request a response in writing.
- B. If no response is filed with the Planning Director within 10 working days from the time of mailing, it shall be assumed the district, utility or department approves the proposal as submitted.
- C. A district, utility or department may request an extension of time up to 10 working days to review the proposal.
- D. Copies of the response from the service district, utility or city department shall be made a part of the record and included with the staff report.

85.090 ADMINISTRATION & APPROVAL PROCESS

- A. The application shall be filed by the record owner(s) of the property or by an authorized agent.
- B. Action on the application for a tentative plan shall be as provided by chapter 99.
 - 1. The Planning Director shall approve, deny or approve with conditions an application for a minor partition subject to the provisions of 99.060A, 99.110 and 88.060 of this code. The director's decision may be appealed to the Planning Commission as provided by 99.240A.
 - 2. The Planning Commission shall approve, deny, or approve with conditions an application for--
 - a. A tentative plan for a subdivision subject to the provisions of 99.060B, 99.110 and 87.070 of this code. A petition for review of the commission's decision may be filed as provided by 99.240B.

- b. A tentative map for a major partition subject to the provisions of 99.060B, 99.110 and 86.070 of this code. A petition for review of the commission's decision may be filed as provided by 99.240B.
- 3. Within one year after the date formal approval is given by the Planning Commission, the owner shall prepare and file with the Planning Director, a Final Plan or Final Map; unless otherwise provided as a part of the approval of the tentative plan or map approval process.
- 4. Action on the Final Plan or map shall be ministerial and taken by the Planning Director; and the director shall approve:
 - a. A Final Subdivision Plat upon the finding that the approval criteria set forth in 88.050 have been satisfied. The director's decision may be appealed to the Planning Commission by the applicant and the Planning Commission shall make its decision without giving notice and based on testimony from the applicant and the director.
 - b. A Final Partition Map upon the finding that the approval criteria set forth in 88.050 have been satisfied. The director's decision may be appealed to the Planning Commission by the applicant and the Planning Commission shall make its decision without giving notice and based on testimony from the applicant and the director.

85.100 EFFECT OF TENTATIVE APPROVAL

- A. Approval of the tentative plan or map shall be binding on the city for the purpose of the preparation of the subdivision plan or partition map, and the city may require only such changes in the plat or map as are necessary for compliance with the terms of its approval, however,
- B. Approval of the tentative plan or map for the proposed subdivision or the proposed major partition shall not constitute

final acceptance of the plat of the proposed subdivision
or the map of the proposed major partition for recording.

85.110 EXPIRATION OF APPROVAL - CONTINUATION

- A. If the Final Plat or Map has not been submitted to the director within one year from the date of approval of the tentative plan, the approval expires. However, at the request of the applicant, the Planning Director shall schedule consideration of a time extension on a Planning Commission agenda and the Commission shall determine the question of whether continuation of approval, in whole or in part, is in the public interest.
- B. The Commission may approve an extension of time up to one year, approve the extension of time subject to modifications and conditions, or deny the extension of time.
- C. The decision shall be based on findings related to:
 - 1. A change or absence of change in the facts on which the approval was based; and
 - 2. A change or absence of change in the policies and ordinance provisions on which the approval was based.
- D. The decision may be reviewed by the council as provided by 99.240B.
- E. In no case shall series of extensions be granted for more than five years from the time approval was given.
- F. A denial of an extension shall require a reapplication, if the applicant still desires approval of a project on the subject land.

85.120 NON COMPLIANCE - BOND

- A. Non-compliance with an approved Final Plat or Map shall be a violation of this code.
- B. The development shall be completed in accordance with the approved Final Plat or Map before any occupancy permits will be issued except that when the Planning Director determines that immediate execution of any feature of an approved Final Plan or Map is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director shall as a precondition of the issuance of a required permit, require the posting of a performance bond, or other surety, to secure execution of the feature at a time certain not to exceed one year.

85.130 STAGED DEVELOPMENT

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of 99.125, however, notwithstanding the provisions of 99.125, in no case shall the time period for platting all stages be greater than five years without re-filing the application.

85.140 PARTIAL DEVELOPMENT

Where the tentative subdivision plan or tentative map or partition map is limited to partial development, the planning commission may require an additional planning level of the tentative layout for the streets for the unsubdivided portion.

85.150 LAND DIVISION APPLICATION IN CONJUNCTION WITH OTHER LAND USE APPLICATIONS

- A. As provided by 99.070 a land division application filed under this code may be heard concurrently with another application.
- B. In the case of a land division application and a planned unit development application filed under chapter 24 for the same property, both applications shall be heard concurrently.

87.000 TENTATIVE SUBDIVISION PLAN & TENTATIVE MAJOR PARTITION MAP

87.010 THE APPLICATION - THE TENTATIVE PLAN OR MAP

- A. An application for a Tentative Plan or Map shall be initiated by the property owner or the owners authorized agent.
- B. A preapplication conference shall be a prerequisite to the filing of an application.
- C. The applicant shall submit a completed application which shall include fifteen copies of each of the following except for each drawing submitted, there shall be eight copies at the original scale and seven copies reduced to a paper size not greater than eleven inches by seventeen inches:
 - 1. The completed application form(s).
 - 2. A Tentative Plan or Map including the requirements set forth in 87.030 and for a subdivision the requirements set forth in 87.040.
 - 3. A narrative based on the factors set forth in 87.050 and 87.070.
 - 4. A narrative in support of any variance request filed under the provisions of chapter 95.
- D. The applicant shall submit drafts of the proposed restrictive covenants, property owners agreements, dedications, deeds, easements and reservations of public open space not dedicated to the city.
- E. The applicant shall pay the requisite fee.

87.020 PREAPPLICATION CONFERENCE REQUIRED

- A. An applicant shall participate in a preapplication conference prior to the submission of a tentative plan or map. The Director shall insure that appropriate city staff attend the meeting and participate.
- B. The Planning Director shall explain all the applicable plan policies, ordinance provisions, opportunities and constraints which may be applicable to the site and type of proposed land division.

- C. The following subjects shall be reviewed at the preapplication conference:
1. The existing site conditions and factors which must be considered; for example:
 - a. The parcel's location and size, the comprehensive plan, zoning and other possible and applicable ordinance provisions.
 - b. The proposed layout as related to adjacent land uses.
 - c. The natural features on the site; topography, drainage courses, vegetation and soil conditions and stability as these features relate to plan policies and ordinance provisions and the land division plan.
 - d. The availability of utilities.
 - e. The site access and potential traffic problems.
 - f. The capacity of the road system, existence of plans for bicycle and pedestrian ways, and availability of transit.
 - g. Existing or potential noise sources.
 - h. Availability of parks.
 2. Conditions placed on previous applications for the same tract.

87.030 REQUIREMENTS FOR THE TENTATIVE PLAN OR MAP

- A. The tentative subdivision plan or major partition map shall be prepared by a registered civil engineer or a licensed land surveyor. A stamp and signature of the engineer or surveyor shall be included on the application.
- B. The tentative plan of a subdivision or major partition map shall be drawn on a sheet eighteen inches by twenty-four inches in size or multiple thereof at scale not smaller than one inch equals one hundred feet, or for areas over one hundred acres, one inch equals two hundred feet.
- C. A vicinity map shall be provided in the application showing existing subdivisions, streets, and unsubdivided land owner-ships adjacent to the proposed subdivision and showing how

proposed streets and utilities may be extended to connect to existing streets and utilities.

D. The following general information shall be shown on the tentative plan of subdivision or major partition map:

1. Proposed name of the subdivision; this name shall not duplicate nor resemble the name of another subdivision in the county and shall be approved by the planning commission.
2. Date, northpoint and scale of drawing.
3. Appropriate identification clearly stating the drawing as a tentative plan.
4. Location of the proposed division of land, with a tie to the city coordinate system, where established, and a description sufficient to define its location and boundaries and a legal description of the tract boundaries.
5. Names and addresses of the owner, developer and engineer or surveyor.

E. The following existing conditions shall be shown on the tentative plan of a subdivision or major partition map:

1. The location, widths and names of all existing or platted streets within or adjacent to the tract, together with easements, and other important features, such as section lines, section corners, city boundary lines and monuments.
2. Contour lines related to the U.S. Geological Survey datum or some other established bench mark or other datum approved by the planning director and having the following minimum intervals:
 - a. Two-foot contour intervals for ground slopes less than twenty percent.
 - b. Five-foot contour intervals for ground slopes exceeding twenty percent.

3. The location of at least one temporary bench mark within the site boundaries.
 4. The location and direction of all water courses and areas subject to periodic inundation or storm drainage way over flow or flooding, including boundaries of flood hazard areas as established by the U.S. Corps of Engineers or the city zoning ordinance.
 5. Natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees.
 6. Existing uses of the property, including location of all existing structures to remain on the property after platting.
 7. The capacity and location within the site and in the adjoining streets and property of existing sewers, water mains, culverts, drain pipes, gas, electric and other utility lines.
 8. Zoning on and adjacent to the tract.
 9. Existing uses to remain on the adjoining property and their scaled location.
 10. The location of any existing bicycle or pedestrian ways.
- F. The following proposed improvements shall be shown on the tentative plan or map:
1. The streets; location, proposed name, right-of-way width and approximate radii of curves of each proposed street and street grades.
 2. Any proposed bicycle or pedestrian paths.
 3. Any easements; location, width and purpose of the easements.
 4. The lot configuration including location and approximate dimensions and lot area of each parcel and in the case of a subdivision, the proposed lot and block number.
 5. The drainage ways.
 6. A street tree planting scheme.
 7. Any land area to be dedicated to the public or put in common ownership.

87.040 SUPPLEMENTAL INFORMATION REQUIRED FOR A TENTATIVE SUBDIVISION PLAN
OR PARTITION MAP

The following information shall be submitted to supplement the tentative subdivision plan:

- A. Approximate centerline profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.
- B. A plan for domestic water supply lines and related water service facilities with reference to the adopted Comprehensive Water System Plan, September 1982.
- C. A proposal for sewage disposal, stormwater drainage and flood control, including profiles of proposed drainage ways with reference to the adopted Storm Drainage Master Plan, October 1983.
- D. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of soil.
- E. Proposals for other improvements such as sidewalks, bicycle paths and electrical utilities.
- F. Where the land to be subdivided or partitioned contains only a part of the contiguous land owned by the developer, the Commission shall require a master plan of the remaining portion illustrating how the remainder of the property may suitably be subdivided.

87.050 REQUIRED WRITTEN INFORMATION IN SUPPORT OF THE PLAN OR MAP

- A. The following written information shall be submitted as a part of the Tentative Plan or Map submittal:
 - 1. The source of the proposed domestic water supply.
 - 2. The proposed method of sewage disposal:
 - 3. The proposed method for surface water disposal:
 - a. The location and extent to which grading will take place indicating general contour lines.
 - b. A statement by a registered civil engineer supported by factual data that all increase in intensity of runoff caused by development will be facilitated on the site and that the intensity of runoff leaving the site will not increase

over that runoff rate of the site in its undeveloped state. This statement shall include as a minimum a storm frequency of occurrence of five years or greater, depending upon an evaluation of potential for damage when a storm of higher frequency occurs.

- c. Where on site detention of the increased volume of water caused by development is not feasible or acceptable, a plan which identifies and which mitigates any off site adverse effects resulting from increased runoff shall be prepared by a registered civil engineer.

- d. Identification information, including the name and address of the owner, developer and project designer, and the scale and north arrow.
- 4. Proof of record ownership of the tract and the agents authority, if applicable.
- 5. A legal description of the tract.
- 6. A statement of the proposed improvements to be installed including street tree plantings and the time such improvements will be made and completed.

87.060 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

- A. The Planning Director may required additional information as part of the application subject to the provisions of 99.035A.
- B. The Planning Director may waive any requirements for the application subject to the provisions of 99.035 B and C.

87.070 APPROVAL CRITERIA

No tentative subdivision plan or major partition map shall be approved unless the Planning Commission finds:

- 1. Streets and roads are to be laid out so as to conform to the plats of subdivisions or maps of major partitions having been approved for adjoining property as to width, general direction and in all other respects, unless the City Planning Commission determines it is in the public interest to modify the street of road pattern.
- 2. Streets and roads held for private use are clearly indicated on the tentative plan and all reservations or restrictions relating to such private roads and streets are set forth.
- 3. The Tentative Plan complies with:
 - a. The applicable Comprehensive Plan Map;
 - b. The applicable Zoning Code provisions;
 - c. The applicable provisions of this code; and other implementing ordinances including the Hillside

Protection and Erosion Control Standards,
chapter 94.

- d. The applicable Land Conservation & Development Goals until the city planning program is acknowledged under the provisions of ORS ch 197.
- 4. Streets and roads shall be dedicated without any reservations or restrictions other than reversionary rights upon vacation of said streets.
- 5. The design and improvement standards as delineated in chapter 93 of this code shall apply to all subdivision and major partition tentative plans.
- 6. A statement by a registered civil engineer that he has verified with the City Engineer or Service District that the following basic utilities can be made available to the site, and with improvements to the site by the developer will be available to each proposed lot on the site:
 - a. Municipal water with sufficient volume and pressure to serve the proposed development's domestic commercial, industrial and fire flows.
 - b. Sanitary sewers with sufficient capacity to serve the development and adequate sewage treatment plant capacity of the City or Sewer Service District to properly serve the development.

88.000 FINAL SUBDIVISION PLAT OR FINAL MAJOR PARTITION MAP

88.010 SUBMISSION OF FINAL SUBDIVISION PLAT OR FINAL MAJOR PARTITION MAP

- A. Within one year after approval of the tentative plan or map the developer shall cause the final plat or map or any part thereof to be surveyed and a final plat or major partition map prepared by a registered civil engineer and submitted to the Planning Director in conformance with:
 - 1. The approved tentative plan or map.
 - 2. The factors setforth in this chapter.
 - 3. The provisions of chapter 93 Design Standards of this code; and
 - 4. The provisions of chapter 91, Improvement Guarantee of this code.
- B. The developer shall submit a mylar, the original hard board drawing intended for recording and 5 prints of the final plat and any supplementary information to the Planning Director.

88.020 INFORMATION REQUIRED ON THE PLAT OR MAP

- A. In addition to that required for the tentative plan or otherwise specified by law, the following information shall be shown on the plat:
 - 1. The date, scale, northpoint (generally pointing up), legend and controlling topography such as drainageways and highways;
 - 2. Legal description of the tract boundaries.
 - 3. Name and addresses of the owners, developer and engineer or surveyor.
 - 4. Reference points of existing surveys identified related to the plat by coordinates or distances and bearings, and references to a field book or map as follows:
 - a. All stake and monuments, or other evidence found on the ground and use to determine the boundaries of the subdivision.
 - b. Adjoining corners of all adjoining subdivisions.
 - c. City coordinate system lines within or adjacent to the plat, if any.

- d. Whenever the city or county has established the center-line of a street adjacent to or within the proposed subdivision, the location of this line and monuments found or reset.
- e. All other monuments found or established in making the survey of the subdivision or required to be installed by provision of this chapter.
- f. The coordinates, based on the city coordinate system if applicable, or the initial point of the subdivision traverse, exterior boundary monuments, and street centerline monuments.
- g. The exact location, width and names of streets, pedestrian ways and bicycle paths within and intersecting the boundary of the tract.
- h. Lines with dimensions, bearings, or deflection angles radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries and street right-of-way, and centerlines. Normal high water lines for any creek, drainageway or other body of water. Tract boundaries and street bearings shall be shown to the nearest thirty seconds with basis of bearings. All distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.
- i. The width of the portion of streets being dedicated, the width of any existing right-of-way and the width of any existing right-of-way and the width each side of the centerline. For streets on curvature, curve data shall be based on the street centerline and in addition to centerline dimensions the radius and central angle shall be indicated.
- j. Easements denoted by fine dotted lines, clearly identified, and if already of record, their recorded reference. If any easement is not definitely located of record, a statement of the

easement. The width of the easement, its length and bearing, and sufficient ties to definitely locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

- k. Lot numbers beginning with the number "1" and numbered consecutively in each block.
- l. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication through out the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision.
- m. Identification of land parcels to be dedicated for any purpose, public or private, to be distinguished from lots intended for sale.
- n. Building set back lines, if any are to be made a part of the subdivision restrictions.
- o. Designation of proposed partitions of subdivisions to be platted, if any indicated proposed sequence of platting.
- p. The following certificates which may be combined where appropriate:
 - 1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and record of said map.
 - 2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map and intended for

any public use, except those parcels which are for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.

3. A certificate signed by the engineers, or the surveyor responsible for the survey and final map; the signature of the engineer or surveyor to be accompanied by his seal.
4. All other certifications now or hereafter required by law.

88.030 SUPPLEMENTAL INFORMATION REQUIRED FOR A FINAL PLAT OR MAP

The following information shall accompany the final plat or map:

- A. A preliminary title report, issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises;
- B. Sheets and drawings showing the following:
 1. Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners. The error of closure shall not exceed 1:10,000. All error is to be removed by adjusting the plat or map.
 2. The computations of all coordinates, distances, angles, courses shown on the final plat or map.
 3. Ties to existing monuments, proposed monuments, adjacent subdivisions, or partitions, street corners and state highway stationing.
- C. A copy of any deed restrictions applicable to the subdivision or partition.
- D. A copy of any dedication requiring separate documents.
- E. A list of all taxes and assessments on the tract which have become a lien on the tract.
- F. A certificate by a registered civil engineer certifying that the developer has complied with one of the following alternatives:

1. All improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Commission giving conditional approval of the tentative plan.
2. An agreement has been executed as provided in chapter 90 to assure completion of all required improvements.

88.040 TECHNICAL PLAT REVIEW

- A. Upon receipt by the city, the plat, or map and other data shall be reviewed by the City Engineer who shall examine the information to determine that the subdivision or map as shown is substantially the same as it appeared in the approved tentative plan or map, and that there has been compliance with provisions of the applicable implementing ordinances.
- B. The city shall make such checks in the field as are desirable to verify that the map is sufficiently correct on the ground and the city's representatives may enter the property for this purpose.
- C. If the City Engineer determines that full conformity has not been made, he shall advise the developer of the changes or additions that must be made and shall afford the developer an opportunity to make the changes or additions.

88.050 APPROVAL & APPROVAL CRITERIA

- A. No plat of a proposed subdivision or no map of a proposed major partition shall be approved unless the Planning Director finds:
 1. The provisions of this chapter have been satisfied.
 2. The streets and roads for public use are dedicated without any reservation or restriction other than reversionary right upon vacation of any such street or road and easements for public utilities.

3. The streets and roads held for private use and indicated on the tentative plan of such subdivision or major partition have been approved by the city or county.
 4. The plat or map complies with any applicable zoning ordinance or regulations adopted under ORS 92.044 that are in effect.
 5. The plat or map is in substantial conformity with the provisions of the tentative plan or map as approve.
 6. Where required as a condition of approval, the plan or map contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewerage disposal and water supply systems.
 7. Where common improvements are required as a condition of approval, explanations of the common improvements have been recorded and referenced on the plat or map.
- B. No plat of a subdivision shall be approved unless the City Engineer finds:
1. A certificate from the domestic water supplier that water is available to each and every lot, or a bond, contract or other assurance by the subdivider that water will be installed to each and every lot or a statement that no domestic water supply facility will be provided as required by ORS 92.090(4).
 2. A certificate from the sewage disposal system supplier that a sewerage disposal system will be available to each and every lot, or a bond, contract or other assurance by the developer that a sewer will be installed to each and every lot or a statement that no sewage system will be provided as required by ORS 92.090(5).
 3. The requirements of chapter 91, Improvements Guarantee have been met.

88.060 PROCESS FOLLOWING APPROVAL BY THE PLANNING DIRECTOR AND CITY
ENGINEER OF A PLAT FOR A SUBDIVISION

Following review and approval of a subdivision plat by the Planning Director and City Engineer, no plat shall be recorded by the developer unless:

1. All ad valorem taxes and all special assessments, fees, or other charges required by law to be placed upon the tax will have been paid and the subdivider shall pay all money owing and obtain the approval signature on the face of the plat from the county, Department of Assessment & Taxation.
2. A registered civil engineer or licensed land surveyor has certified that the plat complies with all applicable laws.
3. The chairperson of the Planning Commission has signed the plat certifying the plat is approved.
4. A majority of the Board of County Commissioners or the boards delegate has signed certifying that the plat is approved.

88.070 PROCESS FOLLOWING APPROVAL BY THE PLANNING DIRECTOR AND CITY ENGINEER OF A MAP FOR A MAJOR PARTITION

Following review and approval of a final partition map, no map shall be recorded by the developer unless a registered civil engineer or licensed land surveyor has certified that the map complies with all applicable laws.

1. The city engineer or surveyor has certified that the map complies with all applicable laws,

88.080 FILING OF PLAT

- A. The developer shall, without delay, submit the plat for signatures of other public officials required by law. Approval of the plat shall be null and void if the plat is not recorded within ninety days after the date the last required approving signatures have been obtained.
- B. One reproducible copy and one negative, together with six prints of the recorded plat shall be supplied to the city.

88.090 FINAL PLAT FILING FEE

The developer shall pay to the city a final plat filing fee as established by City Council to defray the costs incurred to the city in checking, investigating and other matters required by state law, this ordinance and other city ordinances. This fee must be paid at the time of submittal of a final plat application.

88.100 EFFECTIVE DATE OF FINAL APPROVAL

- A. A subdivision shall become final upon recording the plat under ORS 92.120(1) with Clackamas County.
- B. A major partition shall become final upon recording the map under ORS 92.120 with Clackamas County.

89.000 MINOR LAND PARTITION

89.010 THE APPLICATION - THE MAP

- A. An application for a minor partition shall be initiated by the property owner or the owners authorized agent. An application shall be required by: any person proposing to partition land into two or three parcels, not including the creation of a street or road, within a calendar year, shall prepare a minor partition application and plan, and shall submit them to the Planning Director for approval prior to the division of the land.
- B. A preapplication conference shall be a prerequisite to the filing of an application.
- C. The applicant shall submit the completed application form and five copies each of the following.
 - 1. A map as required by 89.030.
 - 2. The written information as required by 89.040; and
 - 3. A narrative which addresses the criteria set forth in 89.060.
- D. The applicant shall submit drafts of any proposed restrictive covenants, property owners agreements, dedications, deeds, easements, and reservations of public open space not dedicated to the city.
- E. The applicant shall pay the requisite fee.

89.020 PREAPPLICATION CONFERENCE REQUIRED

- A. An applicant shall participate in a preapplication conference prior to the submission of a tentative plan or map.
- B. The Planning Director shall explain all the applicable plan policies, ordinance provisions, opportunities and constraints which may be applicable to the site and type of proposed land division.

C. The following subjects shall be reviewed at the preapplication conference:

1. The existing site conditions and factors which must be considered; for example:
 - a. The parcel's location and size, the comprehensive plan, zoning and other possible and applicable ordinance provisions.
 - b. The proposed layout as related to adjacent land uses.
 - c. The natural features on the site; topography, drainage courses, vegetation and soil conditions and stability as these features relate to plan policies and ordinance provisions and the land division plan.
 - d. The availability of utilities.
 - e. The site access and potential traffic problems.
 - f. The capacity of the road system, existence of plans for bicycle and pedestrian ways, and availability of transit.
 - g. Existing or potential noise sources.
2. Conditions placed on previous applications for the same tract.

89.030 REQUIREMENTS FOR THE MAP

The map shall include eight copies of a sketch map 8½ by 11 inches, or 18 by 24 inches in size with the following information:

1. The date, northpoint, scale and sufficient description to define the location and boundaries of the parcel to be partitioned.
2. The names and addresses of the record owner and the person who prepared the sketch map.
3. Approximate acreage of the parcel under single ownership, or if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the minor partitioning.
4. For land adjacent to and within the parcel to be partitioned the topography of the area, the location,

width and names of all adjoining streets; location, width, and purpose of all other existing easements; and the location and size of sewer and water lines, drainage ways and power poles.

5. Outline and location of existing buildings to remain in place.
6. Lot layout showing size and relationship to existing streets and utility easements.

89.040 REQUIRED WRITTEN INFORMATION IN SUPPORT OF THE PLAN OR MAP.

The following written information shall be submitted as a part of the application:

1. The source of the domestic water supply.
2. The proposed method of sewage disposal.
3. A statement as to the manner in which the plan or map satisfies the criteria in section 89.060.
4. In the event approval of a minor partition is conditioned upon the dedication of a portion of the area to the public, the applicant shall submit to the Planning Director a title report issued by a title insurance company licensed in the State of Oregon verifying ownership by the partitioner of the real property that is to be dedicated to the public.
5. The proposed method of storm water disposal.

89.050 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

- A. The Planning Director may require additional information as part of the application subject to the provisions of 99.035A.
- B. The Planning Director may waive any requirements for the application subject to the provisions of 99.035 B and C.

89.060 APPROVAL CRITERIA

- A. The Planning Director shall approve, deny or approve with conditions an application for a minor partition based on findings that:
 1. The application complies fully with all applicable requirements for submittal, including consent of the

owner of record of the property to be partitioned.

2. The tentative plan is consistent with all applicable policies, standards, and provisions of the Comprehensive Plan, the Zoning Provisions and this code.
 3. Approval will not impede or adversely affect the safe and healthful development of any adjoining land or access thereto.
 4. Any required dedications of land to the public have been properly prepared by the partitioner, accepted by the city, and are in recordable form for recording with Clackamas County.
 5. Adequate easements have been granted for any portion of the minor partition where an existing private utility line crosses or encroaches upon any other parcel to be created in the partition.
 6. All public facilities serving the partition site are fully improved and adequate or full improvement of such public facilities can be provided or guaranteed prior to issuance of any permit for further development of any parcel in the partition.
- B. Approval and any conditions of approval of a minor partition shall be noted thereon by the Planning Director, with the effective date of the approval. In the event of denial, the Planning Director shall cause notice and the reasons for denial to be furnished to the partitioner.

89.070 RETURN OF APPROVED MINOR PARTITIONS

Unless appealed, following the effective date of approval, the Planning Director shall return a copy of the minor partition as approved, and so noted thereon, to the partitioner, and no further recordation shall be required unless specifically provided for as a condition of approval, and except as provided in chapter 209 of the Oregon Revised Statutes for recording surveys.

89.080 FILING OF MINOR PARTITION

Two copies of the recorded partition shall be supplied to the City.

89.090 EXPIRATION OF MINOR PARTITION APPROVAL

If documents effectuating the partition of the tract as approved have not been properly prepared, executed and recorded with the

recording officer of Clackamas County within one year following approval, the minor partition approval shall be null and void. Approval shall not be reinstated without re-application and full review as provided by this section.

89.095 DEVIATION FROM APPROVED PLAN PROHIBITED

Following approval of a minor land partition by the Planning Director, no document of instrument shall be executed or recorded which would result in the division of the tract in any way which deviates from the proposed division as shown on the approved minor partition plan.

89.100 LOT LINE ADJUSTMENTS -- APPROVAL STANDARDS

- A. The Director shall approve or deny a request for a lot line adjustment in writing based on the criteria stated below:
 - 1. An additional lot is not created by the lot line adjustment and the existing parcel reduced in size by the adjustments is not reduced below the minimum lot size established by the approved zoning for that district.
 - 2. By reducing the lot size, the lot or structure(s) on the lot will not be in violation of the site development regulations for that district.
 - 3. If the applicant disagrees with the decision of the Director, an appeal shall be filed in accordance with 99.240 within 10 days.
- B. Application submission requirements for a lot line adjustment shall comply with 88.020.
- C. The provisions of 85.090 shall also apply to lot line adjustment.

91.000 IMPROVEMENT GUARANTEE

91.010 AGREEMENT FOR IMPROVEMENTS

- A. Before approval by the Planning Commission, the Planning Director and the City Engineer of a final subdivision plat or partition map, the developer shall --
1. Either install required improvements and repair existing streets and other public facilities damaged in the development of the property; or
 2. Execute and file with the Planning Director an agreement between the developer and the city specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the city may complete the work and recover the full costs and expenses, together with court costs and attorneys fees necessary to collect said amounts from the developer.
 3. The agreement shall also provide reimbursement to the city for cost of inspection of said required improvements by the city which shall not exceed three percent of the cost of improvements to be installed. Monthly inspection costs of the city will be billed to the land divider by the tenth day of each month. Failure of the land divider to pay said inspection billing by that date will result in the issuance of a stop-work order by the city which shall remain in force until said fees are paid in full.
- B. The City shall install all street name signs and traffic control devices for the initial signing of a new development, with said costs to be reimbursed by the developer.
- C. The agreement shall also provide that the developer of any subdivision or partition upon written acceptance by the city of required improvements shall execute a maintenance bond with a surety company authorized to transact business in the state; such

bond to be in a form approved by the city attorney. The maintenance bond shall provide that the developer shall be responsible for damage to required and installed improvements included in the subdivision or major partition for a maximum period of eighteen months from the date of written approval by the city of said improvements. The amount of said maintenance bond shall be in an amount equivalent to twenty (20%) percent of the total -- installation cost of required improvements.

- D. The agreement between the city and the developer shall also provide that the developer, at the time of execution of the agreement for improvements, shall agree to be solely responsible for the cleanup of debris, dirt, and foreign materials, derived from this development or project upon sidewalks and roadways. This responsibility shall continue until such time as all required improvements within the subdivision or major partition have been inspected and finally approved by the city. The developer shall be responsible for all safety and cleaning all debris, dirt, and foreign material derived from his development or project by five p.m. of each workday; except that if said debris, dirt, or foreign material is found by the city engineer to constitute an immediate traffic or safety hazard, it shall be immediately removed by the developer. The developer shall furnish the city with information as to where the developer or a designated subordinate may be reached at all times by the city in regard to the performance of such cleanup work. Failure of the developer to clean up debris, dirt, or foreign material as hereinabove stated shall give the city the right to clean up said debris, dirt or foreign material utilizing city crews or to hire an independent contractor to do the same. The city shall bill the developer for all such cleanup services at the rate of twice the actual city labor costs incurred plus thirty-five percent of such actual labor costs reflecting utilization of city equipment. In the event that the city hires a private contractor to perform these services, the city shall bill the developer the actual cost incurred by the private contractor plus fifty percent of said actual costs reflecting the administrative costs incurred. All billings shall be paid by the developer within five days of the billing date. Failure of the developer to pay said billings within said time shall result in the issuance of a stop-work order on the entire development which shall remain in effect until the required sums are paid by the developer.
- E. In the event that there are three or more occasions within the calendar year when the city is forced to clean up debris, dirt, or foreign material on sidewalks or roadways from an individual

subdivision or major partition, the developer shall deposit with the city a sum in the amount of five hundred dollars which shall be retained by the city as a fund to be utilized for street and sidewalk cleaning purposes pursuant to the provisions of this title. Failure of the developer to maintain said sum for a period of over ten days shall result in the issuance of a stop-work order which shall remain in effect until the fund in the amount of five hundred dollars is restored by the land divider.

- F. The subdivision or partition agreement shall also provide that before the city accepts any required improvements within a subdivision or major partition, the developer shall furnish to the city certification of a registered civil engineer that said improvements have been installed and meet all applicable city, state and federal requirements.

91.020 PERFORMANCE BOND WITH IMPROVEMENTS REQUIRED.

- A. The land divider shall file with the improvement agreement referred to in section 91.010 at the time of execution of said improvement agreement, to assure full and faithful performance thereof one of the following:
1. A surety bond executed by a surety company authorized to transact business in the state, such bond to be in a form approved by the city attorney;
 2. A personal bond cosigned by a least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement in a form approved by the city attorney;
 3. Cash;
 4. Executed application for Bancroft bonding in approved improvement district; or
 5. An irrevocable assignment agreement executed by a financial institution in a form approved by the city attorney.
- B. Such assurance of full and faithful performance shall be for a sum approved by the city administrator as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of the city

inspection.

- C. In the event the developer fails to carry out provisions of the agreement and the city has unreimbursed costs or expenses resulting from such failure, the city shall call upon the bond or cash deposit. If said bond or cash deposit exceeds costs and expenses incurred by the city, it shall release the remainder after acceptance by the city of said repaired improvements. If the amount of the bond or cash deposit is less than the cost and expense incurred by the city, the developer shall be liable to the city for the difference.

91.030 OPEN SPACE CONVEYANCE

When the tentative plan of a proposed subdivision or map of a major partition includes open space it shall be conveyed in accordance with one of the following methods:

- A. By dedication to the city as publicly owned and maintained as open space. Open space proposed for dedication to the city must be acceptable to the city with regard to the size, shape, location, improvement and budgetary and maintenance limitations.
- B. By leasing or conveying title (including beneficial ownership) to a corporation, owners' association or other legal entity with the city retaining the development rights to the property. The terms of such lease or other instrument of conveyance, must include provisions suitable to the City Attorney for guaranteeing the following:
 - 1. The continued use of such land for the intended purposes.
 - 2. Continuity of property maintenance.
 - 3. When appropriate, the availability of funds required for such maintenance.
 - 4. Adequate insurance protection.
 - 5. Recovery of loss sustained by casualty and condemnation or otherwise.
- C. By any method which achieves the objectives set forth in B above.

92.000 REQUIRED IMPROVEMENTS

92.010 IMPROVEMENTS IN SUBDIVISIONS AND MAJOR PARTITIONS

The following improvements shall be installed at the expense of the subdivider and at the time of subdivision:

1. Streets. All streets, including alleys, within the subdivision; streets adjacent but only partially within the subdivision; and the extension of subdivision streets to the intercepting paving line of existing streets with which subdivision streets intersect shall be graded for the full right-of-way width and improved to the city's permanent improvement standards and specifications. Catch basins shall be installed and connected to pipe lines leading to storm sewers or drainage ways.
2. Monuments. Upon completion of street improvements, monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street centerlines. Elevation bench marks shall be established at each street intersection monument with elevations to U.S. Geological Survey datum.
3. Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision and to retain excess flow and to connect the subdivision drainage to drainage ways or storm sewers outside the subdivision in accordance with section 87.050 of this code. Design of drainage within the subdivision shall take into account the capacity, grade and drainage facilities necessary to maintain unrestricted flow from all drainage basin areas draining from above through the subdivision and to allow extension of the system to serve such areas in the drainage basin above the site.
4. Sanitary Sewers. Sanitary sewers shall be installed to city standards to serve the subdivision and to connect the subdivision to existing mains.

Design of the sewer system shall take into account the capacity and grade to allow for extension beyond the subdivision, according to the city's comprehensive plan and to properly carry flow from the entire drainage basin. If required, sewer facilities will, without further sewer construction, directly serve property outside the subdivisions, the following arrangements may be made to equitably distribute the cost:

- a. If the area outside the subdivision to be directly served by the sewer line has reached a state of development to justify sewer installation at the time, the planning commission may recommend to the city council construction as an assessment project with such arrangement with the subdivider as is desirable to assure financing his share of the construction.
 - b. If the installation is not made as an assessment project, the city may reimburse the subdivider an amount estimated to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the subdivision for a period of ten years from the time of installation of the sewers. The actual amount shall be determined by the city administrator, considering current construction costs.
5. Water System. Water lines with valves and fire hydrants providing service to each building site in the subdivision and connecting the subdivision to city mains shall be installed. Prior to starting building

construction, the design shall take into account provisions for extension beyond the subdivision and to adequately grid the city system. Hydrant spacing to be based on accessible area served according to city engineer's recommendations and city standards.

If required water mains will directly serve property outside the subdivision, the city may reimburse the developer an amount estimated to be the proportionate share of the cost for each connection made to the water mains by property owners outside the subdivision for a period of ten years from the time of installation of the mains. If oversizing of water mains is required to areas outside the subdivision as a general improvement, but which no new connections can be identified, the city may reimburse the developer that proportionate share of the cost for oversizing. The actual amount and reimbursement method shall be as determined by the City Administrator considering current or actual construction costs.

6. Sidewalks. Sidewalks shall be installed on both sides of a public street and in any special pedestrian way within the subdivision, except that in the case of primary or secondary arterials, or special type industrial districts, or special site conditions, the planning commission may approve a subdivision without sidewalks if alternate pedestrian routes are available.
7. Bicycle Routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the Planning Commission may require the installation of separate bicycle lanes within streets and separate bicycle paths.
8. Street Name Signs. Street name signs shall be installed at all street intersections.
9. Street Lights. Street lights shall be installed and shall be served from an underground source of supply.
10. Utilities. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of under-

ground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground.

11. Other. Curb cuts and driveway installations are not required of the subdivider at the time of street construction, but, if installed, shall be according to city standards. Proper curb cuts and hard-surfaced driveways shall be required at the time buildings are constructed.
12. Street Trees. Street trees shall be provided by the developer within the parkway of all streets within and adjacent to the subdivision and within six months of the date of occupancy of any structure within the subdivision. Where existing trees larger than six inches in diameter are located within the anticipated parkway of a proposed street right-of-way, such trees shall be identified and preserved wherever possible, and shall be considered as partially meeting the requirements for street trees, as contained in this subsection. At the time of submittal of a tentative plan application for a subdivision, a Street Tree Plan shall be submitted to accompany such application. The tentative plan for the subdivision shall not be approved in the absence of a Street Tree Plan which conforms with the requirements of this subsection. The Street Tree Plan shall be provided on a copy of the tentative plan map and shall include the following items:
 - a. Quantities and species of all proposed street trees.
 - b. The approximate height and trunk diameter of all street trees.
 - c. The proposed locations of street trees with dimensions given for spacing between trees.
 - d. Locations, species, and sizes of all existing trees which will remain within street right-of-way following construction of the street roadway, curbs, and sidewalks.

13. Joint Mailbox facilities shall be provided in all residential subdivisions, with each joint mailbox serving at least two, but no more than eight, dwelling units. Joint mailbox structures shall be placed in the street right-of-way adjacent to roadway curbs. Proposed locations of joint mailboxes shall be designated on a copy of the tentative plan of the subdivision, and shall be approved by the Planning Commission prior to tentative plan approval. In addition, sketch plans for the joint mailbox structures to be used shall be submitted and approved by the city engineer prior to final plat approval.

92.020 IMPROVEMENTS IN MAJOR & MINOR PARTITIONS

The same improvements shall be installed to serve each lot of a partition as is required of a subdivision. However, if the Approval Authority finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the Planning Commission may except those improvements. In lieu of excepting an improvement, the Planning Commission may recommend to the city council that the improvement be installed in the area under special assessment financing or other facility extension policies of the city.

92.030 IMPROVEMENT PROCEDURES

In addition to other requirements, improvements installed by the developer, either as a requirement of these regulations or at his own option, shall conform to the requirements of this title and permanent improvement standards and specifications adopted by the city and shall be installed in accordance with the following procedure:

1. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the improvement plans may be required before approval of the tentative plan of a subdivision or partition. Plans shall be prepared in accordance with the requirements of the city.

2. Improvement work shall not be commenced until the city has been notified in advance, and if work has been discontinued for any reason, it shall not be resumed until the city has been notified.
3. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer. The city may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.
4. All underground utilities, sanitary sewers, and storm drains installed in streets by the subdivider or by any utility company shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length obviating the necessity for disturbing the street improvements when service connections are made.
5. A map showing all public improvements as built shall be filed with the City Engineer upon completion of the improvements.

92.040 SPECIFICATIONS FOR IMPROVEMENTS

The City Engineer shall prepare and submit to the City Council specifications to supplement the standards of this title based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the design and construction of required public improvements, such other public facilities as a developer may elect to install, and private streets.

93.000 DESIGN STANDARDS

93.010 PRINCIPLES OF ACCEPTABILITY

A land division, whether by a subdivision, creation of a street, or a partitioning, shall conform to the West Linn comprehensive plan and any plans supplementary to it, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform with the requirements of state laws and to the design standards established by this title.

93.020 GENERAL PROVISIONS

- A. All land divisions shall be in conformance with the requirements of the applicable implementing provisions and shall be appropriate for the location of the land division and for the type of use contemplated. Additionally, all land divisions shall meet the following requirements relating to the creation of lots and functional standards for public facilities except in the case of planned developments, where:
- B. The standards for rights-of-way, street improvement, and subdivision design may vary from those prescribed for design and improvement requirements in this section, provided that the subdivider can demonstrate by the design proposal and such additional evidence as may be submitted that the purposes of this section and the objectives of this ordinance will be achieved.

93.030 STREETS

- A. General. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic or circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried considering the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:

1. Provide for the continuation or the appropriate projection of existing principal streets in surrounding areas; or
 2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.
- B. Right-of-way and Roadway Widths. Unless otherwise indicated on the Comprehensive Plan or other city standards, the width of streets and roadways in feet shall be within the following ranges as prescribed by the Planning Commission.

<u>TYPE OF STREET</u>	<u>RIGHT-OF-WAY WIDTH</u>	<u>ROADWAY WIDTH</u>
Arterials	60 - 120	12' per lane
Commercial and industrial streets	60 - 80	40 - 52
Collector streets and continuing residential streets	60 - 80	36 - 48
Local streets (disconnected streets not exceeding 1800 feet in length)	40 - 60	28 - 36
Cul-de-sac	40	28 - 36
Radii for turnarounds at end of cul-de-sac	50	42 - 44
Alleys	20	20

- C. The Planning Director shall present the City Engineer's recommendations to the Planning Commission on the desired right-of-way width and pavement width of the various street types within the subdivision after consideration by the City Engineer of the following criteria:
1. The type of road as set forth in the Comprehensive Plan.
 2. The anticipated traffic generation.
 3. On street parking requirements.
 4. Sidewalk and bikeway requirements.
 5. Requirements for placement of utilities.
 6. Street lighting.
 7. Drainage and slope impacts.
 8. Street trees.

- D. Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower rights-of-way and roadway width may be accepted with rights-of-way ordinarily not less than 50 feet. If necessary, slope easements may be required.
- E. Reserve Strips. Reserve strips or street plugs controlling the access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights and in these cases they may be required. The control and disposal of the land composing such strips shall be placed within the jurisdiction of the city under conditions approved by the city administrator.
- F. Alignment. All streets other than minor streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuations of the centerlines thereof. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the centerlines of streets having approximately the same direction and otherwise shall not be less than 100 feet.
- G. Future Extension of Streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without turnarounds. Reserve strips and street plugs may be required to preserve the objectives of the street extensions.
- H. Intersection Angles. Streets shall be laid out to intersect angles as near to right angles as practical, except where topography requires lesser angles, but in no case less than 60 degrees unless a special intersection design is approved. Streets shall have at least 50 feet of tangent adjacent to intersections unless topography requires lesser distances. Intersections which are not at right angles shall have minimum corner radii of 15 feet along right-of-way lines which form acute angles. Right-of-way lines at intersections

with arterial streets shall have minimum curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 20 feet. All radii shall maintain a uniform width between the roadway and the right-of way lines. Ordinarily, the intersection of more than two streets at any one point will not be allowed.

- I. Existing Streets. Wherever existing streets adjacent to or within a tract are of inadequate widths, additional right-of way shall be provided at the time of subdivision.
- J. Cul-de-sacs. Cul-de-sacs shall have maximum lengths of 800 feet and serve no more than 20 dwelling units. All cul-de-sacs shall generally terminate with circular turnarounds with a minimum fifty-foot radius. Use of other turnaround configurations must be approved by the Planning Director.
- K. Street Names. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the city and shall be subject to the approval of the Planning Commission.
- L. Grades and Curves. Grades shall not exceed eight percent on major or secondary arterials, 10 percent on collector streets, of 15 percent on any other street unless specifically approved. In flat areas finished street grades shall have a minimum slope of 0.5 percent. Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets. On arterials there shall be a tangent of not less than 100 feet between reversed curves.
- M. Access to Local Streets. Intersection of a local residential street with an arterial street may be prohibited by the Planning Director if suitable alternatives exist for providing interconnection of proposed local residential streets with other lower volume streets. Where a sub-division or major partition abuts or contains an existing or proposed major arterial street, the Planning Director may require marginal access streets, reverse frontage lots with suitable depth,

visual barriers, no access reservations along side and real property lines, and/or other measures necessary for adequate protection of residential properties from incompatible land uses and to ensure separation of through traffic and local traffic.

- N. Marginal Access Streets. Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting, contained in a nonaccess reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
- O. Alleys. Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the Planning Commission. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have radii of not less than 10 feet.
- P. Standards. The design and improvement of streets shall be in accordance with this code and applicable city standards.

93.040 BLOCKS

- A. General. The length, width, and shape of blocks shall be designed with due regard for the provision of adequate building sites for the use contemplated; consideration of the need for traffic safety, convenience, access, circulation and control; and recognition of limitations and opportunities of topography and solar access.
- B. Sizes. Blocks shall not exceed 1,000 feet in length between street lines, except for blocks adjacent to arterial streets or unless topographical conditions or the layout of adjacent streets justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.

93.050 EASEMENTS

- A. Utility Lines. Easements for sewers, drainage, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be a minimum of twelve feet in width and centered on rear or side lot lines, except for guy wire tie-back easements which shall be six feet wide by twenty feet long along lot lines at change of direction point of easements.
- B. Watercourses. If a tract is traversed by a watercourse such as a drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right of way centered on and conforming substantially with the lines of the watercourse and adequate in width for the purpose. This width shall be a minimum of 25 feet or such greater width as needed for the particular drainage course. Streets, parkways or greenways parallel to or integrated with major watercourses may be required.
- C. Pedestrian and Bicycle Ways. When desirable for public convenience, or when called for in the Comprehensive Plan, pedestrian ways may be required to connect cul-de-sacs, to pass through unusually shaped blocks, or to facilitate a linked system of pedestrian ways or bicycle ways along greenways.
- D. Greenways. When called for in the Comprehensive Plan, the Planning Commission may require the dedication, reservation or setting aside of greenways which will be open or accessible to the public. Except for trails or paths, such greenways will usually be left in a natural condition without improvements. Where appropriate, greenways may be combined with easements for utilities or watercourses. The procedure for conveying greenways shall conform to section 93.060.

93.060 LOTS, GENERAL REQUIREMENTS

- A. Size and Shape. Lot size, width, shape and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated and for potential utilization of solar access and protection of existing large trees. Orientation of lots to maximize solar access within the development shall be done wherever practicable.

no lot shall be dimensioned to contain part of an existing or proposed street. All lots shall be buildable, and the depth shall not generally exceed two and one-half times the average width. Lot sizes shall not be less than the size required by the zoning code. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.

- B. Access. Access shall conform to the provisions of chapter 48.
- C. Through Lots and Parcels. Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 feet wide and across which there shall be no right of access, may be required along the line of building sites abutting such a traffic artery or other incompatible use.
- D. Lot and Parcel Side Lines. The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they should be radial to the curve.

93.070 LARGE LOTS

In dividing tracts into large lots or parcels which at some future time are likely to be redivided, the Planning Commission may require that the blocks be of such size and shape, and be so divided into building sites, and contain such easements and site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size.

93.080 LOT GRADING

Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

- 1. Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.

2. Fill slopes shall not exceed two feet horizontally to one foot vertically.
3. The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended. When deemed necessary, the city engineer may require engineering or geological studies to determine the suitability of the site.

93.090 BUILDING LINES

If special building setback lines are to be established in a subdivision, they shall be shown on the subdivision plat or, if temporary in nature, they shall be included in the deed restriction.

93.100 UTILITY EASEMENTS

All subdivisions and major and minor partitions shall establish six foot utility easements on all interior lot lines.

94.000 HILLSIDE PROTECTION AND EROSION CONTROL

94.010 PURPOSE

This standard applies to all development which includes hillsides or areas with erosion hazard potential including Type I and Type II lands.

94.020 STANDARDS FOR APPROVAL

- A. All developments shall be designed to minimize the disturbance of natural topography, vegetation and soils.
- B. Designs shall minimize cuts and fills.
- C. Cuts and fills shall conform to the minimum requirements of chapter 94.
- D. Development Prohibited.
 - 1. Where landslides have actually occurred, or where field investigation confirms the existence of a severe landslide hazard, development shall be prohibited except as provided in subsection 2 below.
 - 2. A registered Soils Engineer or Engineering Geologist may certify that methods of rendering a known hazard site safe for construction are feasible for a given site. The City Engineer shall determine whether the proposed methods are adequate to prevent landslides or damage to property and safety. The City Engineer may allow development in a known or confirmed landslide hazard area if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The City Engineer may apply any conditions including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur. Proposals of the Engineer must be consistent with the purposes of the ordinance and must be consistent with standard engineering practices.
- E. On land with slopes in excess of 12 percent, cuts and fills shall be regulated in accordance with and as follows:
 - 1. Toes of cuts and fills shall be set back from boundaries of separate private ownerships at least three

three feet, plus one-fifth of the vertical height of the cut or fill. Where an exception is required from that requirement, slope easements shall be provided.

2. Cuts shall not remove the toe of any slope where a severe potential landslide or erosion hazard exists (as defined in this standard).
3. Any structural fill shall be designed by a registered engineer, in accordance with standard engineering practice; the engineer shall certify that the fill has been constructed as designed and in accordance with the provisions of this chapter.
4. Retaining walls shall be constructed in accordance with section 2308(b) of the Oregon State Structural Specialty Code.
5. Roads shall be the minimum width necessary to provide safe vehicle access, minimize cut and fill, and provide positive drainage control.
6. Land over 50 percent slope shall be developed only where density transfer is not feasible. The development will provide that:
 - a. At least 70 percent of the site will remain free of structures or impervious surfaces.
 - b. Emergency access can be provided.
 - c. Design and construction of the project will not cause erosion or land slippage.
 - d. Grading, stripping of vegetation, and changes in terrain are the minimum necessary to construct the development.

94.030 STANDARDS FOR CONSTRUCTION

- A. All development activity shall minimize stripping or other soil disturbance and shall provide positive erosion prevention measures.
- B. Slope stabilization and revegetation measures:
 1. No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan.

The plan shall be approved by the City Engineer as part of the Tentative Plan.

2. The developer shall be responsible for the proper execution of the approved grading plan.
3. No more than 65 percent of area in slopes of 20-50 percent shall be graded or stripped of vegetation.

94.040 STANDARDS FOR MAINTENANCE

- A. Necessary soil erosion control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the City Engineer.
- B. Maintenance of all erosion control measures during development shall be the responsibility of the developer. The City Engineer may order work to be stopped on a development where erosion control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect.
- C. Continuing maintenance after development, including revegetation, of all graded areas, shall be the responsibility of the owner.

94.050 PROCEDURES

- A. A survey is required for Major Partitions Applications and is to be used to provide accurate topographic information for site and building designs which will minimize disturbance or removal of soils during construction. A survey may be required for a Minor Partition if the City Engineer determines that the information is needed to know whether the standard is being met.
- B. All development applications shall show areas where grubbing, clearing or removal of vegetation is to occur and shall describe provisions to protect soils during construction.
- C. Where development is to occur on a potential severe erosion or landslide hazard area, a report evaluating soil conditions

and potential hazards shall be submitted to the City Engineer. The report shall be prepared by a registered soils engineer or engineering geologist and shall contain the following:

1. Evidence that a field investigation was made to determine the actual hazard.
 2. Statements regarding the exact nature and extent of the hazard.
 3. Recommendations on site preparation and construction methods to minimize the effects of the hazard.
 4. If erosion hazard exists, a specific erosion control plan to be approved by the City Engineer.
 5. A description of any hazard area which should not be disturbed by construction.
 6. If landslide hazard exists, a statement as to whether or not a proposed development constructed in accordance with the recommended methods is reasonably likely to be safe and to prevent landslide or damage to other property.
- D. Where site examination confirms highly erodable soils, an Erosion Control Plan shall be required for development permit approval. The Erosion Control Plan shall contain:
1. A description of existing topography and soil characteristics.
 2. Specific descriptions or drawings of the proposed development and changes to the site which may affect soils and create erosion potential.
 3. Specific methods of soil erosion and sediment control to be used during construction. These methods shall include, but not be limited to, the following:
 - a. The land area to be grubbed, stripped, used for temporary placement of soil, or to otherwise expose soil shall be confined to the immediate construction site only.
 - b. The duration of exposure of soils to erosion shall be kept to the minimum practical.

- c. Exposed soil shall be covered by mulch, plastic sheeting, temporary seeding or other suitable material during construction, and until stabilized following construction.
 - d. During construction, water runoff from the site shall be controlled, and increased runoff and sediment resulting from soil removal or disturbance shall be retained on site. Temporary diversions, sediment basins, barriers, check dams, or other methods shall be provided as necessary to hold sediment and runoff.
 - e. Topsoil removal for development shall be retained and re-used on site to the degree necessary to restore disturbed areas to their original condition or to assure a minimum of 6 inches of stable topsoil for revegetation. Additional soil shall be provided if necessary.
 - f. The removal of all sediments which are carried into the streets, or onto adjacent property, are the responsibility of the developer.
4. A schedule of the sequence of installation of planned control measures shall be provided which is related to the progress of construction activities, including starting and completion.
5. A specific person shall be designated to be responsible for carrying out the erosion control measures.
- E. The erosion Control Plan shall be filed with the Tentative Subdivision Plan and Major and Minor Partition Plan.
- F. All development proposed on land with existing slopes greater than 20 percent shall provide a survey showing specific contours, location and types of trees, soils, rock outcroppings or surface rock, and drainageways.
- G. For all development proposed on land with slopes greater than 20 percent, a specific grading plan shall be provided

and approved which shows all proposed changes in natural terrain, including the following:

1. Site contours at two foot intervals.
 2. Location of existing structures and buildings, including those within 100 feet of the development site on adjacent property.
 3. Limiting dimensions or finish contours of proposed grading, including all cut and fill slopes, proposed drainage and related structures of construction.
 4. Description of all methods to be employed in disposing of soil or other materials to be removed, including location of disposal site.
- H. All proposed cuts, fills or retaining walls shall be shown on development applications.

95.000 VARIANCE

95.010 PURPOSE

The purpose of this chapter is to provide standards for the granting of variances from the applicable land division requirements of this code where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the provisions of this code would cause an undue or unnecessary hardship.

95.020 RELATIONSHIP BETWEEN VARIANCE TO ZONING CODE REQUIREMENTS & LAND DIVISION CODE REQUIREMENTS

- A. Any land division application which involves a request for a variance to the lot dimensional requirements shall file a variance under the provisions of chapter 75. Notwithstanding the provisions of 75.030, in the case of a major partition of subdivision, the Planning Commission shall hear the variance request concurrently with the subdivision or major partition application.
- B. Any land division application which involves a request for a variance to the provisions of the land division code, shall file a variance request under the provisions of this chapter and all variance requests under the Land Division Provision shall be decided by the Planning Commission.

95.030 THE APPLICATION

- A. A variance request shall be initiated by the property owner or the owners authorized agent.
- B. A prerequisite to the filing of an application is a preapplication conference at which time the Planning Director shall explain the requirements and provide the appropriate form(s).
- C. An application for a variance shall include 15 copies of each of the following except for each drawing submitted, there shall be eight copies at the original scale and seven copies reduced to a paper size not greater than 11 by 17 inches:

1. The completed application form(s).
 2. A narrative which addresses the approval criteria set forth in 94.020 and which sustains the applicants burden of proof.
 3. A plot plan as provided by 95.050.
- D. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- E. The applicant shall pay the requisite fee.

95.040 THE APPROVAL CRITERIA

The Planning Commission shall approve, approve with conditions or deny the variance request based on findings of fact with respect to each of the following criteria:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.
2. The variance is necessary and the minimum required for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity.
3. The authorization of the variance will not be materially detrimental to the public health, safety or welfare, to the purposes of this code, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the policies of the West Linn Comprehensive Plan.
4. The hardship is not self-imposed and the variance request is the minimum variance which would alleviate the hardship.
5. The hardship does not arise from a violation of this ordinance.

6. The applicants proposal in all other respects conforms to and is consistent with all other regulatory requirements, adequate provision has been made for traffic circulation and open space and the variance has been considered by the effected departments including but not limited to: fire, police and other departments responsible for sewer, water and drainage.

95.050 PLOT PLANS & MAP

- A. All plot plans and maps shall include the name, address and telephone number of the applicant, the scale, north arrow and a vicinity map.
- B. The applicant shall submit a plot plan drawn to an appropriate scale (in order of preference; 1" = 100' to 1" = 200') which shows the following:
 1. The subdivision name, block and lot number or the section, township, range and tax lot number.
 2. The proposed configuration and dimension of the variance being requested.

96.000 STREET IMPROVEMENT CONSTRUCTION

96.010 CONSTRUCTION REQUIRED

No building permit shall be issued for the construction of any new building, or structure or for the remodeling of any existing building, or structure, excepting building permits for single family dwellings, unless the applicant for said building permit agrees to construct street improvements which shall include curbs, sidewalks, drainage facilities, and pavement widening to meet new curbs, along all city streets which abut the property described in the building permits. The placement of new curbs and the drainage facilities required shall be determined by the City Engineer.

Where the estimated costs for full street improvements exceed 25 percent of the estimated remodeling costs, the City Engineer shall determine which street improvements, or portions thereof, shall be constructed, the estimated costs of which shall not exceed 25 per cent of the estimated remodeling costs. In the alternative, an equivalent amount for such improvements may be provided for as agreed by the applicant and the City Engineer.

Notwithstanding any other provisions of this ordinance, in cases where the issuance of the building permit pertains to the construction or reconstruction of a building or structure within a large development owned by the same owner or owners, the City Council may in its sole discretion, authorize the installation of street improvements of equivalent cost on another portion of the total development area.

96.020 STANDARDS

Street improvements shall be installed according to the city standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section, provided that the applicant provides sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.

96.030 SIDEWALK REQUIREMENT WAIVER

Sidewalk improvement requirements may be waived by the City Engineer, provided the applicant executes a waiver of remonstrance for public improvements in subsequent local improvement districts formed within ten years of the date of execution of the waiver of remonstrance and where:

1. Topographic features require unique sidewalk construction requirements, or;
2. Properties within 500 feet in both directions along the public right-of-way from the subject parcel are not developed, or;
3. Properties are located contiguous to a designated public right-of-way improvement project.

COMMUNITY
DEVELOPMENT
CODE

PROCEDURES

Contents

PROCEDURES PROVISIONS

98.000 Procedures for Decision Making & Legislative

- .010 Purpose
- .030 The Application Process: Who May Apply, Time Period, The Requirements, Refusal of Application Fees.
- .035 Additional Information Required, Waiver of Requirements, & Report Required
- .040 Duties of the Director
- .050 Alternative Recommendation by the Director
- .060 Recommendation and Consolidation of Proceedings
- .070 Public Hearings - Notice
- .080 Mechanics of Giving Notice, Failure to Give Notice & Computation of Notice Period
- .090 Continuation of the Hearing
- .100 The Standards for the Decision
- .110 Approval Process & Authority
- .120 Hearings Procedures
- .130 Vote Required for a Legislative Change
- .140 The Final Decision
- .150 The Record of Hearing
- .160 Reapplication

99.000 Procedures for Decision Making: Quasi-Judicial

- .010 Purpose
- .030 The Application Process, Who May Apply, The Preapplication Conference, The Requirements, Refusal of the Application & Fees
- .035 Additional Information Required, Waiver of Requirements & Report Required
- .040 Duties of the Director
- .050 Alternative Recommendation by Director
- .060 Approval Authority
- .070 Consolidation of Proceedings
- .080 Notice
- .090 Contents of the Notice
- .100 Mechanics of Giving Notice & Failure to Receive Notice
- .110 The Decision Making Process of the Approval Authority
- .120 Conditional Approvals & Failure to Fulfill Conditions
- .125 Staged Development
- .130 Notice of the Final Decision
- .140 Establishment of Party Status - Standing to Appeal or Review
- .150 Computation of Appeal Period - Petition for Review Time Period
- .160 A Decision by the Director
- .170 An Administrative Action - Hearing Procedure
- .180 Ex-Parte or Outside the Hearing Communications with Approval Authority
- .190 Continuation of the Hearing - Notice
- .200 Evidence
- .210 Participation in the Decision & Voting
- .220 Record of Proceedings

- .230 The Effective Date of the Decision & Appeal or Review
- .240 Authority to Appeal or Seek Review of a Decision - Exhaustion of Administrative Remedies
- .250 Notice of Appeal or Review
- .260 Persons Entitled to Notice on Appeal or Review - Type of Notice
- .270 Contents of Notice on Appeal or Review
- .280 Type of Appeal or Review Hearing & Scope of Review
- .290 Action on Appeal or Review - Time Limit and Authority to Change the Decision
- .300 Participation by Members of the Approval Authority in the Decision and Voting
- .310 Final Action of the Approval Authority: Effective Date, Petition for Rehearing
- .320 Denial of the Application - Resubmittal
- .330 Revocation of Approvals
- 103.000 Fact Finding
 - .010 Purpose
 - .030 Application
 - .040 Fact Finding Body
 - .050 Notice, Contents of Notice & Mechanics of Notice
 - .060 The Hearing
 - .070 The Determination - Voting - Record - Effective Date - Notice
 - .080 Party Status Standing - Petition for Review - Notice
 - .090 Type of Review - Action - Voting - Effective Date
 - .100 Revocation of Approvals
- 104.000 Comprehensive Plan
 - .010 Adopted
 - .020 Land Use Policy
 - .030 Exhibit "B" Adopted by Reference
 - .040 Copies Filed
- 105.000 Amendments to the Code & Map
 - .010 Purpose
 - .030 Legislative Amendments to this Code & Map
 - .040 Quasi-Judicial Amendments & Procedures
 - .050 Quasi-Judicial Amendments & Standards for Making the Decision
 - .060 Conditions of Approval
 - .070 Record of Amendments
- 106.000 Enforcement
 - .010 Provisions of this Code Declared to be Minimum Requirements
 - .020 Violation of Code Prohibited
 - .030 Complaints Regarding Violation
 - .040 Inspection and Right of Entry
 - .050 Abatement of Violations

PROCEDURES PROVISION

98.000 PROCEDURES FOR DECISION MAKING: LEGISLATIVE

98.010 PURPOSE

The purpose of this chapter is to establish procedures applicable to the Community Development Code for the consideration of legislative changes to the provisions of the comprehensive plan, implementing ordinances and maps.

98.030 THE APPLICATION PROCESS: WHO MAY APPLY, TIME PERIOD, THE REQUIREMENTS REFUSAL OF APPLICATION FEES.

A. Who may apply.

1. A proposed legislative change may be initiated by:
 - a. Motion by the City Council;
 - b. Motion by the Planning Commission;
 - c. The Planning Director;
 - d. Recognized Neighborhood Association; or
 - e. The application of a record owner of property.

B. Time period

1. A proposed legislative change will be heard by:
 - a. The Planning Commission, which acts in an advisory capacity to the Council, within 60 days after the completed application is submitted;
 - b. The City Council three times yearly, at the first meeting in January, May and September.

C. The Requirements for Making an Application, Refusal of an Application.

1. The application shall be made on forms provided by the Director.
2. The application shall be complete and shall contain the information requested on the form, shall address the appropriate criteria in sufficient detail for review and action, and shall be accompanied by the requisite fee.
3. The Director shall not accept incomplete applications, applications not accompanied by the requisite fee or applications which the Director determines cannot be acted upon in the case of a decision by the Director, or placed on the appropriate approval authority agenda within 60 days due to the complexity of the application or the status of the future agenda; however,
4. The Director shall accept all complete applications and shall:
 - a. Act upon the application in the case of a decision by the Director within 90 days of the time the complete application is submitted; or
 - b. Place the application on the appropriate approval authority agenda within 90 days of the time the complete application is submitted; and

5. An application shall be deemed incomplete unless it addresses each element required by the form and each element required by this chapter, unless the Director has express authority to waive a requirement and waives the requirement as provided by section 99.035.

D. Fees

1. The Council shall adopt by resolution a schedule of fees reasonably calculated to defray the expenses of the administration of proposed changes to the Comprehensive plan and implementing ordinances.

98.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED

- A. The Planning Director may require information in addition to that required by a specific chapter in the implementing ordinance provided:
 1. The chapter expressly authorizes that additional information may be required;
 2. The information is needed to properly evaluate the proposed site plan or proposal; and
 3. The need can be justified on the basis of a special or unforeseen circumstance.
- B. The Planning Director may waive a specific requirement for information or a requirement to address a certain approval standard subject to the provisions of C below provided:
 1. The chapter expressly authorizes that a requirement may be waived; and
 2. The Planning Director finds that specific information is not necessary to properly evaluate the application; or
 3. The Planning Director finds that a specific approval standard is not applicable to the application.
- C. Where a requirement is waived, the Planning Director shall:
 1. Prepare a memorandum to the record and to the applicant

citing the grant of authority, and the specific requirements waived and the reasons;

2. Advise the applicant in writing that the waiver may be challenged at the hearing on the matter and may be denied by the approval authority;

3. Cite in the staff report on the application, the specific requirements waived, the reasons for the waiver and the specific grant of authority.

98.040 DUTIES OF THE DIRECTOR

A. The Director shall:

1. Prepare application forms made pursuant to the standards contained in section 10.100;
2. Accept all applications which comply with the provision of section 98.030;
3. Within sixty days after accepting an application pursuant to this chapter:
 - a. Give notice of the Planning Commission hearing as provided by section 98.070 and 98.080;
 - b. Prepare a staff report which shall include:
 - (1) The facts found relevant to the proposal and found by the Director to be true;
 - (2) The statewide planning goals and rules adopted under ORS ch.197 found to be applicable and the reasons why any other goal and rule is not applicable to the proposal except that goals 16 - 19 which are not applicable to the city of West Linn need not be addressed;
 - (3) Any federal or state statutes or rules, the Director found applicable;
 - (4) The Metropolitan Service District plans and

- rules the Director found to be applicable;
- (5) Those portions of the Comprehensive plan found to be applicable, and if any portion of the plan appears to be reasonably related to the proposals and is not applied, the Director shall explain the reasons why such portions are not applicable;
- (6) Those portions of the implementing ordinances relevant to the proposal; and if the provisions are not considered, the Director shall explain the reasons why such portions of the ordinances were not considered; and
- (7) An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives; a recommendation for approval, denial or approval with modifications, and at the Director's option, an alternative recommendation.
- c. Make the staff report and all case file materials available 10 days prior to the scheduled date of the public hearing under section 98.070.
- d. Cause a public hearing to be held pursuant to section 98.070 unless the applicant has requested or consented to a delay.
- 4. Administer the hearings process;
- 5. Transmit the record to the Council for hearing as set forth in 98.030 B, 1 (b); and
 - a. Give notice of the Council hearing as provided by sections 01.070 and 01.080; and
 - b. Prepare a report which shall include at a minimum the following:
 - (1) A copy of the staff report submitted to the Planning Commission;
 - (2) A copy of the Planning Commission's recommendation;

- (3) A copy of the minutes of the Planning Commission hearing.
 - c. Make a report to the Council; and
 - d. Administer the hearings process.
- 6. Maintain a register of all applications which have been filed for decision. The register shall at all times identify at what stage the application is in the process; and
- 7. Maintain and preserve the file for each application. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given pursuant to section 98.070 and the accompanying affidavits, the application and all supporting information, the staff reports, the final adopted document, all correspondence, the minutes of any meetings at which the application was considered and any other exhibits, information or documentation which was considered with respect to the application.

98.050 RECOMMENDATION AND ALTERNATIVE RECOMMENDATION BY THE DIRECTOR

- A. The Director shall make a recommendation to the Planning Commission on the application, however, in addition, the Director may recommend an alternative or alternatives.
- B. Where the alternative recommendation involves a different plan designation, or a different zone designation than is the subject of the application, such alternative recommendation shall be considered only if:
 - 1. Notice of such an alternative is given as part of the hearing notice in addition to matters contained in section 98.080; and
 - 2. The staff report prepared as provided by 98.040 (2) (3) (B) supports the alternative recommendation.
- C. As a result of the public hearing on the proposed change the planning commission may on its own motion recommend to the Council an alternative recommendation, however in addition, the Commission must take action on the specific application before it.

98.060 CONSOLIDATION OF PROCEEDINGS

- A. In the event there is an application for a legislative change to the plan and an application for a legislative change to an implementing ordinance both of which involve either the same geographic area or the same subject matter, the hearings may be consolidated, however --
 - 1. The decision on the proposed plan change shall precede the decision on the proposed change to the implementation ordinances;
 - 2. Separate action shall be taken on each application; and
 - 3. The change to the implementing ordinance shall implement the change to the plan.

98.070 PUBLIC HEARINGS - NOTICE

- A. The Planning Commission shall hold at least one public hearing;
- B. The City Council shall hold at least one public hearing;
- C. Notice of the public hearings on the proposed change and alternatives if any shall be given by the Director in the following manner:
 - 1. At least ten days (10) prior to the scheduled hearing date notice shall be sent to:
 - a. The applicant;
 - b. Any affected governmental agency;
 - c. The affected recognized Neighborhood Association or Citizens Advisory Committee; and
 - d. Any person who requests in writing and pays a fee established by the Director.
 - 2. At least two weeks prior to the hearing, a notice shall be published once a week for two successive weeks prior to the hearing in a newspaper of general circulation in the area for the adoption of regulations under ORS 92.048.
 - 3. At least ten (10) days prior to the scheduled hearing date, notice shall be given in a newspaper of general circulation in the city, for all other matters not under the provisions of ORS 92.048.

D. The Director shall --

1. For each mailing of notice cause an affidavit of mailing of notice to be filed and made a part of the record as provided by section 98.150; and
2. For each published notice cause an affidavit of publication to be filed and made a part of the record as provided by section 98.150.

98.080 MECHANICS OF GIVING NOTICE, FAILURE TO GIVE NOTICE, COMPUTATION OF NOTICE PERIOD

- A. Where either the Planning Commission or Council or both intend to hold more than one public hearing on the same application, notice of the several public hearings before the commission may be given in one notice in the manner provided under 98.070 (C) and this section and notice of the several public hearings before the council may be given in one notice in the manner provided under 98. 070 (C) in this section.
- B. The notice given to persons entitled to mailed or published notice pursuant to this section shall include the following information
 1. The number and title of the file containing the application and the address and phone number of the Director's office where additional information can be obtained;
 2. A description of the location of the proposal reasonably calculated to give notice as to the location of the affected geographic area, if any;
 3. A description of the substance of the proposal in sufficient detail for people to determine that a change is contemplated and the place where all relevant materials and information may be obtained or reviewed; and
 4. The time(s) place(s) and date(s) of the public hearing(s), a statement that public oral or written testimony is invited, and a statement that the hearing will be held under this chapter and rules of procedure adopted by the Council and available at City Hall or the rules of procedure set forth in section 98.120.
- C. The failure of a person entitled to notice under 98.070(C) (1)

to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.

- D. Personal notice is deemed given when the notice is deposited with the United States Postal Service.
- E. Published notice is deemed given on the date it is published.
- F. In computing the length of time that notice was given, the first date notices is given shall be excluded and the day of the hearing shall be included.

98.090 CONTINUATION OF THE HEARING

The Planning Commission or the Council may continue any hearing and no additional notice shall be given of a continued hearing if the matter is continued to a place, date and time certain.

98.100 THE STANDARDS FOR THE DECISION

- A. The recommendation of the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
 - 1. The statewide planning goals and rules adopted under ORS ch 197 and other applicable state statutes;
 - 2. Any federal or state statutes or rules found applicable;
 - 3. Applicable plans and rules adopted by the Metropolitan Service District;
 - 4. The applicable comprehensive plan policies and map; and
 - 5. The applicable provisions of the implementing ordinances.
- B. Consideration may also be given to --
 - 1. Proof of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application; and
 - 2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in subsection (A) or (B) (1) above.

98.110 APPROVAL PROCESS & AUTHORITY

- A. The Planning Commission shall --
 - 1. After notice and a public hearing formulate a recommendation to the Council to approve, to deny or to approve with modifications.
 - 2. Within 10 days of determining a recommendation, cause the written recommendation to be signed by the presiding officer and to be filed with the Director.
- B. Any member of the commission who voted in opposition to a recommendation by the commission on a proposed change may file a written statement of opposition with the Director prior to any Council hearing on the proposed change and the Director shall transmit a copy to each member of the Council and place a copy in the record.
- C. If the commission fails to recommend approval or denial or approval with modifications of the proposed legislative change within 90 days of its first hearing on the proposed change, the Director shall report the failure, together with the proposed change to the Council and shall cause notice to be given, the matter to be placed on the Council's agenda, a public hearing to be held and a decision to be made by the Council. No further action shall be taken by the Planning Commission.
- D. The Council shall --
 - 1. Have the sole authority to approve, deny or approve with modifications an application for a legislative change or to remand to the Commission for rehearing and reconsideration all or part of an application transmitted to it under this chapter;
 - 2. Consider the recommendation of the Planning Commission, however, it is not bound by the Commission's recommendation; and
 - 3. Act by ordinance which shall be signed by the Mayor within 10 days after the Council's adoption of the ordinance.

98.120 HEARINGS PROCEDURES

- A. Unless otherwise provided in the Rules of Procedure adopted by the Council --

1. The presiding officer of the Commission and of the Council shall have the authority to --
 - a. Regulate the course, sequence and decorum of the hearing;
 - b. Dispose of procedural requirements or similar matters; and
 - c. Impose reasonable time limits for oral presentations.
 2. No person shall address the Commission or the Council without --
 - a. Receiving recognition from the presiding officer; and
 - b. Stating their full name and residence address.
 3. Disruptive conduct such as audience demonstrations in the form of applause, cheering, display of signs, shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
- B. Unless otherwise provided in the Rules of Procedure adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:
1. The hearing shall be opened by a statement from the presiding officer setting forth the nature of the matter before the body, a general summary of the procedures set forth in this section, a summary of the standards set forth in 98.100 and whether the decision which will be made is a recommendation to the Council or whether it will be the final decision of the Council.
 2. A presentation of the Director's report and other applicable staff reports shall be given.
 3. The public shall be invited to testify.
 4. The hearing may be continued to allow additional testimony or it may be closed.
 5. The body's deliberation may include questions to the staff, comments from the staff or inquiries directed to any person present.

98.130 VOTE REQUIRED FOR A LEGISLATIVE CHANGE

- A. An affirmative vote by a majority of the voting members present of the commission shall be required for a recommendation for the approval or approval with modifications.
- B. In the event there are only four qualified members of the commission present and the votes cast for approval or approval with conditions are insufficient for a recommendation for approval, the decision shall be carried over until the next regularly scheduled meeting if requested by the applicant. All commission members voting must have reviewed the full record.
- C. An affirmative vote by a majority of the qualified members of the council present shall be required to decide any motion made with respect to the proposed change.

98.140 THE FINAL DECISION

- A. The approved legislative change shall take effect on the thirtieth day after its enactment unless it is declared to be an emergency, in which case the ordinance shall take effect immediately.

98.150 THE RECORD OF HEARING

- A. A verbatim record of the proceeding shall be made by stenographic or mechanical means. It shall not be necessary to transcribe testimony. The minutes and other evidence presented as a part of the hearing shall be part of the record.
- B. All exhibits received and displayed shall be marked so as to provide identification and shall be part of the record.
- C. The official record shall include --
 - 1. All material considered by the hearing body;
 - 2. All materials submitted by the Director to the hearings body with respect to the application;

3. The verbatim record made by stenographic or mechanical means, the minutes of the hearing and other documents considered;
4. The final ordinance;
5. All correspondence; and
6. A copy of the notice which was given as provided by 98.070 of this chapter, accompanying affidavits and list of persons who were sent mailed notices.

98.160 RE-APPLICATION

If any application has been made and denied in accordance with the provisions set forth in this chapter or by action of the Land Use Board of Appeal, the Land Conservation & Development Commission or the courts, no new application for the same or substantially similar change shall be accepted within one (1) year from the date of the final action denying the application except the Council may reinstate an application upon a finding that there has been a substantial change in the facts surrounding the application which would support the reapplication.

99.000 PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

99.010 PURPOSE

The purpose of this chapter is to establish procedures applicable to the Community Development Code for the consideration of development applications, for the consideration of quasi-judicial comprehensive plan amendments and for the consideration of appeals or petitions for review of decisions.

99.030 THE APPLICATION PROCESS: WHO MAY APPLY, THE PRE-APPLICATION CONFERENCE, THE REQUIREMENTS , REFUSAL OF THE APPLICATION, FEES.

A. Who may apply.

1. Applications for approval required under this chapter may be initiated by:
 - a. The owner of the property wich is the subject of the application or his duly authorized representative;
 - b. The purchaser of such property who submits a duly executed written contract or copy thereof which has been recorded with the Clackamas County Director of Records;

- c. A lessee in possession of such property who submits written consent of the owner to make such application; or
 - d. Motion by the Commission or Council.
 - 2. Any person authorized by this chapter to submit an application for approval may be represented by an agent who is authorized in writing by such a person to make the application.
- B. Pre-Application Conference Required
 - 1. The applicant shall be required to meet with the Director or designee of the Director for a pre-application conference.
 - 2. At such conference, the Director or designee shall --
 - a. Cite the applicable federal and state laws and rules and the comprehensive plan policies and map designation;
 - b. Cite the applicable substantive and procedural ordinance provisions;
 - c. Provide technical data and assistance which will aid the applicant;
 - d. Identify other policies and regulations that relate to the application; and
 - e. Identify other opportunities or constraints that relate to the application.
 - 3. The failure of the Director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria or requirements to the application.
- C. The Requirements for Making an Application - Refusal of an Application.
 - 1. The application shall be made on forms provided by the Director as provided by section 99.040 (A) (1) of this Code;
 - 2. The application shall be complete, and shall contain the information requested on the form, shall address the appropriate criteria in sufficient detail for review and action, and shall be accompanied by the requisite fee;

3. The Director shall accept all complete applications and shall:

- a. Act upon the application in the case of a decision by the Director within 90 days of the time the complete application is submitted; or
- b. Place the application on the appropriate approval authority agenda within 90 days of the time the complete application is submitted; and

4. An application shall be deemed incomplete unless it addresses each element required to be considered under applicable provisions of the West Linn Municipal Code and the application form unless the Planning Director has express authority to waive the requirements and waives a requirement as provided by 99.035; and

5. Should the Director find that an accepted application is incomplete, the Director shall --

- a. Notify the applicant within 30 days; and
- b. Allow the applicant additional time to submit the additional required information.

D. Fees

The Council shall adopt a schedule of fees reasonably calculated to defray the expenses of the administrative processes in this chapter. The Council shall charge no fees for city initiated applications or recognized Neighborhood Association.

ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND
REPORT REQUIRED

- A. The Planning Director may require information in addition to that required by a specific chapter in the implementing ordinance provided --
 - 1. The chapter expressly authorizes that additional information may be required;
 - 2. The information is needed to properly evaluate the proposed site plan or proposal; and
 - 3. The need can be justified on the basis of a special or unforeseen circumstance.
- B. The Planning Director may waive a specific requirement for information or a requirement to address a certain approval standard subject to the provisions of C below provided --
 - 1. The chapter expressly authorizes that a requirement may be waived; and
 - 2. The Planning Director finds that specific information is not necessary to properly evaluate the application; or
 - 3. The Planning Director finds that a specific approval standard is not applicable to the application.
- C. Where a requirement is waived, the Director shall --
 - 1. Prepare a memorandum to the record and to the applicant citing the grant of authority, and the specific requirements waived and the reasons;
 - 2. Advise the applicant in writing that the waiver may be challenged at the hearing on the matter and may be denied by the Approval Authority;
 - 3. Place on the agenda and advise the Planning Commission and if the matter involves Design Review, advise the Design Review Board at the next regular meeting of the waiver. The purpose of this requirement is merely to keep the approval authorities informed and no action shall be taken on the waiver until the scheduled hearing on the application; and
 - 4. Cite in the staff report on the application, the specific requirement waived, the reasons for the waiver and the specific grant of authority.

A. The Director shall--

1. Prepare application forms made pursuant to the standards contained in the applicable state law, comprehensive plan and implementing ordinance provisions;
2. Accept all development applications which comply with the provisions of 99.030 of this chapter;
3. Within sixty days after accepting an application pursuant to this chapter --
 - a. Give notice as provided by 99 .080 and 99.090;
 - b. Prepare a staff report which shall include:
 - (1) The facts found relevant to the proposal and found by the Director to be true.
 - (2) Until the West Linn Comprehensive Plan and implementing ordinances are acknowledged, those state-wide planning goals found to be applicable and the reasons why any other goal is not applicable to the proposal. The Director or approval authority need not consider state-wide planning goals 3, 16, 17, 18, or 19 which are not applicable to West Linn.
 - (3) Those portions of the West Linn Comprehensive Plan and implementing ordinances which the Director finds to be applicable to the proposal. If any portion of the plan or ordinances appear to be reasonably related to the proposal and are found not applicable by the Director, the Director shall explain why such portion or portions are not applicable.
 - (4) An analysis relating the facts found to be true by the Director to the applicable criteria and a consideration of alternatives open to the approval authority, resulting in a recommendation of denial, approval, or approval with conditions under 99 .120, based on the findings and conclusions.

- c. Make the staff report and all case file materials available at least seven days prior to the scheduled date of the director's decision for actions under 99.060 (A) and public hearings for actions under 99.050 (B) (C) and (D) to all persons entitled to notice under 99.080 or otherwise made a party to the proceedings under 99.140 of this chapter;
 - d. Act on the development application pursuant to 99.060 (A) and 99.160 of this chapter or cause a hearing to be held pursuant to 99.060 (B) through (D) and 99.170 to 99.230 of this chapter, unless the applicant has requested or consented to a delay;
- 4. Administer the hearings process pursuant to 99.170 through 99.230 of this chapter;
 - 5. Maintain a register of all applications which have been filed for a decision. The register shall at all times identify at what stage the application is in the process;
 - 6. File notice of the final decision in the records of the Planning Department and mail a copy of the notice of the final decision to the applicant and all parties and to those persons requesting copies of such notices who pay the necessary fees. The notice of the final decision shall contain the information set forth under 99.130 (B);
 - 7. Maintain and preserve the file for each application. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given pursuant to 99.080 and the accompanying affidavits, the application and all supporting information, the staff report, the final decision, including the findings, conclusions and conditions, if any, all correspondence, the minutes of any meetings at which the application was considered, and any other exhibit, information or documentation which was considered by the hearing body with respect to the application; and
 - 8. Administer the appeals and review process pursuant to 99.240 through 99.310.

99 .050 ALTERNATIVE RECOMMENDATION BY DIRECTOR

- A. The Director shall make a recommendation to the initial hearings body on the application, however, in addition, the Director may recommend an alternative or alternatives.
- B. Such alternatives shall be considered only if --
 - 1. Notice of such alternative has been given as part of the Hearing Notice in addition to the matters contained in 99 .090; and
 - 2. The staff report prepared as provided by 99 .040 (A) (3) (b) supports such an alternative.

99.060 APPROVAL AUTHORITY

A. The Planning Director shall have the authority to:

1. Approve, deny or approve with conditions, applications pursuant to section 99.110 for the following development applications in accord with the provisions of section 99.160 of this chapter:
 - a. A Planned Unit Development application for approval of a final Development Plan under the provisions of section 99.020 E.
 - b. A Willamette River Greenway permit application for uses permitted outright and not subject to development review as provided by section 99.040A1.
 - c. A Tualatin River Setback application for uses permitted outright and not subject to development review as provided by section 30.040A.
 - d. A temporary use application for a permit for 60 days or less and no notice shall be required as provided by 35.030A1.
 - e. A temporary use application for a permit for an additional 60 days as provided by 35.030A2.
 - f. A Home Occupation, Type I application and no notice shall be required as provided by section 37.040A1 and revocation of a permit as provided by section 37.060A2.
 - g. An accessway as provided by 48.060.
 - h. A Final Development Plan under the provisions of section 55.020E1.
 - i. A Variance, Class I application as provided by 75.030A.
 - j. A minor partition application under section 85.090(B)(1).
 - k. A final subdivision plat under the provisions of 85.090 (B) (4) (b).
 - l. A final partition map under the provisions of 85.090 (B) (4) (b).
 - m. A lot line adjustment under the provisions of 89.100.

2. Approve a use permitted under prescribed conditions provided all of the conditions are satisfied, except that no notice shall be required.
 3. Make initial interpretations of the provisions of this code without giving notice as provided by section 05.060.
 4. Make the initial determination without giving notice regarding the status of the following:
 - a. Non-conforming use under the provisions of section 65.050A.
 - b. Non-conforming structure involving a non-conforming use under the provisions of section 65.040A3C.
 - c. Non-conforming use of land section 67.030A.
 - d. Non-conforming lot or lot of record under the provisions of section 68.030A.
 5. A six month extension of a Conditional Use permit under the provisions of 60.040.
- B. The Planning Commission shall have the authority to:
1. Make a recommendation to approve, deny or approve with conditions to the council on applications for the following:
 - a. A quasi-judicial Comprehensive Plan map amendment as provided by section 85.040A2. The council shall decide the application on the record as provided by section 99.280 C.
 - b. A quasi-judicial zone change involving a concurrent application for a quasi-judicial plan map amendment as provided by section 85.040A3. The council shall decide the application on the record as provided by section 99.280C.
 2. Approve, deny or approve with conditions, applications pursuant to section 99.110 for the following development applications in accord with the provisions of sections 99.170 through 99.230 of this chapter.
 - a. A quasi-judicial zone change application which does not involve a concurrent application for a

- Comprehensive Plan map amendment as provided by section 85.0401.
- b. A development application referred to the Planning Commission pursuant to section 99.160A2.
 - c. An appeal of a decision made by the director under the provision of section 99.240.A of this chapter.
 - d. Subdivisions or major land partitions under the provisions of 85.090B2.
 - e. A Planned Unit Development application for approval of a Tentative Development Plan under the provisions of section 24.020E and an appeal of the director's decision on a Final Development Plan as provided by section 24.020E2 and extension of time application under section 24.030B.
 - f. A Willamette River Greenway permit application for uses requiring conditional use and development review approval as provided by section 28.040B.
 - g. A Tualatin River Setback application for uses requiring conditional use and development review approval as provided by section 30.040C.
 - h. A Home Occupation, Type II application as provided by section 37.040B1 and revocation of a permit as provided by section 37.060B2.
 - i. A variance to the access provisions as provided by 48.070
 - j. A conditional use application as provided by section 60.030A and extension of time application under the provisions of section 60.040A.
 - k. Enlargement or alteration of a non-conforming use as provided by section 65.130A.
 - l. Enlargement or alteration of a non-conforming structure as provided by section 66.070A.
 - m. Enlargement or alteration of a non-conforming structure containing a conforming use as provided by section 66.070B.
 - n. A variance, Class II application as provided by section 75.030.
 - o. Any other matter not specifically assigned to the director under the provision of chapters 4 - 97.

- C. The Design Review Board shall have the authority to:
1. Approve, deny or approve with conditions, applications pursuant to section 99.110 for the following development applications in accord with the provisions of section 99.170 through 99.230 of this chapter:
 - a. Historic District amendments, applications pursuant to 26.000.
 - b. A Willamette River Greenway permit application for uses permitted outright but subject to development review as provided by section 28.040A2.
 - c. A Tualatin River Setback application for uses permitted outright but subject to development review as provided by section 30.040B.
 - d. An off-street parking application as provided by section 46.020A.
 - e. Except for single family detached dwellings to which development review does not apply, a Tentative Development Plan under the provisions of section 55.020C1 for the following:
 - (1) A building, parking, land use, sign or other required permit for a new or an existing use which is being enlarged, structurally altered or structurally changed on the exterior, as required by section 55.050.
 - (2) For an approved conditional use application as provided by section 60.030B.
 - (3) For an approved enlargement or alteration of a non-conforming use as provided by section 65.130B.
 - (4) For an approved enlargement or alteration of a non-conforming structure containing a non-conforming use by section 66.070A and section 65.130B.
 - (5) For an approved enlargement or alteration of a non-conforming structure containing a conforming use as provided by section 66.070B and section 66.070B2.
 2. Decide an appeal of a director's decision on a Final Development Plan as provided by section 55.020E1 and no notice shall be required.
 3. Revoke or modify an approval as provided by 99.330.

D. The Council shall have the authority to:

1. Approve, deny or approve with conditions, applications pursuant to section 99.110 for the following development applications in accord with the provisions of sections 99.170 through 99.230 of this chapter:
 - a. A quasi-judicial Comprehensive Plan map amendment as provided by section 85.040A2. The council shall decide the application on the record as provided by section 99.280C.
 - b. A quasi-judicial zone change involving a concurrent application for a quasi-judicial plan map amendment as provided by section 85.040A3. The council shall decide the application on the record as provided by section 99.280C.
 - c. An annexation application which may also involve a concurrent zone change application as provided by section 05.110.
2. Review any decision made by the Planning Commission whether on the council's own motion or otherwise, as provided by section 99.230B.
3. Interpret the Comprehensive Plan and the provisions of the implementing ordinances and to decide an appeal of a director's interpretation of the Zoning Code as provided by section 05.060.
4. Decide applications for a determination of an unlisted use under the provisions of section 80.030A or unlisted parking requirements under the provisions of section 46.090A.
5. Revoke or modify an approval as provided by 02.330

99 .070 CONSOLIDATION OF PROCEEDINGS.

Whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings may be consolidated so that one approval authority shall decide all applications in one proceeding. In such cases, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under section 99.060, in the following order

of preference: City Council, Planning Commission, Design Review Board, or the Planning Director.

99 .080 NOTICE

A. Decisions by the Director:

1. Notice of a proposed action on a development application pursuant to section 99.060A shall be given by the Director in the following manner;

a. At least twenty days prior to the date of final decision set forth in the notice, notice shall be sent by mail to:

(1) The applicant and all owners or contract purchasers of record in the County Assessor's records of the property which is the subject of the application;

(2) All property owners of record within 300 feet of the property.

(3) The affected Neighborhood Associations or Citizens advisory committee, if active;

(4) Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city which includes provision for such notice;

(5) Any person who requests, in writing, and pays a fee established by the Council.

b. The Director shall cause an affidavit of mailing of notice to be filed and made a part of the administrative record.

c. A notice published once in a newspaper of general circulation in the city at least 10 days prior to the date of final decision set forth in the notice. An affidavit of publication shall be made part of the administrative record.

d. At least ten(10) days prior to the hearing a sign provided by the Director shall be placed on the property, which is

the subject of the hearing, within ten(10) feet of the public right-of-way line and in plain view and which states the time, place and date of the hearing. The sign shall be placed on the property by the applicant, and the applicant shall sign an affidavit of posting.

B. Decisions by all other approval authorities.

1. Notice of an action pursuant to

section 99.060B, C and D shall be given by the director in the following manner:

a. At least ten(10) days prior to the scheduled hearing date, notice shall be sent by mail to:

- (1) The applicant and all owners or contract purchasers of record in the County Assessor's records of the property which is the subject of the application;
- (2) All property owners of record within 300 feet of the property.
- (3) Any affected governmental agency which has entered into an intergovernmental agreement with the city which includes provision for such notice;
- (4) The affected recognized neighborhood association or citizen advisory committee;
- (5) Any person who requests in writing and pays a fee established by the director; and
- (6) All parties described in section 99.140 of this chapter to an appeal or petition for review. The Director shall cause an affidavit of mailing of notice to be filed and made a part of the administrative record.

b. At least ten (10) days prior to the hearing, notice shall be given in a newspaper of general circulation in the city. An affidavit of publication shall be made part of the administrative record.

- c. At least 10 days prior to the hearing a sign provided by the Director shall be placed on the property which is the subject of the hearing, within 10 feet of the public right-of-way line and in plain view and which states the time, place and date of the hearing. The sign shall be placed on the property by the applicant, and the applicant shall sign an affidavit of posting.

2. In the case of a decision by the Director as provided by Section 99.060(A), the nature of the Director's proposed action, the date the decision will be final and a statement that:
 - a. An appeal to the proposal, filed in writing before the proposed decision is final, shall cause a public hearing to be held; and
 - b. Sets forth the last day on which the decision of the Director may be appealed.
3. In the case of an Administrative Action as provided by Sections 99.060(B), (C) and (D), the time, place and date of the public hearing, a statement that public oral and written testimony is invited, and a statement that the hearing will be held under this chapter and any rules of procedure adopted by Council and available at City Hall.
4. In the case of the following:
 - a. A hearing on an appeal as provided by Section 99.240A, the time, place and date of the hearing, a statement of that public oral and written testimony is invited, that the hearing is limited to the grounds raised in the appeal and a statement that the hearing will be held under this chapter and any rules of procedure adopted by Council and available at City Hall.
 - b. A hearing on a petition for review as provided by Section 99.240B, the time, place and date of the hearing, a statement that the hearing is on the record and that testimony will be limited to the items listed as grounds for the petition for review, and a statement that the hearing will be held under this chapter and any rules of procedure adopted by Council and available at City Hall.

- c. At least ten (10) days prior to the hearing, a sign of not less than two (2) feet by four (4) feet provided by the Director shall be placed on the property, which is subject of the hearing, within ten (10) feet of the public right-of-way line and in plain view and which states the type of proposed action and the time, place and date of the hearing. The sign shall be placed on the property by the applicant and the applicant shall sign an affidavit of posting.

99 .090 CONTENTS OF THE NOTICE

- A. Notice given to persons entitled to mailed or published notice pursuant to Section 99 .080 shall include the following information --
 1. The number and title of the file containing the application and the address and phone number of the Director's office where additional information can be obtained;
 2. A description of the subject property, reasonably calculated to give notice as to its actual location which shall include, but not be limited to, the metes and bounds description or the tax map designations of the applicable county assessor's office;
 3. The nature of the application in sufficient detail to apprise persons entitled to notice of the applicant's proposal; and

99 .100 MECHANICS OF GIVING NOTICE AND FAILURE TO RECEIVE NOTICE

- A. The records of the County Assessor's office issued in October of each year shall be the official records used for giving notice required by this ordinance under section 99.080 of this chapter.
- B. The failure of a property owner to receive notice shall not invalidate the action provided a good-faith attempt was made to notify all persons entitled to notice.
- C. Personal notice is deemed given when the notice is deposited with the United States Postal Service. Published notice is deemed given on the date it is published.
- D. In computing the length of time that notice was given, the first date notice is given shall be excluded and the day of the Administrative Hearing or Decision by the Director shall be included.

99 .110 THE DECISION MAKING PROCESS OF THE APPROVAL AUTHORITY

- A. The decision shall be based on proof by the applicant that the application fully complies with --
 - 1. The applicable comprehensive plan policies and map designation;
 - 2. The State-wide Planning Goals adopted under ORS ch 197. until acknowledgement of the West Linn plan and ordinances; and
 - 3. The applicable standards of any provision of this Code or other applicable implementing ordinance.
- B. Consideration may also be given to:
 - 1. Proof of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application; and
 - 2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable

standards and criteria, possible negative or positive attributes of the proposal or factors in subsection (A) or subsection (B) (1), above.

- C. In all cases, the decision shall include:
A statement in a form generally conforming to the requirements of Section 99 .040(A) (3) (b).
- D. The Approval Authority may --
 - 1. Adopt the findings and conclusions contained in the staff report;
 - 2. Adopt the findings and conclusions of a lower approval authority;
 - 3. Adopt its own findings and conclusions;
 - 4. Adopt the findings and conclusions submitted by any party; or
 - 5. Adopt the findings and conclusions from another source, either with or without modifications, having made a tentative decision and having directed the staff to prepare findings for review and to provide an opportunity for all parties to comment upon them.
- E. The decision may be for denial, approval or approval with conditions, pursuant to Section 99 .120, where such conditions are necessary to --
 - 1. Carry out the West Linn Comprehensive Plan;
 - 2. Carry out the applicable implementing ordinances;
 - 3. Protect the public or surrounding property from possible deleterious effects of the proposed use; or
 - 4. Assure that adequate public services are provided as a part of the development or to assure that other required improvements are made.
- F. The final decision shall be a decision which is in writing and which has been --
 - 1. Formally adopted by the Commission or Board and filed with

the Director and the City Recorder within ten (10) calender days of the formal adoption of the decision; or

2. Signed by the Director in the case of a decision by the Director and filed as a final decision within ten (10) calender days of the signed decision; or
3. Formally adopted by the Council and signed by the Mayor or the President of the Council in the case of an appeal.

99.120 CONDITION APPROVALS - FAILURE TO FULFILL CONDITIONS

- A. Conditions of approval shall be fulfilled within the time limit set forth in the decision; or, if no time limit is set forth, within one (1) year. Failure to fulfill any condition of approval within the time limitations provided will be grounds for revocation of approval, after notice and an opportunity to be heard as an administrative action as provided in 99.330.
- B. Changes, alterations or amendments to the substance of the conditions of approval shall be processed as a new administrative action.
- C. Prior to the commencement of development, i.e., the issuance of any permits or the taking of any action under the approved development application, the owner, and any contract purchasers, of the property which is the subject of the approved application, shall sign and deliver to the Director their acknowledgement and consent to such conditions.
- D. The conditional approval may require the owner of the property to sign within a time certain or, if no time is designated, within a reasonable time, a contract with the City for enforcement of the conditions. The Council shall have the authority to execute such contracts on behalf of the City. If a Contract be required by a conditional approval, no building permit shall be issued for the use covered by the applications until the executed contract is recorded in the real property records of the County and filed in the County

Records. Such contracts shall be enforceable against the signing parties, their heirs, successors, and assigns by the City by appropriate action in law or suit in equity for the benefit of public health, safety and welfare.

- E. A performance bond or other type of surety in a form acceptable to the Director, or, upon appeal or review by the appropriate approval authority, or a cash deposit from the property owners or contract purchasers in such an amount as will assure compliance with the conditions imposed pursuant to this section may be required. Such bond, surety, or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.

99 .125 STAGED DEVELOPMENT.

- A. An applicant may elect to develop a proposed project in stages. The timing of each development stage shall be set forth in the application and subject to approval by the appropriate approval authority.
- B. The application shall contain the information necessary for the approval authority to find the following:
 - 1. The completed project will comply with all of the applicable comprehensive plan policies and criteria; and
 - 2. The completed project will comply with all of the applicable implementation ordinances with the exception of Chapter 55, development review unless specific provisions in an implementing ordinance state that chapter 55 shall apply to a staged development.
- C. The approval authority may approve the request or approve it with conditions based upon findings that all applicable plan and ordinance provisions can be met for each state of the development; or
- D. The approval authority may deny a request for approval of a staged development request based on the finding that there is insufficient information to determine whether all applicable plan and ordinance provisions can be met for each phase.

- E. The approved time schedule for each phase shall be considered a condition of approval for each phase and the schedule shall be subject to the provisions of Section 99.120 unless waived as a part of the approval of the application.
- F. Failure to meet the time schedule for a specific phase shall subject the approval of that phase and subsequent phases to revocation as provided by Section 99.330. Revocation of approval shall be based on findings that --
 - 1. There have been changes in the facts on which the approval was based; or
 - 2. There have been changes in the policy or applicable standards on which the approval and subsequent phases were based.

99 .130 NOTICE OF THE FINAL DECISION

- A. The final decision shall be filed in the records of the Planning Director within ten (10) calendar days after the decision is signed and notice thereof shall be mailed to the applicant, all parties to the action, and shall be available to members of the Council.
- B. Notice of a final decision shall contain --
 - 1. A statement that all required notice under Section 99.080 have been given;
 - 2. A statement of where the adopted findings of fact, decision and statement of conditions can be obtained;
 - 3. The date the final decision was filed; and
 - 4. A statement that a party to the proceeding may seek appeal or review of the decision, as appropriate. The statement shall explain briefly how an appeal or review can be taken, the deadlines and where information can be obtained. In the case of a decision by the Director in which no appeal has been filed, the notice shall state that fact and that the decision is, therefore, final.

- C. The final decision on the application may grant developing on less than all of the parcel which is the subject of the application.
- D. The appeal period begins to run when notice of the final decision is given as provided in 99.150.

99 .140 ESTABLISHMENT OF PARTY STATUS - STANDING TO APPEAL OR REVIEW

Any person shall be considered a party to a matter, thus having "Standing" to pursue an appeal or to seek review, provided:

- 1. The person appeared before an Approval Authority other than the Director, either orally or in writing or where the testimony would have been repetitious, signed the sign-in sheet provided at the hearing or appeared in writing before the Director in a decision made by the Director.

99 .150 COMPUTATION OF APPEAL PERIOD - PETITION FOR REVIEW TIME PERIOD.

In computing the length of the appeal period or petition for review period, the day that notice of the final decision is mailed shall be excluded and the last day for filing the appeal shall be included unless the last day falls on any legal holiday or on a Saturday, in which case the last day shall be the next business day.

99 .160 A DECISION BY THE DIRECTOR

- A. Pursuant to Section 99.060(A) of this chapter, the Director is authorized to make certain decisions, and no hearing shall be held except where --
 - 1. A written appeal under Section 99.240(A) of the Director's proposed action with respect to the development application has been filed with the Director by a party prior to the date the decision is scheduled to be final as set forth in the notice. In such case, the application shall be treated as if it were filed under Section 99.060(B) of this chapter;
 - 2. The Director has an interest in the outcome of the decision, due to some past or present involvement with the applicant, other interested persons or in the property

or surrounding property, and cannot render an impartial decision. In such cases, the application shall be treated as if it were filed under Section 99.060 (B) of this chapter.

B. A decision made by the Director shall be made in accordance with the provisions of Section 02.110 of this chapter, and a record shall be made which shall include --

1. A copy of the application and all supporting information, plans, exhibits, graphics, etc.;
2. All correspondence relating to the application;
3. All information considered by the Director in making the decision;
4. The staff report of the Director prepared under Section 99.040 (A) (3) (b);
5. A list of the conditons, if any are attached to the approval of the application.
6. A copy of the notice which was given pursuant to Section 99.080 (A), and accompanying affidavits, and a list of all persons who were given mailed notice; and
7. A signed statement by the Director stating the nature of any past or present involvement with the applicant, other interested persons or the property if the Director makes a decision, and if there could reasonably be expected to be a challenge to the fairness of the decision.

C. A decision made by the Director shall be final as provided by 99.230 unless --

1. A party to the action files a written appeal with the Director on or before the date given in the notice pursuant to Section 99.240A, but in no case less than ten (10) days after notice is given pursuant to Section 99.130A.
2. The Commission or the Council, on its own motion, orders review on or before the date given in the notice pursuant to Section 99.130A.

- D. The Director shall give notice of the final decision, as provided by Section 99.130 and report to the Commission and Council Notices of Decisions given on a regular basis before such decisions be final.
- E. The Director may grant less than is requested in the application if such decision will not limit the development options on the parcels not approved as part of the application and notice is appropriately given as provided by Section 99.160(F).
- F. No Director's decision may modify the request from that set out in the notice given under Section 99.080 and 99.090, unless new notice be given except that conditions may be attached to the approval.

99.170 AN ADMINISTRATIVE ACTION - HEARING PROCEDURE

- A. Unless otherwise provided by the Rules Of Procedure adopted by the Council, the Approval Authority pursuant to Sections 99.060(B), (C) and (D) of this chapter, shall have the authority to conduct a public hearing; and
 - 1. Determine who qualifies as a party.
 - 2. Regulate the course, sequence and decorum of the hearing.
 - 3. Dispose of procedural requirements or similar matters.
 - 4. Rule on offers of proof and relevancy of evidence and testimony.
 - 5. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, cross examination of witnesses and rebuttal testimony.
 - 6. Take such other action appropriate for conduct commensurate with the nature of the hearing.
 - 7. Approve or deny applications or approve with conditions pursuant to Section 99.120 of this ordinance.
- B. Unless otherwise provided in the Rules of Procedure adopted by Council, the Approval Authority shall conduct the hearing as follows --

1. Announce the nature and purpose of the hearing and summarize the rules for conducting the hearing;
 2. Recognize parties;
 3. Request the Director to present the staff report, to explain any graphic or pictorial displays which are a part of the report, summarize the findings, recommendations and conditions, if any, and to provide such other information as may be requested by the Approval Authority.
 4. Allow the applicant or representative of the applicant to be heard on behalf of the application.
 5. Allow parties or witnesses in favor of the applicant's proposal to be heard;
 6. Allow parties or witnesses in opposition to the applicant's proposal to be heard;
 7. Upon failure of any party to appear, the Approval Authority shall take into consideration written material submitted by such party;
 8. Allow the parties to offer rebuttal evidence and testimony, and to respond to any additional evidence. The scope and extent of rebuttal shall be determined by the Approval Authority.
 9. Conclude the hearing by announcing officially the public hearing is closed; and
 10. Make a decision pursuant to Section 99.110 or take the matter under advisement pursuant to Section 99.190 of this chapter.
- C. Unless otherwise provided in Rules of Procedure adopted by the Council, the following rules shall apply to the general conduct of the hearing --
1. The Approval Authority may ask questions at any time prior to the final decision; however, the answers shall be limited to the substance of the question and if new evidence is admitted after the close of the hearing, upon request, rebuttal shall be allowed.

2. Parties or the Director must receive approval from the Approving Authority to submit directly questions to other parties or witnesses or the Director;
 3. A reasonable amount of time shall be given to persons to respond to questions.
 4. No person shall testify without first receiving recognition from the Approval Authority and stating a full name and address.
 5. The Approval Authority may require that testimony be under oath or affirmation.
 6. Audience demonstrations such as applause, cheering and display of signs or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing; and
 7. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
- D. The initial hearing body may refer any matter for Council action on the record made before it.

99.180 EX-PARTE OR OUTSIDE THE HEARING COMMUNICATIONS WITH APPROVAL
AUTHORITY

- A. Members of the Approval Authority, under Sections 99.060(B), (C) and (D) shall not --
1. Communicate directly or indirectly with any party or representative of a party in connection with any issue involved except upon giving notice and opportunity for all parties to participate; nor
 2. Take notice outside the record or application material submitted by the applicant or Director to the approval authority of any communication, report, or other materials prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.

- B. All ex-parte contacts shall be reported on the record.
- C. This section shall not apply to Director decisions made under Section 99.060(A).
- D. Members of the Planning Commission shall be governed by the provisions of ORS 227.035 and the provisions of this section.

99.190 CONTINUATION OF THE HEARING - NOTICE

An Approval Authority may continue the hearing from time to time to gather additional evidence, to consider the application fully, or to give notice to additional persons. Unless otherwise provided by the Approval Authority, no additional notice need be given of the continued hearing if the matter is continued to a date certain.

99.200 EVIDENCE.

- A. All evidence offered and not objected to may be received unless excluded by the Approval Authority on its own motion.
- B. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conducting of their every day affairs.
- C. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- D. Formal rules of evidence, as used in courts of law, shall not apply.

99.210 PARTICIPATION IN THE DECISION - VOTING

A. In addition to the provisions of ORS 227,035, which applies to the Planning Commission members, each member of the Approval Authority shall be impartial; any member having any substantial past or present involvement with an applicant, other interested persons, the property or surrounding property, or having a financial interest in the outcome of the proceeding, or having any pre-hearing contacts, shall state for the record the nature of their involvement or contacts, and shall either --

- 1. State that they are not prejudiced by the involvement or contacts and will participate and vote on the matter; or

2. State that they are prejudiced by the involvement or contact and will withdraw from participation in the matter.
- B. In the event of a challenge to the impartiality of a member of the Approval Authority, the remaining members shall decide the issue of participation. Such challenge shall be raised at the earliest possible opportunity.
- C. An affirmative vote by a majority of the qualified voting members of the Approval Authority is required to approve an application or to amend, modify or reverse a decision on appeal.
- D. Notwithstanding subsections (A) and (B) of this section, no member of an Approval Authority having a financial interest in the outcome of the application shall take part in proceedings on that application.

99 .220 RECORD OF PROCEEDING

- A. A verbatim record of the proceeding shall be made by stenographic or mechanical means. It shall not be necessary to transcribe testimony. The minutes and other evidence of the proceedings shall be part of the record and the basis for deciding a decision on review.
- B. All exhibits received shall be marked so as to provide identification upon review and shall be part of the record.
- C. The official record shall include --
 1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and recorded or considered by the Hearings Authority as evidence.
 2. All materials submitted by the Director to the Approval Authority with respect to the application;
 3. The verbatim record made by stenographic or mechanical

means, the minutes of the hearing, and other evidence of the proceedings before the Hearings Body;

4. The written findings, conclusions, decision and, if any, conditions of approval, of the Approval Authority;
5. Argument by the parties or their legal representatives permitted pursuant to Section 99.280(B)(3) at the time of review before the Council;
6. All correspondence relating to the application; and
7. A copy of the notice which was given as provided by Section 99.080 of this chapter, accompanying affidavits and list of persons who were sent mailed notice.

99 .230 THE EFFECTIVE DATE OF THE DECISION - APPEAL OR REVIEW

- A. Any decision made under the provisions of this chapter shall become effective on the fifteenth (15) day from the date notice of the final decision is given, as provided in Section 99.150 of this chapter, unless an appeal or review is taken pursuant to Section 99.240 of this chapter.

99 .240 AUTHORITY TO APPEAL OR SEEK REVIEW OF A DECISION - EXHAUSTION OF ADMINISTRATIVE REMEDIES.

- A. Any decision made by the Director on a development application as provided by Section 99.060(A) may be appealed to the appropriate Approval Authority as provided in Section 99.160 (C).
- B. Any decision made by the Board as provided by 99.060C may be reviewed by the Commission. The procedure to be followed shall be the same as a review by Council below.
- C. Any decision made by the Commission under Section 99.060(B) may be reviewed by the Council by --
 1. The filing of a Notice of Review by any party to the decision within fourteen (14) days of mailing of the notice of final decision; or
 2. The Council or Commission, on its own motion, seeks review within fourteen (14) days of notice of the final decision; or

3. Referral of a matter under Section 99.170(D) by the initial hearings body to the Council, upon closure of the hearing, when the case presents a policy issue which requires Council deliberation and determination.
- C. Failure to file an appeal or petition for review shall be deemed a failure to exhaust administrative remedies. It is the purpose of this section to provide parties every remedy possible, prior to litigation. To that end, the filing of an appeal or petition for review is a condition precedent for further administrative or judicial review.

99 .250 NOTICE OF APPEAL OR REVIEW

- A. The Notice of Appeal or Review shall contain --
1. A reference to the application sought to be appealed or reviewed;
 2. A statement as to how the petitioner qualifies as a party as provided by 99.140; and
 3. The specific grounds for the appeal or review.
- B. The appeal or review application shall be accompanied by the required fee.
- C. The hearing on the appeal shall be de novo, but it shall be limited to the grounds listed under subsection A3 of this section.
- D. The hearing on the petition for review shall be on the record and shall be limited to the grounds listed under subsection A3 of this section.

99 .260 PERSONS ENTITLED TO NOTICE ON APPEAL OR REVIEW - TYPE OF NOTICE.

Upon appeal or review, notice shall be given by the Director as provided by Section 99.080(B) of this chapter.

99 .270 CONTENTS OF NOTICE ON APPEAL OR REVIEW.

Notice shall include those matters provided by Section 99.090 of this chapter, as applicable.

99.280

TYPE OF APPEAL OR REVIEW HEARING & SCOPE OF REVIEW

- A. The appeal of a decision made by the Director under Section 99.060A and Section 99.160 of this chapter shall be de novo and conducted as if brought under Section 99.060B.
- B. The review of a decision, other than a recommendation on a Comprehensive Plan map amendment or map amendment and zone change by the commission or by the council shall be --
 - 1. Confined by the record of the proceedings as provided in Section 99.220 of this chapter; however, the review shall be determined upon the non-verbatim record of the minutes and other evidence of the proceedings before the Planning Commission or other Hearings Authority;
 - 2. Limited to the grounds relied upon in the Notice of Review as provided in Section 99.250(A) of this chapter and conducted in accordance with the provisions of Sections 99.110, 99.130 and 99.170 through 99.240 of this chapter; and
 - 3. Allowed, if agreed by both parties, to be the subject of written argument only. Such argument shall be submitted not less than five (5) days prior to Council consideration.
- C. The review of a recommendation by the Planning Commission on Comprehensive Plan map amendment or map amendment and zone change shall be confined to the record and the recommendation shall automatically be referred to the Council for action in the manner set forth in this chapter.

99.290

ACTION ON APPEAL OR REVIEW - TIME LIMIT AND AUTHORITY TO CHANGE THE DECISION

- A. The Approval Authority shall act upon the appeal or review within sixty (60) days of filing, unless such time limitation is extended with the consent of the parties; however, unless otherwise ordered by the Hearings Body or Council, the Director shall take such appeals in the order in which they are filed and

- B. The Approval Authority may affirm, reverse or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the provisions of Section 99.110 of this chapter; or
- C. The Approval Authority may remand the matter if it is not satisfied that testimony or other evidence could not have been presented or was not available at the hearing. In deciding to remand the matter, the Approval Authority shall consider and make findings and conclusions regarding:
 - 1. The prejudice to parties;
 - 2. The convenience or availability of evidence at the time of the initial hearing;
 - 3. The surprise to opposing parties;
 - 4. The date notice was given to other parties as to an attempt to admit; or
 - 5. The competency, relevancy and materiality of the proposed testimony or other evidence.

99 .300 PARTICIPATION BY MEMBERS OF THE APPROVAL AUTHORITY IN THE DECISION AND VOTING

- A. The provisions of Section 99 .210 of this chapter apply and, in addition --
 - 1. Only those members who have reviewed the entire record shall vote; and
 - 2. A majority of the qualified voting members of the Approval Authority must vote affirmatively to affirm, reverse or remand the decision.
- B. Unless a decision be deferred, in the event of a tie, the decision which is the subject of appeal or review shall stand.

99.310 FINAL ACTION OF THE APPROVAL AUTHORITY: EFFECTIVE DATE: PETITION FOR REHEARING.

- A. Action by the Approval Authority on appeal or review, known as a "final order", shall be effective on the fifteenth (15) day from the filing of the order with the Director under Section 99.110(F).

- B. The final order of the Council shall be stayed upon the filing of a petition for rehearing, which shall be filed within fourteen (14) days of the notice of the Council's decision and shall contain the matters set forth in Section 99.250. No fee need accompany such petition.
- C. The Council shall decide whether to grant such a petition at its next practicable regular or special meeting based on the grounds set forth in the petition. No petition for rehearing shall be approved unless a majority of the Council consents. No action shall be reheard more than once.
- D. No time period for challenging Council action shall commence until the Council has disposed of the Petition for Rehearing.
- E. Within seven (7) days of the filing of the final order of Council, or upon a final order on the grant of a petition for rehearing, the Director shall give notice of the final order to all parties to the proceeding, informing them of the date of filing, the opportunity for further remedy by petition for rehearing, the decision rendered and where a copy may be found.

99 .320 DENIAL OF THE APPLICATION - RESUBMITTAL

- A. An application which has been denied and which, on appeal, has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be re-submitted for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least twelve (12) months from the date the final decision is made denying the application.

99 .330 REVOCATION OF APPROVALS

- A. The Hearings Authority may, after a hearing conducted pursuant to this chapter, modify or revoke any approval granted pursuant to this chapter, for any of the following reasons --

1. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional; or
2. A failure to comply with the terms and conditions of approval;
3. A failure to use the premises in accordance with the terms of the approval; or
4. A material misrepresentation or mistake of fact or policy by City in the written or oral report regarding the matter whether such misrepresentation be intentional or unintentional.

103.000 FACT FINDING

103.010 PURPOSE

The purpose of this chapter is to establish procedures for finding the facts necessary to make a non-discretionary determination.

103.030 APPLICATION

An application for a determination may be filed with the Planning Director by a property owner, purchaser of property, lessee, authorized agent or the Council.

103.040 FACT FINDING BODY

The Planning Commission shall sit as a fact finding body on the following:

- A. A determination of non-conforming use status under 65.050 (B).
- B. A determination of non-conforming structures status under 66.030(B).
- C. A determination of a non-conforming use of land status under 67.030 (B).
- D. A determination of lot of record status under 68.030 (B).

103.050 NOTICE - CONTENTS OF NOTICE - MECHANICS OF NOTICE

- A. Notice shall be as provided by 99.080 (B).
- B. The contents of the notice shall be as provided by 99.090 (1) through (5).
- C. The mechanics of giving notice shall be as provided in 99.100.

103.060 THE HEARING

- A. The hearing shall be limited to ascertaining the relevant facts required to make a determination.
- B. The hearing shall be conducted in the manner set forth in 99.170 (A) and (C).

103.070 THE DETERMINATION - VOTING - RECORD - EFFECTIVE DATE - NOTICE

- A. The determination shall include:
 - 1. A statement of the applicable standard;
 - 2. A statement of the facts found to be relevant and true;
 - 3. An analysis relating the facts to the standards; and
 - 4. A determination.
- B. The Fact Finding Body shall be impartial and each member shall act in accordance with the provisions of 99.110.
- C. An affirmative vote of a majority of the qualified voting members is required for a determination.
- D. The record shall be as provided by 99.220.
- E. The effective date of the determination shall be as provided by 99.230.
- F. Notice of the final determination shall be given in the manner set forth in 99.130.

103.080 PARTY STATUS STANDING - PETITION FOR REVIEW - NOTICE

- A. Any person shall be considered a party and thus have standing if the requirements of 99.140 are satisfied.
- B. Any party to the decision may file a petition for review provided:
 - 1. The notice of Review is filed within fourteen (14) days of mailing the notice of final determination. The time computation shall be as provided by 99.150; and
 - 2. The Notice of Review is prepared and submitted in accordance with the provisions of 99.250.
- C. Notice of the hearing on the Petition of Review shall be given in the manner set forth in 103.050.

- 103.090 TYPE OF REVIEW - ACTION - VOTING - EFFECTIVE DATE
- A. Review by the Council shall be as provided by 99.280 (B).
 - B. Action on the petition shall be as provided by 99.290.
 - C. Voting shall be as provided in 99.300.
 - D. The final order or final determination shall become effective as provided in 99.310.
- 103.100 REVOCATION OF APPROVALS
- A Fact Finding Body may revoke its final determination upon finding any of the factors set forth in 99.330.

104.000 COMPREHENSIVE PLAN

104.010 ADOPTED

The West Linn comprehensive plan composed of goals, objectives, policies, standards, implementation strategies, and comprehensive plan land use maps are hereby adopted as the West Linn comprehensive plan as required by ORS 197.010 and ORS 197.175. The text and map of the West Linn comprehensive plan are attached hereto as Exhibit "A" and incorporated herein by reference.

104.020 LAND USE POLICY

From the effective date of the ordinance codified in this chapter, the West Linn comprehensive plan shall serve as the land use policy for the city, and shall govern the exercise of the planning and zoning responsibilities of the city thereafter.

104.030 EXHIBIT "B" ADOPTED BY REFERENCE

The West Linn comprehensive plan is adopted and based upon the findings of fact, inventory and analysis, data base and evaluation of fact, inventory and analysis, data base and evaluation contained in the text and maps contained in the West Linn comprehensive plan and in the planning background reports of the West Linn comprehensive planning program set forth in Exhibit "C" of the West Linn comprehensive plan, which are attached hereto as Exhibit "B" and adopted herein by reference. The information contained in the incorporated herein as Exhibit "B" are adopted only as additional justification for the adoption of the West Linn comprehensive plan set forth in Exhibit "A" and shall not govern the exercise of the planning and zoning responsibilities of the city.

104.040 COPIES FILED

Certified copies of the West Linn comprehensive plan shall be filed with the city recorder, Clackamas County, the Metropolitan Service District, and the Land Conservation and Development Commission of the state of Oregon.

105.000 AMENDMENTS TO THE CODE & MAP

105.010 PURPOSE

The purpose of this chapter is to set forth the standards and procedures for legislative amendments to this code and to the map and for the quasi-judicial changes to the map as provided by the code chapters setting forth the procedures and by the Comprehensive Plan. Amendments may be necessary from time to time to reflect changing community conditions needs and desires, to correct mistakes or to address changes in the law.

105.030 LEGISLATIVE AMENDMENTS TO THIS CODE & MAP

Legislative amendments to this code and to the map shall be in accordance with the procedures and standards set forth in chapter 98 of this code.

105.040 QUASI-JUDICIAL AMENDMENTS & PROCEDURES

Quasi-judicial amendments to this code and to the map shall be in accordance with the procedures set forth in this code and the following:

1. The Planning Commission shall decide zone change applications which do not involve Comprehensive Plan map amendments as provided by 99 .060B. A petition for review by the council may be filed as provided by 99 .280B.
2. The Planning Commission shall make a recommendation to the council on an application for a Comprehensive Plan map amendment. The council shall decide the application on the record as provided by 99.280C.
3. The Planning Commission shall make a recommendation to the council on a zone change application which also involves a concurrent application for a Comprehensive Plan map amendment. The council shall decide the applications on the record as provided by 99 .280C.

A decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:

1. The standards set forth in section 02.110 (A), which provide that the decision shall be based on consideration of the following factors:
 - a. The applicable comprehensive plan policies as identified in subsection 3 of this section and map designation.
 - b. The state wide planning goals adopted under ORS ch 197 until acknowledgement of the West Linn plan and ordinances.
 - c. The applicable standards of any provision of this code or other applicable implementing ordinance.

2. The standards set forth in section 99 .110B which provide that in making the decision, consideration may also be given to the following:
 - a. Proof 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 which is the subject of the development application.
 - b. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in subsection A or subsection B1 above.
3. The comprehensive plan, policy 4, which provides that the decision shall be based on consideration of the following criteria:
 - a. Conformance with the comprehensive plan policies and criteria.
 - b. The change can be demonstrated to be in the interest of the present and future community
 - c. The changes will not adversely effect the health, safety and welfare of the community.

105.060 CONDITIONS OF APPROVAL

A quasi-judicial decision may be for denial, approval or approval with conditions as provided by Section 99 .110E.

105.070 RECORD OF AMENDMENTS

The planning director shall maintain a record of amendments to the text and map of this code in a format convenient for the use of the public and in accordance with section 05.090 of this code.

106.000 ENFORCEMENT

106.010 PROVISIONS OF THIS CODE DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this code shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare. Wherever the requirements of this code are at variance with other provisions of this code, or with the requirements of any other adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

106.020 VIOLATION OF CODE PROHIBITED

No person shall erect, construct, alter, maintain or use any building or structure or shall use or transfer any land in violation of this zoning code or any amendment thereto.

106.030 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this code occurs, or is alleged to have occurred, any person may file a signed, written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Planning Director or his designee. He shall record properly such complaints, investigate and take action thereon as provided by this code.

106.040 INSPECTION AND RIGHT OF ENTRY

Whenever the Planning Director has reasonable cause to suspect a violation of any provision of this chapter exists; or when necessary to investigate an application for or revocation of any approval under any of the procedures described in this code, the Planning Director may enter on any site or into any structure for the purposes of investigation, provided that no premises shall be entered without first attempting to obtain the consent of the owner or person in control of the premises if other than the owner. If consent cannot be obtained, the Planning Director shall secure a search warrant from the City's Municipal Court before further attempts to gain entry, and shall have recourse to every other remedy provided by law to secure entry.

106.050 ABATEMENT OF VIOLATIONS

Any development which occurs contrary to the provisions of this code or contrary to any permit or approval issued or granted hereunder is hereby declared to be unlawful and a public nuisance, and may be abated by appropriate proceedings.

ORDINANCE NO. 1172

AN ORDINANCE AMENDING TITLE 16, DIVISION II OF THE WEST LINN MUNICIPAL CODE BY REVISING CERTAIN SUBSTANTIVE AND PROCEDURAL PROVISIONS OF THE WEST LINN COMMUNITY DEVELOPMENT CODE, AND AMENDING SECTION 4 OF ORDINANCE NO. 1129 BY UPDATING THE INVENTORIES OF THE WEST LINN COMMUNITY DEVELOPMENT CODE RELATING TO THE WILLAMETTE HISTORIC DISTRICT, AND REAFFIRMING ALL REMAINING PROVISIONS OF TITLE 16 OF THE WEST LINN MUNICIPAL CODE AND THE INVENTORIES OF THE WEST LINN COMMUNITY DEVELOPMENT CODE.

WHEREAS, the West Linn Planning Commission, following proper publication and mailing of notices, did conduct a public hearing on August 20, 1985, at which time the West Linn Planning Commission recommended approval of certain amendments to the West Linn Community Development Code and their supporting inventories, and

WHEREAS, the West Linn City Council, following proper publication and mailing of notices, did conduct a public hearing on September 11, 1985, at which time they voted to approve the amendments to the West Linn Community Development Code and supporting inventories as set forth in this ordinance.

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF WEST LINN DOES ORDAIN AS FOLLOWS:

Section 1. Title 16, Division II, of the West Linn Municipal Code is amended as follows:

See Exhibit "A" attached and incorporated herein by reference.

Section 2. Section 4 of Ordinance No. 1129 and the inventories of the West Linn Development Code are amended as follows:

See Exhibit "B" attached hereto and incorporated herein by reference.

Section 3. All remaining provisions of Title 16, Division II, of the West Linn Municipal Code and Section 4 of Ordinance No. 1129 are reaffirmed in their entirety.

This ordinance shall be effective this 26th day of September, 1985.

This ordinance adopted by the Common Council and approved by the Mayor this 25th day of September, 1985.

Larry McIntyre
Mayor

ATTEST:

Chiana J. Nicolay
City Recorder

COMPREHENSIVE PLAN INVENTORIES

Chapter 5: Natural Resources & Historic Sites

Page 55: (Inserts underlined, deletions [bracketed])WILLAMETTE OLD TOWN HISTORIC DISTRICT

Willamette Falls Company platted the Town of Willamette Falls in 1883. Nicholas O. Walden, one of the founders and organizers of the Willamette Falls Company, managed the development of the land. Because of his fondness for the town, he chose to build his home there. The town remained a company town for many years, supplying housing for workers at mills in Oregon City and loggers working in the vicinity. In 1916 the town was annexed to West Linn.

In the core of the original town, many [all of the] original structures remain from the "Victorian" (1880-1910) and "Craftsman" (1905-1930) eras. [residences, which are the Queen Anne stick style, still exist and are]. Most are single family dwellings. [In addition, there are several homes which have been built since the turn of the century. Within t] The District contains more than [are over] twenty Victorian era homes. Most [of these] are Queene Anne Vernacular [stick and bungalow] style. [An equal number of single family homes were built in the early 1900's. Few of the newer homes can be considered architecturally incompatible with the original building style. As a result, the community has a strong architectural cohesiveness. Within the core of the area there are only a handful of post World War I dwellings.]

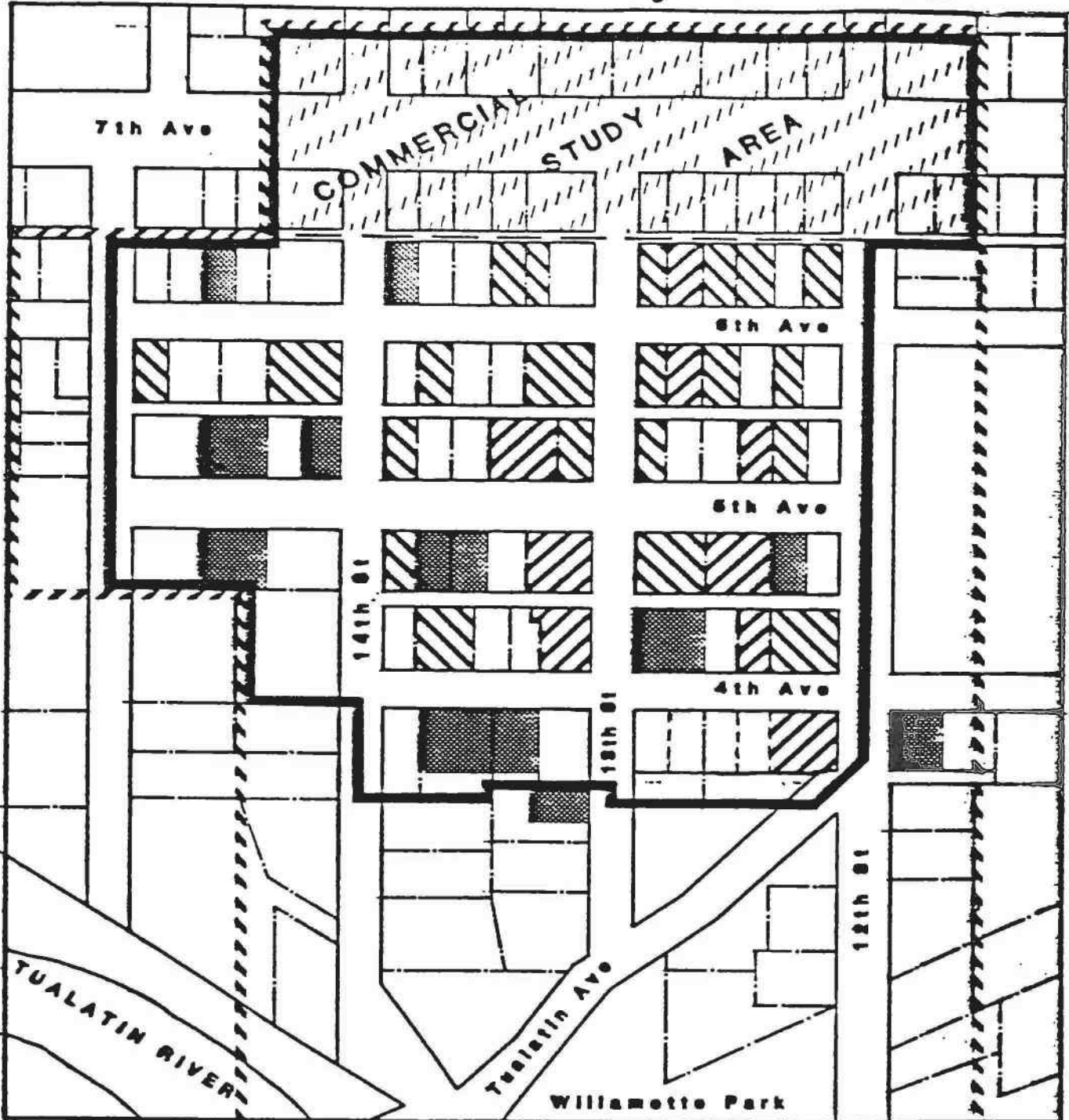
In 1981, [T] the City [has] established the Willamette Historic District requiring [, which requires] design review for new structures and exterior alterations to existing structures. [and specific criteria for evaluating building permits.] [currently (1983)] Clackamas County's "Cultural Resource Inventory" identifies 25 significant structures within the District. [with a grant from State Historic Preservation Office is preparing a detailed inventory of buildings.] Initial efforts have been made to place the district as a candidate for both the State and National Register of Historic Places.

The Willamette Historic District extends generally from 7th Avenue to 4th Avenue [to the Willamette Park], and from 12th Street to 15th Street. [14th Street plus a one block section between 14th and 15th Streets between 5th and 6th Avenues.]

(NOTE: Insert new district map on Page 56)

Exhibit A
Ord. 1172
P. 1 of 2

Proposed Boundary Revision



LEGEND

PRIMARY STRUCTURES



SECONDARY STRUCTURES



PROPOSED BOUNDARY



EXISTING BOUNDARY



BOUNDARY SUBJECT
TO FUTURE STUDY

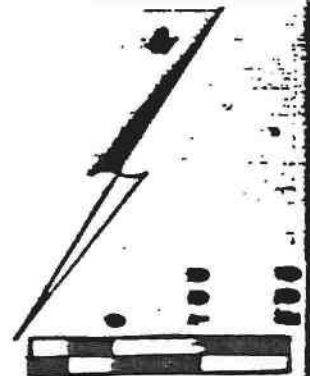
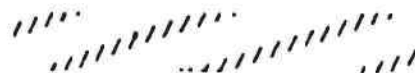


Exhibit A
Ord. 1172
P. 2 of 2

**COMPREHENSIVE PLAN
AND CODE AMENDMENTS
SEPTEMBER, 1985**

(Note: Additions underlined, Deletions [bracketed]).

ISSUE #1: HISTORIC DISTRICT BOUNDARY AND DESIGN STANDARDS

COMPREHENSIVE PLAN AMENDMENTS:

Pages 48 & 49: Historic and Archaeological Sites

HISTORIC AND ARCHAEOLOGICAL SITES

West Linn has a rich history, little known outside its boundaries. In 1840, Robert Moore came to Oregon from Illinois and purchased 1,000 acres lying along the west bank of the Willamette River at the Falls. This land was bought from Chief Wanaxha of the Wallamut Indians. Moore platted a townsite in 1843 of twenty five blocks. The site had been occupied by Indian settlements for over 2000 years.

Later, this area west of Oregon City, along with Bolton, Sunset and Willamette Heights was incorporated in 1913 and named West Linn.

FINDINGS

A number of historic areas and sites exist in West Linn. The Willamette Falls Locks, built between 1868 and 1873, are [is] on the National Register of Historic Places. The McLean House, located at 5330 River Street, has historical significance to the West Linn area. Willamette Town includes the early subdivision platted for Linn City; several structures [and a few houses] built in the late 1800's and early 1900's remain today.

Historically, the Willamette River and Willamette Falls played a large part in the prehistoric settlement of West Linn. This was a main fishing and trading area. The Chinook Indian tribe controlled the area north of the Falls and up the Columbia River as far as The Dalles. The Kalapuya Indian Tribe controlled the area south of the Falls. Today, three archaeological sites have been identified in this area.

Exhibit B

GENERAL POLICIES

Preserve the historical and archaeological resources of West Linn.

SPECIFIC POLICIES

1. Continue to support efforts to preserve and maintain the McLean House.
2. Protect the historic quality of the Willamette Falls Locks through design review of all new development proposed for that area.
3. Maintain the [Adopt a] Willamette Historic District as delineated on the Comprehensive Plan Map, and establish development standards to [that will]:
 - a. Preserve the historic and aesthetic character of the Willamette Historic[al] District.
 - b. Incorporate [Require the] design elements [features] of the architectural period [reflected] represented by [the] historic[al] buildings within the district [be incorporated] into new [buildings] construction.
 - c. Accommodate continued[ing] growth [with]in the Historic District using [by means of] the Design Review process to protect [the] historic buildings and their context.
 - d. Encourage parking from alleys or "streets" for all residences in the district.
 - e. Maintain and enhance the existing scale of the neighborhood.
 - f. Maintain and enhance the existing pattern of relatively narrow, deep houses situated on 50-foot wide lots.
 - g. Maintain the pattern of steep roof pitches in the district.
 - h. Encourage the design of new buildings to reflect architectural components of the district's primary structures without imitating or mimicking historic detailing.

Page 4

4. Protect known archaeological sites from new development by notifying the State and City Officials at the time development is proposed for these areas.

CODE AMENDMENTS: DEFINITION SECTION

(Insert on Page 2-14 after "Plat")

Primary Structures. Structures which significantly define the Willamette Historic District's character are called "Primary" contributing. These structures were constructed between 1890-1920; most original architectural features (i.e.: windows, roof form, porches, siding) remain intact. These structures represent the community's best remaining examples of turn-of-the-century architectural styles. (note: Map of District and structures in "Inventories".)

Insert on Page 2-14 after "Review"

Secondary Structures. Structures built before 1925 which retain many original architectural features, but not classified as primary on the Inventories Map of the Willamette Historic District are identified as "Secondary" contributing.

CODE AMENDMENTS: HISTORIC DISTRICT OVERLAY

(Additions underlined, Deletions [bracketed])
Insert after (C)-8. Page 26-7

9. EXTERIOR REMODELS TO EXISTING STRUCTURES

For alterations to single family detached structures in the Willamette Historic District, the Planning Director shall use the following design standards in reaching a decision:

a. SITING

The original siting of the structure shall be preserved. If a "primary" or "secondary" structure requires a new foundation, the structure may be shifted parallel to the street (i.e. to rectify sideyard encroachments) but not perpendicular to the street (i.e.: maintain original front setbacks). Additions to the sides or rear of these structures must meet the standards of "New Construction".

b. PARKING

Parking standards of Section 26.040(D)7b. shall apply.

c. BUILDING HEIGHT

Existing building heights should be maintained. Alteration of roof pitches or raising or lowering a structure's permanent elevation when constructing a foundation shall be avoided.

Standard:

The original height of "primary" and "secondary" structures shall be preserved.

d. Distinguishing original qualities defining a structure's character shall not be destroyed. Removal or alteration of historic (i.e.: original) materials or distinctive architectural features should be avoided when possible.

e. Houses and other structures shall be recognized as products of their own time. Alterations that have no historical basis or which seek to create an earlier appearance shall be avoided.

f. Distinctive stylistic features or examples of skilled craftsmanship which characterize a structure shall be maintained or restored, if possible.

g. Deteriorated architectural features shall be repaired rather than replaced, whenever possible.

- h. In the event replacement is necessary, new materials should match the material being replaced in composition, design, color, texture, and other visual qualities.
- i. Window replacements shall match the visual qualities of original windows as closely as possible; this does not require wood windows. Non-wood window replacements must exhibit similar visual qualities as their wooden counterparts. The original number of window "lights" (i.e.: panes) shall be maintained or restored when replacements are required.
- j. Alterations to the rear of a house or to other portions not visible from the public right-of-way (exclusive of alleys) need not adhere to the design standards contained herein.
- k. Contemporary designs for alterations and additions would be acceptable if the design respects the building's original design, and it is compatible with the original scale, materials, window and door opening proportions of the structure.
- l. Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original structure could be restored.

CODE AMENDMENTS: HISTORIC DISTRICT OVERLAY

(Additions underlined, Deletions [bracketed])

Insert after (D) 6. Page 26-7

7. NEW CONSTRUCTION

For new single family construction (including added square footage) in the Willamette Historic District, the Planning Director shall use the following design standards in reaching a decision:

ExhibitB

5 of 16

a. SITING

Front yard: A distance, measured to the dominant vertical face of the building, equal to the average of the front setbacks of adjacent "primary" or "secondary" structures. Where there are no adjacent primary or secondary structures, the setback shall be 15 feet.

Side Yard: 5 feet shall be the standard, however, where adjacent structures encroach into the required sideyard, the Planning Director may reduce one of the side yards to a minimum of 3 feet to center a new structure between existing buildings provided no spaces between buildings are reduced below eight (8) feet.

Rear Yard: The rear yard setback shall be minimum of 20 feet, except for accessory structures, which may be sited to within 3 feet of the side or rear property lines.

b. PARKING

Standards:

Garages: Garages shall be accessed from the alleys or "streets". No garage door may face or access onto an "avenue" except where no alley access is available.

Parking: No residential lot shall be converted solely to parking use.

No rear yard area shall be converted solely to parking use.

At least one paved parking space, which may be covered, shall be provided on-site.

c. BUILDING HEIGHT

Standards: No building shall exceed the height of any primary structure in the district.

No building shall exceed 2-1/2 stories.

Cupolas and towers are excluded from the aforementioned height limitation however, no such structure may exceed the height of any existing cupola or tower in the district.

d. BUILDING SHAPES AND SIZES

Standards: No building shall exceed 35 feet in overall width.

End - wall (street facing) gables should not exceed 28 feet in overall width.

Buildings should avoid a horizontal orientation in their roof and window designs, unless the design can be shown to respond to nearby primary structures.

e. ROOF PITCH

Standards: Roofs shall have a pitch of at least 6/12. A pitch of 8/12 to 12/12 is recommended.

f. ARCHITECTURAL DETAILS

Entryways:

Standards: Buildings shall have a permanently protected entry. (Awnings are not permanent protection.)

All main entrances should face the avenues.

Flush (flat) doors are prohibited.

Doors with windowed areas are recommended.

Windows:

Standards: Wood sash windows are preferred.

"Mill aluminum" (shiny) windows are prohibited.

Windows shall be surrounded by exterior trim on the top and sides; window trim shall be at least 4-1/2 inches minimum width.

Siding and Exterior Finish:

Standards: Horizontal wood siding shall be the primary exterior finish. Shingles should only be used in conjunction with horizontal wood siding.

Single color exteriors are discouraged.

Painted exteriors - rather than stained are recommended.

COMPREHENSIVE PLAN AND ZONING MAPS

Amend the Comprehensive Plan Map and Zoning Map to reflect the boundary adjustment identified in Exhibit A-1.

ISSUE #2: PLAN/CODE REVISION CONDITIONS

Delete 105.050 (1) (b); amend 105.050-1 to read (02.110) 99.110A; amend 105.050-3 to read:

The Comprehensive Plan, policy 4, Plan and Ordinance Revision Process, specific Policy No. 10, which...

and amend 105.050-3 B to read:

There is a public need for the change or that the change ...

ISSUE #3: PROPOSED CODE CHANGE FOR OFFICE - BUSINESS CENTER ZONES

Amend Section 21.060 Office - Business Center Conditional Uses (Pages 21-3) to read as follows: (Note: additions underlined)

The following uses are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60, Conditional Use.

1. Childrens day care center
2. Convenience sales and personal services
3. Food and beverage retail sales
4. Heliports
5. Research services
6. Transient lodging and associated convention facilities.
7. Utilities: Major
8. Vehicle fuel sales
9. Religious Assembly

ISSUE #4: PUBLIC SUPPORT FACILITIES

Amend definition of "Public agency administrative" to read "pubic support facilities", and include the "recycle collection center" definition as follows:

Recycle Collection Center. A place where recyclable materials are deposited by the residents and sorted for transport to processing plants.

Amend Code to allow "public support facilities" and "recycle collection center" as a conditional use in all residential zones.

ISSUE #5: LOT LINE ADJUSTMENT DEFINITION

Section 02.030, amend to read as follows:

Buildable Lot. A lot which meets the area and dimensional requirements of the underlying zone.

Lot Line Adjustment. The relocation of recorded lot lines which do not result in the creation of an additional lot or buildable lot.

Section 89.100(A)(1), amend to read as follows:

An additional lot or buildable lot is not created by the lot line adjustment and the existing parcel reduced in size...

ISSUE #6: TRANSIENT LODGING

Section 22.060(B)(1), amend to read as follows:

1. [Hotels, motor lodges] Transient lodging and associated convention facilities.

ISSUE #7: HOME OCCUPATION TIME LIMIT

Section 37.060(A)(1)(2)(3) and (B), amend to read as follows:

37.060 [TIME LIMIT &] REVOCATION

- A. The Director may revoke a Type I and Type II Home Occupation permit if the criteria of Section 37.020(A) and (B) respectively, are violated.
 - [1. Approve a Type I, Home Occupation application subject to a one-year time period.]
 - [2. At the termination of a Type I or Type II, Home Occupation, there shall be a renewal application to determine if all of the conditions and provisions of the chapter have been satisfied. The permit shall be renewed if all of the conditions have been satisfied.]
- [B. The Commission may approve a Type II, Home Occupation subject to a one year time period.]

ISSUE #8: PARKING REQUIREMENTS FOR RESTAURANTS

Amend Section 46.080(c) to read as follows:

1. Restaurants: Eating and drinking establishments

- (a) Cafe, Diner, Taverns
Bars, Lounges

1 space for every 100
square feet of gross
floor area.

ISSUE #9: FREE STANDING BUSINESS SIGNS

Section 52.300(D)(1), Amend to read as follows:

D. Commercial Signs

1. Only one flat wall sign or one free standing sign
shall be permitted and shall not exceed sixteen
(16) square foot in area.

ISSUE #10: USE OF SIDEWALKS

ADD THE FOLLOWING SECTION:

53.000 SIDEWALK USE

53.010 PURPOSE

The purpose of this chapter is to provide for the display of merchandise or the service of food or beverages on sidewalks in the Commercial Zones. The standards contained in this chapter are intended to insure that the use of sidewalks will not have a disruptive effect on pedestrians, vehicular traffic, or businesses. The provisions of this chapter apply to sidewalks in the public right-of-way.

53.020 PERMIT REQUIRED

- A. All sidewalk uses shall require a permit.
- B. Sidewalk use application shall be initiated by the business owner or authorized agent.
- C. The applicant shall pay the requisite fee.
- D. The Sidewalk Use Permit is a decision made by the Planning Director under provisions of 99.060(A), except that no notice shall be required.

Exhibit B

1172

11 of 11

- E. The Planning Director shall approve, approve with conditions or deny the application for a Sidewalk Use Permit by standards set forth in 53.030.
- F. The Director's decision may be appealed by the applicant to the Planning Commission as provided in Section 99.240(A).

53.030 STANDARDS

- A. A minimum pedestrian accessway of four feet shall be maintained adjacent to the curb (i.e.: display or service shall take place adjacent to the business structure).
- B. Clear vision requirements of Chapter 42 shall not be violated;
- C. The display or service shall not extend beyond the store frontage associated with the products or service.
- D. Any temporary commercial signs shall be subject to Planning Director Approval; and

53.040 TIME LIMIT AND REVOCATION

- (A) The Director may revoke a Sidewalk Use Permit if any Standards of Section 53.020 or conditions of approval are violated. A Sidewalk Use Permit shall be void one year following issuance of the permit.

ISSUE #11: DELETE REFERENCE TO STATE GOALS

Section 55.020(C)(1), amend to read as follows:

- 1. The Planning Director 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. [except that an applicant shall not have the burden of showing conformance with the statewide planning goals and the comprehensive plan policies as provided by Sections 99.110(A)(1) and (A)(2).]

ISSUE #12: DELETE EXCESS LANGUAGE

Section 65.120(D)&(E), amend to read as follows:

- [D. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.]
- [E.] D The applicant shall pay the requisite fee.

ISSUE #13: CORRECTION FOR NON-CONFORMING SINGLE-FAMILY STRUCTURES

Section 66.080(B), amend to read as follows:

- B. An enlargement or alteration to a non-conforming structure containing a conforming use may be permitted subject to review and approval by the Planning Director for single family structures and the Planning Commission for non single family structures under the provisions of 99.060(B) and the following standards:
1. The Planning Director and Planning Commission shall approve, approve with conditions or deny an application based on findings that:
 - a. The enlargement or alteration will not change the non-conformity; and
 - b. All other applicable ordinance provisions will be met,
 2. All approved enlargements or alterations shall be subject to the [development] design review provisions set forth in Chapter 55.

ISSUE #14: DELETE EXCESS LANGUAGE

Section 75.050(D)&(E), amend to read as follows:

- [D. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.]
- [E.] D. The applicant shall pay the requisite fee.

ISSUE #15: UTILITY EASEMENTS

Section 93.050(A), amend to read as follows:

Utility Lines. Easements for sewers, drainage, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be a minimum of [twelve] ten feet in width and centered on rear or side lot lines, except for guy wire tie-back easements which shall be [six] five feet wide by twenty feet long along lot lines at change of direction point of easements.

Section 93.101, amend to read as follows:

All subdivisions and major and minor partitions shall establish [six] five foot utility easements on all interior lot lines.

ISSUE #16: NOTICE REQUIREMENTS

Section 99.080(A)(1)(c);(B)(1)(b); and (C)(1)last half of (a); amend to read as follows:

- C. At least ten (10) days prior to the hearing or meeting date, a sign shall be placed on the property which is the subject of the decision within ten (10) feet of the public right-of-way line and in plain view and which states "This property is the subject of a land use decision.", with [a notice attached as specified in Section 99.090] the type of use or request indicated.

ISSUE #17: DELETE PETITION FOR REHEARING

Section 99.310, amend to read as follows:

99.310 FINAL ACTION OF THE APPROVAL AUTHORITY: EFFECTIVE DATE: [PETITION FOR REHEARING]

- A. Action by the Approval Authority on appeal or review, known as a "final order", shall be effective on the fifteenth (15) day from the filing of the order with the Director under Section 99.110(G).
- [B. The final order of the Council shall be stayed upon the filing of a petition for reharing, which shall be filed within fourteen (14) days of notice of the Council's decision and shall contain the matters set forth in Section 99.250. No fee need accompany such petition.]

Exhibit B

14 of 16

[C. The Council shall decide whether to grant such a petition at its next practicable regular or special meeting based on the grounds set forth in the petition. No petition for rehearing shall be approved unless a majority of the Council consents. No action shall be reheard more than once.]

[D. No time period for challenging Council action shall commence until the Council has disposed of the Petition for Rehearing.]

[E]B. Within seven (7) days of filing of the final order of Council, [or upon a final order on the grant of a petition for rehearing], the Director shall give notice of the final order to all parties to the proceeding, informing them of the date of filing, [the opportunity for further remedy by petition for rehearing], the decision rendered and where a copy may be found.

ISSUE #18: DISABLED PARKING

Section 55.100(A)(10)(G), amend to read as follows:

g. If any parking is provided for the public or visitors, or both, the needs of the handicapped shall be considered as [required by ORS 447.233 and the following:] follows:

1. Disabled parking spaces Requirement:

TOTAL PARKING IN LOT	REQUIRED NUMBER OF ACCESSIBLE SPACES
-------------------------	---

1 to 50	1
51 to 100	2
101 to 200	3
201 to 300	4
301 to 500	5
501 to 700	6

For each additional 200 spaces or fraction thereof, one additional space.

Exhibit B

15 of 16

1172

- [1] 2. Parking spaces [marked] for the handicapped shall be so marked and provided near the building entrance.
- [2] 3. The parking spaces for the handicapped shall be 12 feet in width to allow maneuvering space for a wheelchair.
- 4. For government buildings and public building subject to the state building code, the requirements of ORS 447.233 shall also apply.

ORDINANCE NO. 1180

AN ORDINANCE AMENDING TITLE 16 OF THE WEST LINN MUNICIPAL CODE BY AMENDING CERTAIN PROVISIONS OF THE WEST LINN COMPREHENSIVE PLAN RELATING TO THE WILLAMETTE HISTORIC DISTRICT AND REVISING THE WEST LINN COMMUNITY DEVELOPMENT CODE BY DELETING SINGLE-FAMILY DETACHED RESIDENTIAL UNITS AS A CONDITIONAL USE IN THE MEDIUM DENSITY ZONE, AMENDING REQUIREMENTS FOR NURSERIES IN THE NEIGHBORHOOD COMMERCIAL ZONE, REVISING PARKING REQUIREMENTS, REVISING CERTAIN SIGN REQUIREMENTS, REVISING THE REQUIREMENTS FOR THE CONSTRUCTION OF SIDEWALKS, AND REAFFIRMING ALL REMAINING PROVISIONS OF TITLE 16 OF THE WEST LINN MUNICIPAL CODE.

WHEREAS, the West Linn Planning Commission, after proper publication, conducted a public hearing on April 21, 1986 relating to certain proposed revisions of the West Linn Comprehensive Plan and Community Development Code; and

WHEREAS, the West Linn City Council on May 14, 1986, after proper publication, conducted a public hearing upon this same matter and approved certain revisions to the West Linn Comprehensive Plan and Community Development Code.

NOW, THEREFORE, THE CITY OF WEST LINN DOES ORDAIN AS FOLLOWS:

Section 1. Title 16, Division 1, of the West Linn Municipal Code and the Comprehensive Plan of the City of West Linn is amended as reflected in Proposal #1 to Exhibit "A" attached hereto and incorporated herein by reference.

Section 2. Title 16, Division 2, of the West Linn Municipal Code and the West Linn Community Development Code are amended as reflected in Proposals #2, #3, #4, #5, #6 and #7 of Exhibit "A" attached hereto and incorporated herein by reference.

Section 3. All remaining provisions of Title 16 of the West Linn Municipal Code and the West Linn Comprehensive Plan and Community Development Code are reaffirmed in their entirety.

Section 4. This ordinance shall be effective the 12th day of June, 1986.

This ordinance adopted by the Common Council and approved by the Mayor this 11th day of June, 1986.

Larry McIntyre
Mayor

ATTEST:

Marina G. Nicolay
City Recorder

PROPOSED COMMUNITY DEVELOPMENT CODE AMENDMENTS
MAY 14, 1986

(NOTE: Additions are underlined, Deletions are [bracketed].)

PROPOSAL #1:

COMPREHENSIVE PLAN AMENDMENTS

Insert District Map (Exhibit A) on Page 50, renumber subsequent pages accordingly.

COMPREHENSIVE PLAN AND ZONING MAPS

Amend the Comprehensive Plan Map and Zoning Map to reflect the boundary adjustment identified on Exhibit A.

COMPREHENSIVE PLAN INVENTORIES

Delete District Map on Page 56 and renumber subsequent pages accordingly.

PROPOSAL #2: (DELETED)

PROPOSAL #3:

Section 14.030 add before #1 the following and renumber accordingly:

"1. Single-family detached residential unit."

Section 14.060(1), delete the following:

[1. Single-family detached residential unit.]

PROPOSAL #4:

Section 18.060(6) Amend the following:

"6. Nursery. [Garden store and nursery supply]

Section 02.030 (page 02-28) Add the Following:

NURSERY: The propagation of trees, shrubs, vines or flowering plants for transplanting, sale, or for grafting or budding; planting of seeds or cuttings; grafting and budding one variety on another; spraying and dusting of plants to control insects and diseases, and buying and selling the above plant stock at wholesale or retail. Seasonal labor may be employed. The term "nursery" contemplates the sale of products of the nursery. The conduct of a nursery business presumes parking places for customers, the keeping of sales records, and quarters for these functions. However, the use does not include the business of manufacturing and selling products composed of raw materials purchased off the premises. Plant related products manufactured elsewhere may be resold on the premises.

PROPOSAL #5:

Section 46.080(C)(1-6) amend as follows:

1. Restaurants: Eating and drinking establishments
 - (a) Cafe, Diner, Taverns
Bars, Lounges1 space for every
100 square feet of
gross floor area.
(Ord.1172;9/85)
2. General Retail Store except as
provided below.1 space for every
200 square feet
floor area, [plus 1
space for each 2
employees].
3. Retail-Bulky (i.e., automobiles,
furniture, appliances such as
stoves, refrigerators, etc.)1 space for every 600
square feet of gross
floor area, [plus 1
space for each 2
employees].

4. Service and Repair Shops (not directly attached or associated with furniture, appliance or automobile retail sales). 1 space for every 500 square feet of gross floor area, [plus 1 space for each 2 employees].
5. Professional offices, banks and savings and loans. 1 space for every 300 [400] square feet of gross [floor] area [plus 1 space for each 2 employees].
6. Medical/Dental Clinics. 1 space for every 200 square feet of gross floor area.

PROPOSAL #6:

Section 52.300(C) and Section 52.400(E) amend to read as follows:

"C. Multi-family Development [or Subdivision] signs.

Section 52.300(G) and 52.400(I) amend to read as follows:

G. Temporary Development or Construction Signs

1. Temporary signs denoting the architect, engineer, contractor, land division or development shall be limited to thirty-two (32) square feet in area per sign.
2. Any portion of the land division or development signs denoting the listing realtor or agency shall be limited to six (6) square feet in area.
- 3[2] Only two (2) such signs shall be permitted on the premises.
- 4[3] Shall not be artificially illuminated.
5. Shall not exceed nine (9) feet in height above the natural ground level.
- 6[4] Shall be removed upon completion of the project.
- 7[5] Shall not require City Approval.

Section 52.300(H)(4) Amend to read as follows:

- "4. Shall be limited from one (1) to five (5) signs as approved by the Planning Director [Commission].

Section 52.400(A)(2)(3)&(6) Amend to read as follows:

- "2. Only one (1) free-standing identity sign shall be permitted upon the premises, limited to thirty-two (32) [twenty-eight (28)] square feet in area and may include a directory."
- "3. Only automobile service stations may have one (1) additional free-standing changeable copy sign for the single purpose of advertising the price of fuel, limited to twenty four (24)
- "6. Free-standing [identity] signs shall not exceed seven (7) feet in height."

Add the following Section:

52.500 Newly Annexed Land: All signs on land annexed to the City of West Linn shall comply with the relevant provisions of the sign ordinance within 30 days of the completion of the annexation.

Section 52.400(A)(2) Add the following:

"An additional free-standing menu board may be permitted for drive-thru restaurants, limited to sixteen (16) square feet in area."

Section 52.400(B)(4) Amend to read as follows:

- "4. Shall contain only the name of the center or complex, or name or logo of tenants, and may include directory."

Section 52.400(L)(1). Add the following:

Signs for parcels of land in excess of one acre may advertise sale, rental or lease, provided they do not exceed twenty four (24) square feet in area and are set back from the public right-of-way a minimum of twenty (20) feet.

Add after Section 52.400(L)(5) and renumber accordingly the following:

"6. Shall not exceed nine (9) feet in height above the natural ground level, except for real estate signs or parcels in excess to two (2) acres, in which case, shall not exceed a height of twelve (12) feet."

PROPOSAL #7:

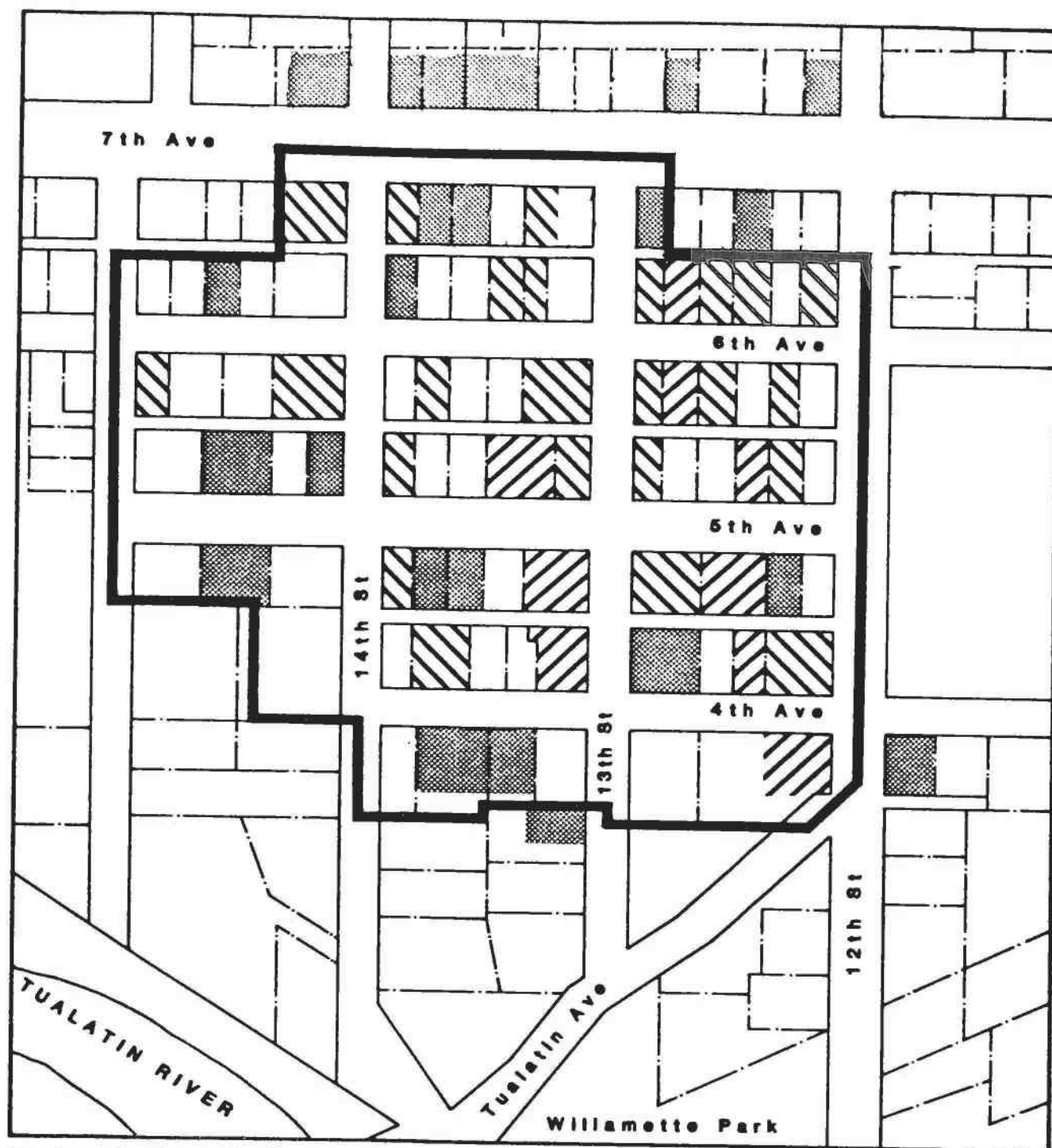
Section 92.010(6) Add the following:

In the case of double frontage lots, provision of sidewalks along the frontage not used for access shall be the responsibility of the developer. Providing front and side yard sidewalks shall be the responsibility of the landowner at the time of request for a building permit is received. Additionally, deed restrictions and CC&R's shall reflect that sidewalks are to be installed prior to occupancy and it is the responsibility of the lot or homeowner to provide the sidewalk, except as required above for double frontage lots.

/par
comcode

Ord. 1180
EXHIBIT A
PAGE 5 OF 6 PAGES

WILLAMETTE HISTORIC DISTRICT



LEGEND

PRIMARY STRUCTURES



SECONDARY STRUCTURES



BOUNDARY



ADOPTED

MAY 14, 1986

EXHIBIT

Ord. 1180

A

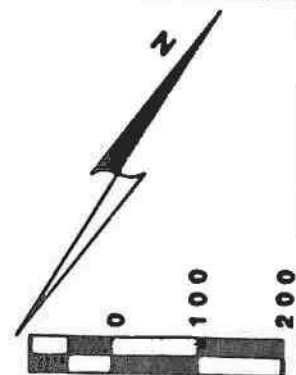
PAGE

6

OF

6

PAGES



ORDINANCE NO. 1128

AN ORDINANCE ADOPTING THE WEST LINN COMPREHENSIVE PLAN.

WHEREAS, the City of West Linn has prepared the West Linn Comprehensive Plan composed of land use goals, objectives, policies, implementation strategies, and land use planning maps, which Comprehensive Plan is justified and supported by extensive findings, inventories, analysis, and evaluation, and

WHEREAS, said Comprehensive Plan was developed as a result of intensive study and evaluation by the City and were reviewed and commented upon by the citizens of the City of West Linn and representatives of effected public agencies and other interested persons at numerous public meetings before the West Linn City Council, West Linn Planning Commission, and the West Linn Comprehensive Plan Committee,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LINN AS FOLLOWS:

Section 1. The West Linn Comprehensive Plan is hereby adopted as required by ORS 197.175. The text of the West Linn Comprehensive Plan is attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2. From the effective date of this ordinance, the West Linn Comprehensive Plan shall serve as the land use policy for the City and shall govern the exercise of the zoning and planning responsibilities of the City thereafter.

Section 3. The West Linn Comprehensive Plan is adopted based upon the findings of fact, inventory and analysis, data base and evaluation contained in the following inventories, working papers and studies:

(1) Comprehensive Plan Inventories for Statewide Land Use Planning Goals 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15.

(2) Comprehensive Water Systems Plan, September, 1982.

(3) Population and Housing Trends Study, April, 1983.

(4) Storm Drainage Master Plan, October, 1983.

(5) West Linn Park and Recreation Master Plan, November, 1978.

(6) Fire/Policy Facilities Study, September, 1981.

The aforesaid inventories, working papers and studies are contained in Exhibit "B" attached hereto and incorporated by reference. The information contained in Exhibit "B" is adopted only as justification for the adoption of the West Linn Comprehensive Plan and shall not govern the exercise of the planning and zoning responsibilities of the City of West Linn.

Section 4. Certified copies of the West Linn Comprehensive Plan shall be filed with the City Recorder, Clackamas County, the Metropolitan Service District, and the Land Conservation and Development Commission of the State of Oregon.

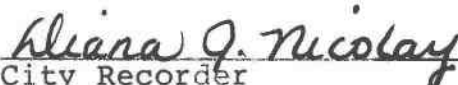
Section 5. This ordinance shall be effective the 15th day of December, 1983.

THIS ORDINANCE IS ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS 14th DAY OF December, 1983.



Mayor

ATTEST:



City Recorder