

MINUTES
Troutdale City Council – Regular Meeting
Troutdale City Hall – Council Chambers
104 SE Kibling Avenue
Troutdale, OR 97060-2099

Tuesday, August 12, 2008

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer called the meeting to order at 7:00pm.

PRESENT: Mayor Thalhofer, Councilor Kight, Councilor Ripma, Councilor Thomas, Councilor Canfield, Councilor Kyle and Councilor Daoust.

ABSENT: None.

STAFF: John Anderson, City Administrator; Rich Faith, Community Development Director; Debbie Stickney, City Recorder; David Ross, City Attorney; Paul Hughes, Finance Director; Elizabeth McCallum, Senior Planner; and David Nelson, Chief of Police (via phone).

GUESTS: See Attached.

2. OATH OF OFFICE: Reserve Officer Kyle Harris

Mayor Thalhofer administered the Oath of Office for Reserve Officer Kyle Harris.

3. CONSENT AGENDA:

3.1 ACCEPT MINUTES: July 22, 2008 Regular Meeting.

3.2 MOTION: A motion to accept the annual evaluation of David Ross, City Attorney, as completed by the City Council, and to approve the new City Attorney Employment Agreement.

3.3 MOTION: A motion to approve the appointment of David Nelson as the Troutdale City Administrator and to approve the City Administrator Employment Agreement establishing the terms and conditions of employment.

MOTION: Councilor Daoust moved that the City Council adopt the Consent Agenda. Seconded by Councilor Kight. Motion Passed Unanimously.

4. PUBLIC COMMENT: Please restrict comments to non-agenda items at this time.

Sandy Glantz, resident, stated at the March 11th City Council meeting there was an agenda item for property annexation for development in an R-10 zoned area. Part of the outcome was a request made by City Council for staff to look at modifications to the Troutdale Development Code (TDC) in order to preserve R-10 zoning. This request was designated as a priority item, to be completed with all due haste. Several amendments to the TDC drafts were developed and reviewed through the Citizens Advisory Committee over subsequent meetings in April, May and June of this year. On July 23rd this proposal was brought before the Planning Commission as a Type IV legislative hearing. I am not here to argue for the proposed amendments; in fact I testified that the proposal has some serious flaws. I am here tonight to bring to your attention the manner in which this proposal was handled and the blatant disrespect shown to City Council by the Planning Commissioners, most specifically Commissioner Grande. To my knowledge Commissioner Grande is a fine person; this is in no way a personal attack. My goals are: 1) For the City Council to be aware they are being referred to as unable to make a good decision; 2) for City Council to come up with a method to fix the administrative abuse by the Planning Commission; and 3) to offer City Council a solution to their request for a way to maintain R-10 zoning in more than name. First, I want to clearly review what I consider to be unacceptable statements referring to City Council's inability to make good decisions. These are exact quotes from Commissioner Grande during the Planning Commission discussion after public testimony: "I don't think we should vote no on it and pass it to City Council; I think we're better to hold it over and that puts the brakes on it. Because if we vote, no matter how we vote, and it goes to them (City Council), they're going to do what they want to do. I think we need to put the skids on this and slow it down now". Commissioner Grande then asked a question of staff, "There aren't any time constraints other than a directive from City Council. They wanted it fast-tracked right? How are we bound to them?" Staff replied, "They want urgent action from us". "It seems obvious to me that Troutdale doesn't like this." "They're (City Council) the big kahunas, but currently I am not going to vote for this. I don't even want to pass it on to them (City Council) for fear it passes, that is how much I don't want it. I'll tell you what, I'll put the motion out there to continue this until I grow hair back". The motion to postpone until September passed. Throughout the public testimony Commissioner Grande asked, "Do you think this is a solution looking for a problem". There was even one remark from Commissioner Grande to one of the people testifying, "Do you have a problem with Karl Marx?" The comment about it seeming obvious that Troutdale didn't like the draft proposal showed tremendous disrespect to the work put in by the CAC, which I thought was supposed to represent Troutdale, not to mention the original request by City Council. As for how elected City Council members deal with a situation where an appointed commission feels it knows better than the City Council or CAC, will depend on whether you feel the Planning Commissioners are in fact the authority on what you want and that they know what is best for Troutdale. Lastly, my offer to provide a solution. During the meeting one of the Planning Commissioners, not Commissioner Grande, commented that they couldn't tell the difference between an 8,000 and a 10,000 square foot lot even with identical homes placed on them. They went on to say they lived in a neighborhood where 8,000 and 10,000 lots were side by side and there was no visible difference from the street level. My first reaction was pure horror and disbelief that a planning commissioner couldn't notice a 2,000 foot difference in lots with identical homes on them. But that comment gave me any idea for a workable solution to R-10 developments where 3

out of 30 homes are on 10,000 square foot lots. Basically the idea is to require 50% of homes not directly adjacent to a VECO to meet the R-10 zoning without variances. The benefit to the land owners would be greater variances on the other 50%. The outcome being either developments with a mix of areas within the subdivision, or 8,000 square foot lots next to 10,000 square foot lots providing the look of R-10. I've asked for feedback on this idea from a variety of people including councilors from nearby cities, planning officials from other nearby cities, and even local land owners, all to a surprising positive response. In fact, there are other cities in the Portland Metro area that have a nearly exact development code as my idea. So here is my offer. At my own expense I will hire a planner to write a draft proposal incorporating this idea. My only condition is that it not be allowed to be buried by the Troutdale Planning Commission. There is also one last item I need to bring to your attention. During the same July 23rd Planning Commission hearing there was a person testifying who repeatedly verbally attacked staff by name, specifically Elizabeth. This went on for 5-10 minutes without the Commission stopping it. Finally, it was Rich who intervened and brought it to close. I would like to remind Council members that Elizabeth does your bidding, and for the Commissioners to not intervene speaks volumes to their disrespect and attitude. To be fair, there were a couple brief comments made by Commissioners during the verbal attack, but the person testifying just kept going and the Commissioners didn't take control of the situation.

Peter Metzke stated I was also at the July 23rd meeting. As a property owner, not being notified of potential land change which affects my property value by more than half of its value, I think is certainly not in the realm of fairness. To not even be allowed to be a participant, to not be notified, to not have any recognition of what that impact is to me as a property owner is unfathomable in my mind. I was certainly not the only one that was not notified; there were other property owners that were present at the meeting that had less than 7 days notice of the meeting that had to get attorneys in short order. Certainly what the CAC presented was crude, and from any point of view it did not seem to carry the verbiage that any of the participants on either extreme wanted. Clearly, there are aspects of that plan that are nothing more than a seizure and that take property. Anybody that has any property that spans any waterway that has access to the waterway is losing that dimension of their property and is therefore excluded from their property dimensions for any allocation or any further planning. It is a seizure of property in part. When I bought my property I had to pay for it; I couldn't just seize it from the prior owner. There are definitely items of fairness which are not addressed in that proposal. I think that some of the comments that Ms. Glantz made were not entirely fair or representative of the meeting. Other than Ms. Glantz, there were no other positive speakers of the proposal; every other speaker was against the proposal and listed significant reasons why. Attorneys were present and made much more elegant statements than I have just presented right now.

Mayor Thalhoffer stated the Planning Commission is in the midst of this hearing and they will proceed with it and then it could very well come before the City Council. There will be additional opportunity to testify to this issue.

Ted Copher stated I own Tax Lot 100 down on the river. In 2000 we didn't agree with what the City did; at that time and they moved the high water lines, which have never been

marked. I have no idea what they call the high water mark on that piece of property. But now, according to what I understand, they are going to take some more of that property. Pretty quick I won't have any lot other than where the house is. I think there ought to be a lot of consideration before that piece of land is taken away completely.

Mayor Thalhoffer stated this is still being considered by the Planning Commission and it will probably be coming to the City Council and you will have an opportunity to speak to that again.

Sandy Glantz stated I think the reason people are here before you is they are feeling that they may not have that chance. The proposal that was presented ended up being kicked back with no solution; only housekeeping matters coming back. It is not being addressed.

5. PUBLIC HEARING / APPEAL: An appeal of the Planning Commission's denial of a major modification of an existing conditional use approval to allow construction of a secondary access driveway across property to the southeast instead of replacing an access bridge across Beaver Creek that was originally required of the RV Park at 633 E. Historic Columbia River Highway.

Mayor Thalhoffer stated before we get started I believe that Mr. Kearns would like to make a request.

Daniel Kearns, Attorney representing the applicant, stated I was brought into this matter two weeks ago after the Planning Commission had decided on this application to amend a previously issued conditional use permit (originally issued in 1992) to change one of the conditions of that permit to have a secondary access in a different location, which the Planning Commission denied. I met with the owners approximately two weeks ago and read over the Planning Commission's decision and saw that the staff had recommended approval and that the applicant should obtain a traffic study to determine if this new access point is safe and if it would meet all of the County dimensional standards for sight distance and access spacing. Staff's recommendation was those should be required as a conditional approval, which is an acceptable way to go. The Planning Commission thought that they couldn't approve it without having that information upfront. Looking at this I really couldn't disagree. I advised my client to retain a transportation engineer to respond to what the Planning Commission wanted to know and to provide that to the City Council on appeal so the City Council can make a full decision, and my client could then confirm if it could meet the County standards. We have retained a traffic engineer, Dan Seeman from Kittelson & Associates, who is here this evening, but he could not have a report ready in time for this meeting so we are asking for a continuance of this matter to allow Mr. Seeman to look at the impacted intersections, how it would affect vehicle trip generation, sight distance, and how circulation would work on the site. Information that is useful to my client in designing this, useful to the people who he is going to be acquiring the property from and useful to the City Council in deciding. This site is approximately 12 acres and it is basically an island. As the City Council looks to the future and potential redevelopment of this site, does it make sense to have two bridges right next to each other as the only access to this property or would it make more sense to have a different access to the site. On that basis, I am asking for a

continuance of this matter. Our request is for a continuance to the first meeting in October which I believe is the 14th. Mr. Seeman is here to answer any questions you might have and he can provide you with some of his preliminary views of the site, the feasibility and the safety of this access point and he can describe what will be in his report.

Mayor Thalhoffer stated this is a request for a continuance. Mr. Seeman, would you come to the table please.

Daniel Kearns stated if you are inclined to deny the request for the continuance we are prepared to go forward with what we have, but I think we would all benefit from the information.

Councilor Daoust stated I know what the continuance request is; I don't have any questions.

Councilor Kight stated I would rather wait until we have all of the information instead of getting bits and pieces, which I think would delay the process and we would end up being repetitive and redundant in our process.

Councilor Ripma stated you don't even have permission to build this other access. That is the purpose of the appeal. The traffic study is a County thing. The staff recommendation was to condition any approval on getting whatever you need from the County, including the traffic study. There were plenty of other grounds for the Planning Commission's decision to deny the request at the time. I don't have any questions; I would prefer to move forward.

Councilor Thomas stated I don't have any questions; I wouldn't mind moving forward tonight.

Mayor Thalhoffer stated I wouldn't mind moving forward tonight but I think that we ought to continue the hearing to a time when the traffic engineers report would be available. It seems strange to me that we have a request from Multnomah County for a traffic study and so far the Planning Commission hasn't reviewed a traffic study. I think we need a traffic study. I think that is the only intelligent way to approach this issue. It is okay with me if we go ahead and have a hearing tonight and hear from the folks who are at the meeting tonight and then have the traffic study at a continued hearing on October 14th for our consideration. I certainly wouldn't want to make any decision tonight without a traffic study.

Councilor Canfield stated I don't have any questions. I agree with Councilor Ripma, the Planning Commission gave multiple reasons for denial and I would be in favor of moving forward with the hearing tonight.

Councilor Kyle stated I don't have any questions, but I don't have a problem granting extra time so that we can have a traffic study and have all of the information at once.

Councilor Kight stated I don't see any problem collecting all of the information so that we can make an informed decision.

Councilor Ripma stated I think we could move forward with the public hearing tonight and when we are done then we could decide what we want to do, including making a decision tonight or continuing the hearing. Could we do that?

David Ross, City Attorney, stated you can hold the hearing and you can make a decision later on if you are going to continue it. I believe if the appellant requests that the record be kept open for additional information to be submitted, that has to be honored.

Councilor Ripma stated but we wouldn't have to wait for the traffic study on October 14th if the majority of us didn't want to. Holding it open, what time is required for that?

David Ross replied that is a minimum of seven days.

Councilor Kight stated we could go through this whole process tonight, make a choice or decision which would supersede the information we would receive from the appellant, is that accurate?

David Ross replied that is somewhat accurate. If the appellant requests that the record be kept open, I think you have to do that.

Councilor Kight asked and we could not go forward and make a decision?

David Ross replied that is correct.

Councilor Ripma stated I am suggesting that we move ahead with the public hearing. The public is here, lets hear from them.

Councilor Kyle stated but we can not make a decision tonight, is that what I just heard.

Councilor Kight stated so we can hear the testimony from the folks who are here, but when the traffic study comes back we are going to go through the process all over again.

Mayor Thalhofer stated or we can just confine it to the traffic study.

Councilor Ripma stated or should we happen to agree with the Planning Commission there won't be a need for a traffic study, right.

Councilor Canfield stated lets have the hearing and make a decision on what to do after the hearing.

Councilor Daoust stated if I heard correctly, they are asking for a continuation. Are you requesting that right now?

Daniel Kearns replied yes.

Councilor Ripma stated but we don't have to grant that right now. Rich said we could hold the hearings and then decide whether to grant it or not. That is what I favor doing.

Councilor Daoust stated our attorney said if they request it we have to honor it.

Councilor Ripma stated no, if they request that the record be held open at the end, we have to honor that, correct?

David Ross replied correct.

Councilor Ripma stated we do not have to make a decision.

Councilor Canfield stated so we can hold the hearing without making a decision.

Mayor Thalhoffer stated and hold it open for a traffic study.

Councilor Kight stated either way we are going to repeat the process.

David Ross stated the difference between a continuance and holding the record open is that with a continuance we would come back for another hearing and people would be allowed to present any new evidence or rebut evidence and it would be wide open. If you hold the record open when you reconvene then the testimony would be limited to that which was submitted, presumably the traffic study, after the record was left open.

Councilor Kight stated so we are limited the second time around.

David Ross replied right.

MOTION: Councilor Ripma moved to go forward with the hearing and then render a decision or decide to continue at the end. Seconded by Councilor Canfield.

Councilor Ripma stated I think this is the fairest way for everyone, including the public who is presumably here to speak.

Councilor Canfield stated I think it is okay to hold the hearing at this point because everyone is here to testify and when and if we decide to keep the hearing open for a traffic study at that time all of the conversation at the next meeting would be limited to the traffic study. Everyone will still have a chance to address all of the information just at different times.

Councilor Kight stated we are going to get this thing fragmented. I understand that the folks are here tonight to give testimony, but then we are hamstrung on the 14th by focusing only on that piece that involves the traffic study and we can't talk about the rest of it. That is going to hamper the discussion. I would rather see the whole package come together. The folks can give their testimony but I would like to see the

whole package and then talk about it based upon all of the information and then make an informed, intelligent decision.

Mayor Thalhoffer stated after we get the traffic study. That is what I suggested.

VOTE: Councilor Daoust – Yes; Councilor Kight – No; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhoffer – No; Councilor Canfield – Yes; Councilor Kyle – No.

Motion Passed 4 – 3.

David Ross, City Attorney, stated this is being processed as an appeal of a decision rendered under a Type III quasi-judicial land use proceeding in accordance with provisions in the Troutdale Municipal Code. A staff report has been prepared for this matter and made available seven days before this hearing. The staff report identifies the approval criteria that apply and analyzes those criteria. An appeal of a decision rendered under a Type III procedure is conducted as a de novo hearing, which essentially means that new information may be introduced that was not presented at the Planning Commission hearing. The procedure that the City will utilize for this hearing is as follows: 1) staff will present a staff report; 2) the Mayor will open the public hearing; 3) the appellant will be given an opportunity to present information and respond to City Council's questions; 4) anyone who wishes to testify will be given the opportunity to do so; 5) the appellant may present rebuttal testimony if necessary; 6) after the testimony has been submitted, Council will discuss the proposal.

David Ross stated if you are going to testify make sure that you have signed in and give your name at the beginning of your testimony so that the City has it in the record. If you are going to submit exhibits such as letters, reports, or pictures, please identify the exhibit for the record and confirm that you want it included in the record before you distribute it to the Mayor and Councilors. Your testimony and exhibits should address the applicable approval criteria. If you believe that other criteria apply in addition to those that are addressed in Exhibit B of the staff report, you must identify those criteria and explain why you believe that they apply to the proposal that is being considered. The Mayor may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials at any length while the public record is open. After all of the testimony has been submitted the Mayor will close the public hearing. If the City Council makes a decision with which you disagree, any issue you want to raise on appeal has to have been raised for the City Council's consideration. Failure to raise an issue on the record with statements or evidence that are sufficient to afford the City Council and all parties the opportunity to respond to the issue will preclude an appeal on that issue to the Land Use Board of Appeals as well as an action in Circuit Court for damages. That summarizes the procedure. Before the Mayor begins with the staff presentation, do any City Council members or the Mayor need to disclose any conflicts of interest, ex-parte contacts or bias?

Councilor Ripma stated I was present at the Planning Commission when the original conditional use permit hearing was held, I signed the minutes of that Planning Commission

decision. I don't believe that in any way would affect my ability to be fair and render a fair decision.

Councilor Canfield stated I have been on the RV bridge many times watching the wildlife, so I am very familiar with the area. I have also had a discussion with Glenn White and Diane Castillo-White and they showed me roughly where the proposed road would go. I do not believe that these contacts would have any affect on me making a fair decision.

Councilor Kight stated I have also had contact with the Glenn White and Diane Castillo-White as to whether or not they would be willing to sell their property to Mr. Kaiser, just a clarification based upon the notes that we received from the Planning Commission. In no way do I think that would affect my decision on this particular process.

Councilor Thomas stated I also spoke with Glenn White briefly today about what the proposal was and where the property might be crossed for the secondary access. I don't think that would hinder my decision.

Councilor Kyle stated I have also had discussion with the Whites.

Mayor Thalhoffer stated so have I. I am not sure that anyone here hasn't had discussions with the Whites. If you are involved with SummerFest you know exactly where the parade ends and right across the street from Glenn Otto Park is the White property and a lot of people were over there parking their cars. I don't feel that my understanding of that piece of property will be a problem for me to be fair and impartial.

Elizabeth McCallum, Senior Planner, stated we have before us an appeal of a decision by the Planning Commission (PC). The appellant is Robert J. Kaiser, the managing member of the Sandy Riverfront RV Resort LLC. The property owners of the overland access are Glenn White and Diane Castillo-White, they are not an appellant, they are an affected party because they are the property owners of the proposed location.

Elizabeth McCallum showed the Council a PowerPoint Presentation (copy included in the packet). The RV Park is located between the Sandy River and Beaver Creek. Access to the park was approved in 1992 with two bridges over Beaver Creek. The property use to be a sand and gravel operation and there was one bridge over Beaver Creek to the property and then a new bridge was built. So the issue before us is, instead of building a replacement bridge for the wooden bridge that has been removed, would overland access in this approximate location (shown on slide 3) be appropriate. The red circled area (on slide 3) appears, from the original RV Park layout, to be a stub street to the White-Castillo property. However, there was never an access easement granted by them so that was never developed as an access to the site. Looking at our appeal standards from the Troutdale Development Code (TDC), a Type III procedure was held before our PC and that is what is being appealed. Our code says that it is appealed to the City Council by an affected party by filing an appeal within ten days of notice of the decision. The notice of appeal shall indicate the decision that is being appealed. The applicant, Robert Kaiser, did submit his appeal within that time period. The decision of the PC was mailed June 26, 2008 and the appeal

was submitted on July 7, 2008, so that standard was met. In addition, an appeal of a decision rendered under the Type III procedure shall automatically be conducted as a de novo review and be subject to a de novo hearing. A de novo procedure is a quasi-judicial public hearing. It requires notification to property owners within 250' of the site, to the RV Park residents, and to interested parties who testified at the PC hearing on July 24, 2008. A notice was published in the Gresham Outlook on August 2, 2008 for this hearing. The record for the de novo hearing is in the packet as Agenda Item #5.

Elizabeth McCallum stated appeal requirements under TDC 16.290 (Slide 8) states that a notice of appeal shall contain: 1) An identification of the decision sought to be reviewed, including the date of the decision; 2) A statement of the interest of the person seeking review and that the person was a party to the initial proceedings; 3) the specific grounds relied upon for review including an explanation of the errors the person seeking review believes exist in the decision that is being appealed. The appellant's notice of appeal statements (Slide 9) include: 1) The PC has erred in its June 26, 2008 decision by not adequately taking into consideration the condition of approval requiring a traffic study addressing impacts, if any, associated with the proposed overland access. Any mitigation identified through this traffic study will adequately address concerns raised by testimony at the June 18, 2008 public hearing involving congestion and driveway spacing standards; 2) Further, the PC decision errs by concluding that the overland access proposed through this application will substantially limit the use of surrounding properties. There is no evidence in the record to support this conclusion.

Elizabeth McCallum stated in accordance with hearing procedures, the PC did have the option to leave the record open so that the applicant could have submitted a traffic study in response to concerns about access, but that was not their decision and the applicant did not request that the record be left open.

Elizabeth McCallum reviewed the summary of the RV Park land use applications (Slide 10) that were approved by the City when the property was zoned Central Business District (CBD) Subarea C. In 1992 the first application was submitted for a 104 space RV Park. The plan was approved to include two bridges over Beaver Creek, which was specified in Condition #9 of that decision. Also in 1992 there were a couple of revisions requested by the applicant. A revision or modification was requested to allow phased development and that was approved in September 1992. Then a second modification was requested to have 112 spaces at the park and to rearrange traffic flow within the park, which was approved by the PC in November of 1993. A third modification to the RV Park was for a time extension to complete the improvements, which was approved in April of 1994. The Sandy Riverfront RV Park was originally approved by the PC with the name of Columbia River Gorge RV Park and Ted Copher was the owner and applicant at that time. There were also some additional subsequent modifications (slide 11) including: a modification to add a bath house which was approved in 1996 by the PC; in 1998 a modification of the RV park was requested by Ted Copher to add 30 additional RV spaces on the adjacent tax lot that he owns north of the improved area, this was denied by the PC; Mr. Copher brought that to Council on appeal and the Council denied that in October of 1999.

Elizabeth McCallum stated subsequent to the development of the RV Park in the CBD Subarea C, the City went through amendments to the zoning district map to adopt Town Center zonings (Slide 12). In July of 1998 this particular site was rezoned from CBD Subarea C to Mixed/Office Housing (MO/H), which is also a commercial zone. That was a legislative map amendment that was adopted as part of your Town Center Plan. That change eliminated RV parks as a permitted use or a conditional use. As a consequence the RV Park now has a status of a legal pre-existing non-conforming use.

Elizabeth McCallum stated Ted Copher sold the property in 2004 and it was renamed Sandy Riverfront RV Resort. In April of 2004 the current owner applied for a property line adjustment between Tax Lot 100 and 200 affecting the RV Park and a house on Tax Lot 100 so that both bridges are now on Tax Lot 200. In August of 2004 bridge repairs of the wooden bridge were initiated by the new owners. In September of 2005 the wooden bridge was removed. In February of 2006 a Type I Site Design and Review (SDR) and Flood Hazard Permit was issued for a replacement bridge over Beaver Creek. In June 2007 a second Type I SDR and Flood Hazard Permit for a replacement bridge was approved. In January of 2008 building permits for the replacement bridge were issued. In May of 2008 the requested modification for overland access was applied for by the applicant to eliminate one of the bridges and to provide overland access. The PC denied that modification on June 18, 2008.

Elizabeth McCallum stated on page 2 of my staff report, with respect to staff's recommendation in that matter to the PC, I write that absent any letters opposing the overland access to the RV Park received by June 11, 2008, the date the staff report was prepared for the PC (Exhibit F), staff recommended approval of the overland access, with conditions. However, one e-mail and one letter in opposition (Exhibits D and E) were received after June 11, and during the hearing before the PC there was testimony in opposition, which you can find in the minutes (Exhibit C). The PC opposed the change 6 to 1 and directed staff to draft findings for denial. The draft Findings were prepared and sent via e-mail to the Planning Commissioners after the hearing was closed. The draft was modified to address comments raised by Commissioners and finalized. The PC Chair, Daniel Haskins, signed the Final Order on June 18, 2008. The PC's Findings of Fact and Final Order are the findings that address their reason for their denial, not the staff report prepared for them. In reviewing their decision, the reviewing body may by order affirm, reverse, or modify in whole or in part, a determination or requirement of the decision that is under review. When the reviewing body modifies or renders a decision that reverses a decision of the hearing body, the reviewing body, in its order, shall set forth its findings and state its reasons for taking the action encompassed in the order. When the reviewing body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it. I have not prepared draft findings for you in this matter as they are only required if you modify or reverse the PC's decision. If you uphold the PC's decision then their Findings of Fact and Final Order would be written for your signature. If it is the Council's determination that new findings are necessary to reverse or modify in whole or in part the PC's decision, staff will prepare those for consideration at the next Council meeting based upon the outcome of this hearing. There are two options outlined in my staff report to you. Option A - uphold the PC's decision by adopting their

Findings of Fact and Final Order, and impose a deadline for the completion of the bridge. Option B – Approve the overland access with conditions to address the following issues raised at the PC hearing: 1) Prepare and submit a traffic study to Multnomah County Transportation. Comply with any conditions Multnomah County Transportation imposes with respect to half-street improvements, dedications, location of the access and any traffic mitigation, as applicable. 2) Prepare and record ingress/egress easements over Tax Lot 200 on Tax Assessor’s Map 1N3E25DB for existing and future uses on Tax Lots 100 and 300 on Tax Assessor’s Map 1N3E25DB. 3) Impose a deadline for completion of the overland access. Option B would require specific Findings of Fact and Final Order to be adopted by the Council which would be different from what the PC’s Findings are.

Elizabeth McCallum stated the PC considered conditional use Criteria B, C, D and H. Their Findings are found in Exhibit B of your packet. However, if the Council or others believe other criteria apply, those may be considered as part of the de novo hearing. The conditional use criteria of the TDC are as follows: **Criteria A** – The use is listed as a conditional use in the underlying district, or approved by the PC for consideration as a conditional use (Slide 18). Criteria A was not considered by the PC because the use is no longer listed as a conditional use in the underlying zoning district. The RV Park is a legal pre-existing non-conforming use in that it was approved when the use was permitted as a conditional use and was built in compliance with the conditional use approval. The request does not enlarge the use. The overland access is actually in the Neighborhood Commercial zoning district in the White-Castillo property, so the road can actually serve any permitted or conditioned use. **Criteria B** – The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features (Slide 19). The PC found that the location of the proposed overland access road may not comply with Multnomah County Transportation driveway spacing standards, may cause traffic impacts, and is opposed by some property owners in the area and some residents of the RV Park as expressed in the finding for Criterion H. **Criteria C** – The proposed use of the site is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use (Slide 20). The PC found that this criterion is not met for the following reasons: a) there have been four years of delay by the applicant to bring the access to the RV Park back into compliance with the original conditional use approval; b) The location of the proposed overland access road may not comply with Multnomah County Transportation driveway spacing standards. A traffic study was requested by the County, this will only further delay compliance; c) The location of the proposed overland access road will likely increase congestion on the highway in front of Glenn Otto Park and at the Sandy River Bridge approach. **Criterion D** – The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district (slide 21). The PC found that this criterion is not met. Based upon written comments and public testimony at the hearing in opposition to the overland access (summarized in Finding #14), the PC concludes that the proposed change will alter the character of the surrounding area in a manner which substantially impairs the use of surrounding properties for the primary uses listed in the underlying district. Particularly, without two bridges to the RV Park, current access easements over two bridges granted to Tax Lots 100 and 300 on Tax Map 1N3D25DB are not met. Use of Tax Lots 100 and 300, particularly redevelopment

of Tax Lot 100 with uses allowed in the MO/H zoning district, would be impaired as the overland access would require travel through the RV Park, which is not designed to carry that additional traffic and the applicant testified that his preference was that this overland access be restricted to emergency use only. **Criterion E** – The proposed use will provide adequate open space, landscaping, and aesthetic design to mitigate any possible adverse effect on surrounding properties and uses (Slide 22). This criterion was not considered by the Planning Commission as open space and landscaping are not typical components of a private driveway. **Criterion F** – The proposed use will not result in use of the land for any purpose which may create or cause to be created, any public nuisance including, but not limited to, air, land, or water degradation, noise, glare, heat, vibration or other considerations which may be injurious to public health, safety, and welfare (Slide 23). This criterion was not considered by the PC as the overland access in itself is not a conditional use and a private street or driveway at this location could be used for any permitted use. However, a driveway in this location may possibly create a traffic hazard; this was considered under Criteria D. **Criterion G** – The proposal satisfies the Goals and Policies of the Comprehensive Land Use Plan which apply to the proposed use, as well as the purposes of this section and applicable provisions of this code (Slide 24). The PC did not consider criterion G (Elizabeth McCallum reviewed the Comprehensive Land Use Goals, which are shown on Slides 25 through 35). **Criterion H** – Final conditional use criterion. Owners of property within 250' of the boundary of the subject property have been notified of the hearing (Slide 36). Written notice of this appeal hearing was mailed to property owners within 250' and hand delivered to residents of the RV Park on July 24, 2008. All interested parties of record were sent a packet on August 7th. As of the writing of my staff report before you, no additional written comments were received. However, in your packet the very last item under Agenda Item #5 is an e-mail that was received by the City Recorder on August 5th. Subsequent to that you have before you this evening a letter dated August 6th submitted by Mike and Cathy Lamothe who are residents of the RV Park.

Councilor Daoust asked what is the condition of the current bridge?

Elizabeth McCallum replied I am not qualified to address that question.

Councilor Daoust asked is there anyone here that can answer that question that may testify later?

Elizabeth McCallum replied the applicant may be able to address that.

Councilor Daoust asked what are the reasons for the delay in constructing a new bridge?

Elizabeth McCallum replied the applicant has expressed at various times that time delays were due to inability to get engineers to come up with the proper bridge design. I would prefer that you have the applicant respond to that question.

Councilor Daoust asked could you clarify whether the overland road access is for emergency use only or would it be a standard designed road.

Elizabeth McCallum replied it would be a private road; it would not be a public road. The original recommendation to the PC is that it would be full access. It could be gated for security purposes but it should be full access, ingress and egress, not just emergency access.

Councilor Daoust asked when you say a private road, owned by who?

Elizabeth McCallum replied it would be owned by the applicant, Sandy Riverfront RV Resort LLC. The owners hope to acquire and purchase that land from White-Castillo.

Councilor Daoust asked do we have willing buyers and willing sellers for that purchase?

Elizabeth McCallum replied that has been the testimony of the applicant.

Councilor Kight asked in 1992 the owner of that property was required to build a bridge. That was sixteen years ago, why wasn't he required to build that bridge?

Elizabeth McCallum replied there were two bridges until 2004.

Councilor Kight asked did they examine the bridge to see if it was adequate?

Elizabeth McCallum replied I was not here in 1992.

Councilor Kight stated since 1992 the owner has built additional buildings, a bath house etc. correct?

Elizabeth McCallum replied yes there were improvements made at the RV Park until it was sold in 2004. The current process, which I believe was the process at that time also, was that when you have a land use approval then the necessary building permits are submitted and issued by our building department. My understanding is that there was full occupancy provided for the RV Park based upon both bridges meeting building codes at that time.

Councilor Kight stated there are two points that the appellant made relative to the decision by the PC which are outlined in the letter to you. One was there was no traffic study and the second is there is no evidence of record concluding that the overland access would substantially limit the use of surrounding properties. In your opinion what is the validity of those? Are they valid or not?

Elizabeth McCallum replied I would offer that is for your determination this evening.

Councilor Kight asked has there been any information that has validated or invalidated what we have before us as far as the two areas that the appellants did not agree with the PC?

Rich Faith, Community Development Director, replied all we have received since the PC Findings were adopted is the appellant's letter. The rest will have to be sorted out this evening.

Councilor Ripma asked if we approve the PC's decision, that the bridge has to be built, there would be no need for a traffic study?

Elizabeth McCallum replied that is true.

Councilor Ripma asked is it also true that if the second bridge isn't built the development of some of the undeveloped property would require traffic to move all the way through the site, so that would affect the character of the neighborhood?

Elizabeth McCallum replied yes there would be some affect.

Councilor Kyle asked with only one access, has the fire department complained about that?

Elizabeth McCallum replied I don't have any written specific complaints. Based upon the file from the original land use approval, having two bridges was a need raised by the Fire Marshal.

Councilor Kight stated what is driving this entire process is the fact that some one has determined that there needs to be a second bridge. Who is the driving force behind that? Is it a safety issue with the fire department; is it a traffic issue?

Elizabeth McCallum replied based upon the original approval in 1992, my understanding is that it was determined that the then existing wooden bridge would either have to be widened to accommodate two-way traffic plus a pedestrian access or build a second bridge so that you have ingress/egress on two different bridges as well as pedestrian. It came about to address transportation needs as well as safety for emergency ingress/egress.

Councilor Kight stated that determination was made sixteen years ago. Since that time people have been living there, people are coming and going on a regular basis. Is it still in your opinion a necessary requirement to have two bridges?

Elizabeth McCallum replied I have not received any statement from the Deputy Fire Marshal or the Fire Marshal that one bridge, without an overland access, is sufficient. My understanding of what I've heard is that we need to have either two bridges, or a bridge and an overland access.

Councilor Kight stated the emergency services are absolutely adamant about having two bridges, is that correct?

Elizabeth McCallum replied no, either two bridges or one bridge and overland access.

Councilor Kight stated and that is their written position.

Elizabeth McCallum replied it was their written position in 1992. The Deputy Fire Marshal has responded to the current proposal for the overland access as an alternate and based upon their comments, that is acceptable to them.

Councilor Thomas stated in looking at the conditional use permit that was approved in 1992, when I read through it what came to my mind is that it was required that they have two bridges.

Elizabeth McCallum replied yes.

Mayor Thalhoffer called for a break at 8:30pm and reconvened the meeting at 8:45pm.

Mayor Thalhoffer opened the public hearing at 8:45pm.

Daniel Kearns, Attorney representing the applicants, stated I brought with me a memo and I will speak from it. I understand that the Council does not have a copy of it so I will be speaking from it and hitting the high points of it. Let me begin with a brief chronology of important dates as it relates to the basis of the PC's decision in this case to give you some background. The permit was initially issued in 1992. The applicant at the time was Columbia Gorge Holdings, Inc. The condition that we are talking about is Condition #9 which reads, "The existing bridge must be reconstructed/widened to accommodate two lanes of traffic flow. Continuous access to the existing properties must be retained during this reconstruction. Plans for the bridge construction must be designed and stamped by a registered engineer". It is my understanding that the applicant, Columbia Gorge Holdings, Inc., built the bridge and it was completed in 1993. This seemed to be a big point at the PC hearing. Commissioner Grande seemed to reiterate, why wasn't this bridge built after fifteen years? It was built the next year; there were two bridges at that point. The bridge that was demolished in 2005 was a 1930's vintage. As of 1992, immediately the condition was fulfilled. My clients purchased the property in December of 2004. Again, Commissioner Grande's admonition of why didn't you build this bridge, why have you waited so long; my clients didn't own the property until 2004. When they first came on the property they noticed this wooden bridge that appeared to be in very poor condition and they immediately started looking at repairs. They had an engineer inspect it and the engineer determined that it retained only 30% of its structural integrity; this bridge has got to go. Immediately they started looking into that. In September of 2005 my clients had already obtained a demolition permit for the old bridge and had it removed at that point. So in 2005 we are down to the single bridge and it is of a 1992 era so there is no indication that it is structurally unsound; its lifespan hasn't been reached yet. At that point they engaged a number of engineers and geologists and geotechnical engineers to look into designing the new bridge. Keep in mind that in 2005 we were dealing with the Endangered Species Act, strict FEMA regulations, wetland regulations, and riparian protection regulations. This bridge would have to span the entire riparian area; an 80' span. The question is how would this bridge be supported? We have with us this evening Jennifer Beattie one of the primary engineers on the project who can describe the issues involved in the span as well as the complications of the geotechnical aspects of the footings to support this span.

Jennifer Beattie, CIDA Architects and Engineers, stated I am in the architectural field, our engineer is not here tonight. I am the project manager on this project.

Daniel Kearns stated we have two letters to submit at the end of the hearing tonight that are stamped by engineers.

Jennifer Beattie stated we have a letter from a structural engineer that is in my office explaining the challenges for this project and also the engineer that we brought on for geotechnical explaining the concept of the footing requirements and the restrictions. I want to specify that when we were brought on the Kaisers had obtained a building permit. We were brought on in 2006. The contractor that was on board to build the bridge came to us and said this is unbuildable. The bridge that the Kaisers paid to have designed was an unbuildable bridge. We were brought on because we have done other bridges with this particular contractor and because we are very pragmatic in how we look at things. We sat down and said try this, try this and we actually sent him back to the original engineer in hopes to save the Kaisers some money and keep the process moving very quickly. They came, almost immediately, back to us and said we need you to be the stamping engineer on this project. So we took it over and almost immediately after that we got the geotechnical report that they had paid for. That geotechnical report came back with using a system called Geopiers under the footings. We immediately got people on site, the Geopiers company, and it turns out that although the system would satisfy the need for the liquefaction for the footings, they could not get their equipment into the site because it is a very constrained site. We ended up going to a different geotechnical engineer that would provide us alternate systems. The bridge is flanked by easements, another bridge, the site access restrictions, and the issues with liquefaction of the soil. The existing abutments for the old wooden bridge were left in place because if you remove them you get into all sorts of other environmental issues that you try to stay away from, so those abutments have remained. That required designing the new bridge to span across those abutments, leaving those abutments and putting new abutments in, which requires a much larger bridge to span from abutment to abutment. You get a bridge that is significantly longer in span than you would hope to have so that leads to the cost of the bridge but more importantly leads to the weight of the bridge. I work more with site layouts and building layouts. In my professional opinion the concept of going over land rather than over another bridge is a significantly better fire, life and safety response to the issue than having two bridges that are adjacent to each other. The two bridges adjacent to each other respond to requirements in 1992. When you design a building you try to separate your exits so if something were to happen on one side you could still get in. At this point we have two bridges that are right next to each other so you are not allowing that separation and that is the beauty of the overland access and why I would promote that as the resolution to this. If there were any kind of incident they could get to that site from two different means of access rather than two points at the same spot. In hearing what Ms. McCallum said, the fire marshal has said that overland access is acceptable. I agree with that.

Daniel Kearns stated the Fire Chief, Mike Kelly, submitted an email indicating his acceptance of the overland access with conditions such as the road designed and constructed to support 75,000 pounds. This has been reviewed by the fire department and I believe in 1992 it was emergency access that was driving the condition.

Jennifer Beattie stated there was a lot of discussion about delays. I personally can not speak to anything that happened prior to when I was brought on in 2006. Since 2006 it has been an active job in my office. We have worked a lot to resolve issues. I want to stress that we submitted plans, and in the time when I am not working on it, they are at the city. There was significant time when it went in for site design and review or when it went in for building review and we weren't getting responses from the building permit office like a check list; we would get one response and we would respond to it and submit it back in. We would get another question and we would submit it back in, so it took a significant period of time. I am not faulting them but I want to explain that it wasn't us just holding this; all of the components are taking time to accomplish. This timeline is pretty standard for bridges. In conclusion, I highly support that we get a traffic study and do the due diligence to find that there is a better answer to this problem than what we currently have.

Daniel Kearns stated delay appeared to be a primary reason the PC was upset with this proposal. It wasn't 15 years; it also wasn't 4 years. The demolition permit as I understand it was issued and the bridge was removed in September of 2005, so it has only been 3 years. Through two geotechnical engineers, two structural engineers my clients have been super busy and spending a lot of money to design this bridge. I think in 1992 it was a fairly simple operation given the regulations that existed at that time. But in 2005, there are a huge number of regulations. The seismic zone has been upgraded significantly and that affects all of the structural requirements for public facilities such as bridges. At the end of it all, my clients did obtain a building permit in January of this year. They also wanted to know the cost estimates of building this bridge and the uncertainties of the geotechnical aspects of it. The cost estimate was approximately \$500,000 for the first set of pilings. The geotechnical investigation as I understand it; went down 90' to determine how compacted and how solid the soils were. So, put in the first cluster of pilings for approximately \$500,000 and another \$300,000 if additional pilings were required. There was a huge factor of uncertainty in the cost of this. You would have to spend basically \$500,000 to decide whether the geology would support this and whether you would proceed with it. The advice that my client was getting was to look to an overland access road. My clients immediately went to talk to those property owners where the overland access is proposed. They are here tonight to confirm that there is a willing seller for this access. Again, as for the bridge, it is not a simple proposition to just slap in an access point because even though I understand you don't normally have a traffic study with these applications, the lack of a transportation study was the primary reason for denial of this application. Normally the staff's proposal would be the acceptable way to go where you obtain all of your county approvals after you have gone through the local land use process. So it is fairly unusual for a PC to deny a proposal like this. If you look at how the basis for denial was worded, "the location of the proposed overland access road may not comply with Multnomah County Transportation Standards". These are all kind of speculation. Also the second criteria, "may not comply with Multnomah County driveway spacing standards". If they don't meet the driveway spacing standards then the permit can not be acted upon and that is the way it goes with any permit holder. I represent quite a few developers and I always try to encourage them to get as much information ahead of time so they know where to put the access point. If you look at the White-Castillo property there are a lot of issues that come into deciding where to put this

access point. But the access can not be conveyed to my client until it is created through a partition and you don't want to go through the partition process until you know where to put the access point. Again, what seems like a fairly simple matter, once you put in a couple local regulations, a couple of lawyers and an engineer or two, it becomes a significant chicken and egg problem that in this case requires a transportation study. Let me address the basis for the denial. Under the second CUP criterion, this criterion is not met because the location for the proposed overland access road may not comply with Multnomah County Transportation driveway spacing standards and is opposed by some property owners in the area and some residents of the park. I would suggest to you that they're simply being opponents is not a legal grounds for denial of a permit. The possibility of not complying with the County standards, we have our traffic engineer here this evening who will provide his professional opinion as to whether it is feasible to meet those standards. Plus you also have in your record a memo from the County Transportation Planning Specialist, Ken Born, dated June 5th indicating that it appears to meet the County standards and he asks for a complete traffic study in order to document the specific geometrics of site distance, intersection spacing because that is how county transportation engineers think when they are being asked for an access permit. In any event, his memo does not indicate that there is any problem meeting these standards, you just have to document that. So I would suggest that there is adequate evidence in the record to show that it is feasible to meet those standards and in fact I would suggest the PC's decision is unlawful or in err because of that evidence. The other ground that is mentioned in the PC's decision related to this third conditional use permit criterion is four years of delay by the applicant to bring access to the RV Park. You decide if my client is dragging his foot or not. To date the engineers and geotechnical specialists have costs that exceed \$60,000 and he has a permit; I don't know if the permit is constructible but it will cost \$500,000 to get to the first step to see if the bridge is actually constructible. He has not been dragging his feet and he has certainly been spending a lot of money. Delay was one of the issues. In listening to the transcript of the PC preceding this was a big issue and the Commissioner who was leading the charge was saying why haven't you done this in fifteen years; it seems a reasonable thing to do. If he were correct about that it would be a reasonable position to take, but he is not correct. Again, location of the proposed access road may not comply with the County Transportation Standards. Our engineer is here today who will testify as to whether it is feasible. The location of the proposed overland road will likely increase congestion on the highway in front of Glenn Otto Park. This proposal is not going to increase vehicle trips. We are not increasing the number of spaces in the park; we are putting the second access in a different location. The trip generation will be the same. The question that you should be concerned about is, is it a safe location and is it a location that will function. The third basis for denial, the fourth criterion, is that the use will alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties. The focus of that finding was Tax Lot 100 and Tax Lot 300. Those property owners, I am told by Mr. Kaiser, both fully support this alternative access/secondary access because they have access rights over the bridge right now and I am here to tell you, to confirm that they will be given access rights over any new overland access that you might approve. These people will not be landlocked, rest assured of that. If there is any doubt a binding condition of approval, same as last time, is sufficient. I would argue that this also is not a valid, certainly not legally valid, basis for denial of this permit. Finally, the fourth ground relates to the eighth conditional use permit standard. The standard

that is alleged to be violated reads, "Owners of property within 250' of the boundary of the subject property have been notified of the hearing in writing." The PC's decision itself confirms that all required notice was given. Your planner tonight confirmed that all required notice was given. I would suggest to you that this condition, this requirement, this approval standard has not been violated and is not a legitimate basis for denial. In the findings it says that written comments were submitted to the city that are in opposition to the proposal. Number one, that is not sufficient to deny a permit just because there are opponents. Number two, this approval criterion just says that the city is required to give notice and the city didn't violate that and my client didn't violate that criterion. Their concerns pertaining to traffic impacts on the highway with increased trips on a two lane highway - there will be no increase in trips; we are not changing the use. Excess speed on the highway - traffic speeds already are quite low on this section where the overland access is proposed. You have constrained bridges on both ends and now you will have another access point. All of those are, what we call in the business, traffic calming and my observations and those of my client are that the affect is pretty much a traffic calming situation. So I would suggest that is a legitimate concern but I don't think that it will pan out or prove that way. Other concerns pertain to safety in the RV Park. Safety was an issue - it is not clear how to deal with it. It kind of goes to the original question of should it be a full public access, should it be a private driveway, should we gate it, or should it be an emergency access only. As I understand it, what staff recommended is that it not be a public access but yet a private driveway so it is not just limited to emergency vehicles. To address safety concerns of the people in the park it could be a key pad operated gate. Safety and security was a concern raised at the PC. In summary, the grounds articulated for the PC's denial are not supported by evidence in the record. In fact the evidence in the record, now as supplemented, shows the exact opposite. There haven't been any delays. My client has spent a lot of time, energy and money trying to map out this bridge and he has not obtained building permits to build this bridge. He can go forward; I don't know if it makes business sense to go forward with this bridge. You have heard testimony tonight from the designer of this that putting your two access points right next to each other is a dumb thing to do. If there is a flood or earthquake that compromises the integrity of these bridges, there is no access at all, and overland access doesn't have that problem. You heard from Ms. McCallum that the overland access is four feet higher than this bridge would be. It is out of the flood plain so you don't have flooding issues and it is a much safer, more secure and reliable access. So it strikes me as a better access than a second bridge right next to the current bridge. With that I would answer any questions you have.

Councilor Daoust stated so the steps are shaping up to actually build this new bridge. When would it be ready to be built?

Daniel Kearns replied I don't know if the current building permit is one that can be constructed based on what we know about the geology. It has been issued.

Jennifer Beattie stated we have a building permit. They can get the pilings (for \$500,000) and determine if it is viable.

Councilor Daoust stated the \$500,000 for the first pilings would be the pilings for the bridge right? It wouldn't be just to determine the feasibility of building the bridge.

Jennifer Beattie replied it would be for the bridge. But if they didn't meet the density requirements they could tell us to cram a few more between those pilings to get the needed density. What you are trying to do is get it so that the liquefaction isn't going to occur, so that the pilings will stabilize the liquefaction.

Daniel Kearns stated so they will put in that first set of pilings for \$500,000 and then test to see what more is needed to achieve the standard for stability for the foundation for the bridge.

Councilor Daoust stated so it is designed, you have the building permits, and all the environmental issues have been addressed.

Daniel Kearns stated we are avoiding wetland and riparian issues by spanning the regulated corridor of the stream.

Jennifer Beattie stated and we are leaving the existing abutments from the old wooden bridge in place.

Daniel Kearns stated in theory the bridge is an option. We are applying to modify this permit to have a different access because in our view it is not a preferred option for a number of reasons.

Councilor Daoust stated real briefly, those options are?

Daniel Kearns stated a secondary overland access that does not rely on a bridge is safer, more reliable, and less subject to structural compromise through earthquakes or floods. If something happens at that intersection on Historic Columbia River Highway it would flood both bridges whereas if you have access that is separated and one of them does not rely on a bridge, it is more reliable and less likely that both of them would end up being blocked at any particular time.

Councilor Kight asked Ms. Beattie is this bridge buildable?

Jennifer Beattie replied I can't answer that with 100% certainty. I believe that it is designed to the best of our abilities at this point.

Councilor Kight asked your company has built other bridges, right? In a rough estimate is that 10, 20, or 100 bridges?

Jennifer Beattie replied 10.

Councilor Kight asked out of those 10 bridges that your company has designed and engineered, were any of those unbuildable?

Jennifer Beattie replied none of them have the liquefaction issue.

Councilor Kight asked is there other ways to get around that liquefaction?

Jennifer Beattie replied the first and second geotechnical engineers explored probably a half dozen different methodologies to try to mitigate the liquefaction. We have what we feel is the most secure solution for that.

Councilor Kight stated we know that standards have changed, but lets focus on the bridge immediately to the north. Is that subject to the same liquefaction?

Jennifer Beattie replied we have not reviewed the conditions of the existing bridge, but it is on shallow foundations.

Councilor Kight stated since they are immediately adjacent to one another, one could draw a conclusion that they are subject to the same type of liquefaction. Would that be true?

Jennifer Beattie replied yes.

Councilor Kight asked are you aware that in the floods of 1996 there was 8 to 10” of water going over the current wood bridge? How would the construction of the new bridge be effected by similar type flooding?

Jennifer Beattie replied the new bridge was designed for the current flood level. I can not comment on the existing bridge.

Councilor Kight asked so the existing concrete bridge that is there now is going to be at a lower level then the one that would be built?

Jennifer Beattie replied from memory, yes.

Councilor Kight asked do you have any information on the current bridge regarding the weight capacity; can a fire truck cross it? Has anybody done a safety check on the current existing bridge?

Jennifer Beattie replied I can't speak to whether the owner has had an evaluation done on the existing bridge. I want to say that the standard went from 65,000 to 72,000 or 75,000 for the current weight requirements for a fire truck. When we researched fire trucks, that is an exceedingly high weight for a fire truck and there is nothing in this area that meets the 75,000, so therefore the original design of 65,000, which I think we were designing to just a few years ago, would still carry fire trucks.

Councilor Kight stated so what it would come down to is we would only have one legal access even if you built a new bridge.

Jennifer Beattie replied the existing bridge was designed to the standards at that time and is as sound as was required at that time. The new bridge is designed to the new standards.

But having an overland access and moving away from that existing bridge, for so many logical reasons, is a great safety decision.

Councilor Kight stated that negates the point of our conversation. Since you brought that up lets go to the access point. Am I to understand that the access point is actually a moving target; it hasn't been identified where that access is going to be. On the slide that Ms. McCallum showed us, it showed the access on the westerly most point. Am I to understand that it could be anywhere within the White-Castillo property?

Jennifer Beattie replied I haven't been retained to do the civil engineering on that part of the project. I would have to defer that question to the owners.

Councilor Kight asked the yellow area (on the slide) on the westerly most point of the White-Castillo property, is that the proposed exit route? Could that change based upon the transportation study?

Daniel Kearns replied I would assume so.

Councilor Kight stated the transportation study is apparently the missing piece. Am I right?

Daniel Kearns replied that is my impression.

Councilor Thomas stated you brought up a lot of points about what if an earthquake happened. Even if an earthquake were to happen, there is a possibility that could still be landlocked because every access point requires a bridge whether you are coming from the south or north side you have to either cross the Beaver Creek Bridge or the Sandy River Bridge.

Daniel Kearns stated it does appear to be an island. I think there is some validity to that view.

Councilor Thomas stated at one time, I am not sure of the exact year, but the bridge that is on Historic Columbia River Highway was standing by itself with no dirt on either side because a flood washed it all away. I understand about earthquakes, but if the big one happens we will have a lot more problems than one bridge falling down.

Jennifer Beattie stated if you design a building and you look at your exits, you try to put your exits at half the diagonal of each other so that you allow someone in an emergency to exit the building. The same concept can be applied to a site that is landlocked.

Councilor Thomas stated but it is possible to have that second bridge and negotiate an emergency access through the second piece of property, correct?

Jennifer Beattie replied I can't speak to that.

Mayor Thalhoffer asked will the existing bridge support a standard fire truck that we have in Troutdale today?

Jennifer Beattie replied that it is my understanding, yes.

Mayor Thalhoffer asked if you build a new bridge you have to lengthen the span; how far would that go inland to the easterly side, the RV Park side?

Jennifer Beattie replied our estimate is an 80' span from abutment to abutment.

Councilor Canfield stated in the PC testimony there was quite a bit of an exchange about the overland access being used by the tenants at all times. There were a lot of questions about a locked gate, emergency bolt cutters and that sort of thing. What is your current stand; is it going to be open access all of the time or will you have a locked gate there? What would be the situation?

Daniel Kearns replied I don't think we have a strong opinion one way or the other. Staff said that they don't want it to be a public dedicated access. You can hear what the people who live there have to say about security issues. I don't think it is smart to have it just as an emergency access only. I don't think that is what the residents would like. The best we can figure, taking all of these opinions, is that there would be a gate that would be opened with a keypad, so it would be the people who live there plus the in-holders who would have the combination for the keypad and they could come and go that way any time they wanted to. Plus all of the emergency service providers would have the ability to get through there as well. If there is a different or better proposal for that, we don't have a strong opinion about it.

Councilor Canfield asked and the reason for the keypad would be?

Daniel Kearns replied so that it is not locked, but it wouldn't be open to the public to come and go.

Jennifer Beattie stated it would be a keypad to get in but a sensor that would open for those going out.

Councilor Canfield stated one of the Commissioners at the PC hearing asked if you would have the same restricted access if you were to build a new bridge.

Daniel Kearns stated I don't think we have a strong opinion one way or the other. When there were two bridges there was no gate or lock, but it is right by the main office.

Councilor Canfield stated regarding the capacity for the fire truck on the bridge, I was looking at the Site and Design Review report from 2007 which quotes an email from the Deputy Fire Marshal that says the current bridge does not comply with the fire code requirement of supporting 75,000 pounds. Do you have any reason to dispute that?

Daniel Kearns replied we have never investigated that; I don't know how the Fire Chief would know. But I wouldn't be surprised if he is right.

Jennifer Beattie stated it is all designed to highway standards. A private bridge is designed to the same standard as any highway bridge crossing. Any highway bridge that was designed eight years ago would have been designed to the old standards. It probably isn't designed to the 75,000 but was it designed to highway standards, yes.

Councilor Kyle asked Jennifer, did you present your information to the PC?

Jennifer Beattie replied no.

Councilor Kyle stated I have lived very close to this park since 1996 and there have been a couple of times that there have been some trees that have fallen at those bridges and I am curious if the folks that live there were ever not able to get out of the park even when both bridges were there. Hopefully someone here tonight will be able to answer that. The existing bridge you said had shallow foundations, is that not allowed now?

Jennifer Beattie replied that wouldn't be allowed under current standards.

Dan Seeman, Kittelson & Associates, stated I have walked the site and I have observed traffic during the weekday PM peak hour, the highest hour of the day. I have evaluated site plans for the park and I have observed road geometrics, physical characteristics, and operational characteristics of the road in a preliminary basis. Based on what I have seen today, that proposal to construct an overland access is one that I was particularly interested in and concerned with. Based on my observations it looks as though an access could be placed such that it would meet County access spacing standards. The highway is designated as a major collector in the County's Transportation Plan and as such it has an access spacing standard, which is a separation between public road accesses or right-of-ways of 150'. A driveway could be placed to this facility that would meet that standard. It is also my observation that the site distance requirement would be met, and that would be fully documented. Based on my observations today, a safe access could be located onto the highway. It is my observation, based on observing traffic at the existing driveway to this site, that the level of traffic that passes by on the highway and also the traffic that enters and exits the site would meet the level of service, volume, and capacity standards. This is collaborated in the preliminary findings in the County documents that I have seen as a part of the staff report that was prepared by the City. The County, preliminarily, indicated that an access could safely be located at this point. The traffic study that we would conduct would evaluate the traffic operations both at the existing driveway and at the proposed driveway. It would evaluate the safety characteristics to make sure that it would be safe. It would also evaluate the geometrics. Keep in mind that in the proposed location the designated speed is 25mph. That speed is fairly well enforced in that section because from the east cars are traversing a pretty narrow bridge and it has a calming affect on traffic and it slows you down. From the other direction you are rounding a fairly sharp curve that slows you down. Based on my observations, the 25mph speed is pretty well observed. To add a second reinforcing opinion to Jennifer's opinion, two accesses are better than one. Two accesses that are as far

separated from one another as they can be in case there is any kind of disaster or natural occurrence that would render one of those access points as unusable, then the other access point is more likely to be available and useable. Keep in mind that right now the existing bridge is only about 13' wide so it only allows a single direction of traffic to flow across it at any given time. The volumes are relatively low; it works effectively at this point. However, the condition is that there should be two-way access. Under the scenario that is being considered here where an overland access would be provided, that overland access would provide two directions of traffic and it would be augmented by the existing bridge that has a single direction at any one point in time, but is usable in both directions. The traffic study would consider safety, operations, geometrics, and alternatives in terms of access. We would coordinate with Multnomah County.

Councilor Kight asked is it too early in the process to let us know where the access would be?

Dan Seeman replied based on my observations, the access spacing standards for Multnomah County is 150'. The access that we are competing with is the access across the street to Glenn Otto Park, so this access would need to be 150' away from Glenn Otto Park's access. We would look at the sight distance, the operations on the highway as the two accesses interrelate to make sure that it is safe. Nevertheless, it seems to me like that access point is probably going to be located about 150' further away from the river than Glenn Otto Park's access.

Councilor Kight asked how wide would that road be?

Dan Seeman replied 25' is the standard that it needs to comply with. That is sufficient width to meet the fire code and to meet two-way ingress/egress requirements.

Councilor Kight asked would there be lighting on that road?

Dan Seeman replied at the intersection with the highway street lighting standards would need to be complied with. I am assuming that those street lighting standards would require a street light in the vicinity of that access. Internal to the site you would need to have adequate lighting in order to ensure the safety of the road.

Councilor Kight asked landscaping?

Dan Seeman replied I am not a landscaper.

Daniel Kearns stated the issue didn't come up before but I think as a conditional use permit it would be an appropriate condition.

Councilor Kight asked would there be any signage?

Dan Seeman replied I would assume that the RV Park may choose to have a sign there. That would depend on whether they choose this to be their main access. That is a private issue.

Councilor Kight stated it has been mentioned that there would be some kind of a security gate that would be tripped on the way out but require use of a keypad to get in. Would there be any access to the property for the public to access the river?

Dan Seeman replied no, I don't believe so.

Councilor Kight asked how wide would the required easement be? If it is a 25' road, obviously it would require more than that. How much real estate are you going to be taking up?

Daniel Kearns replied Ms. Castillo and Mr. White are here. As I understand it the verbal agreement is that it would be that end of their property because they don't want this private roadway cutting their property in half.

Councilor Kight stated I think there is another piece of property in between that is adjacent to Beaver Creek. How close will this access road be to Beaver Creek?

Daniel Kearns replied 120' to 150'.

Councilor Kight asked and it is not in the floodplain?

Daniel Kearns replied correct. As I understand it, it will be approximately 4' higher in elevation than the bridge will be.

Councilor Ripma asked in looking at the traffic, did you look at the internal roads within the RV Park?

Dan Seeman replied I have driven those internal roads and I have also looked at the site plan so I am aware of what the internal road configuration is.

Councilor Ripma asked are the internal roads sufficient to handle the traffic? Obviously having the access point across the White's property would cause cars to come in that way. I am just wondering if you looked at the roads, are they wide enough to handle cars coming in and out that way?

Dan Seeman replied I am glad you brought that up so that we can make sure that we consider that as part of the traffic study. My initial observations, and again this will be fully evaluated and documented, is that the internal road system is a fairly consistent width. I think those internal roads are 24' wide or so, I am guessing. I am being told they are 30' wide and that is sufficient for two-way traffic.

Councilor Thomas stated when you do your traffic study, coming in from the east you have two bridges that will cause serious problems in that they are too low. When you look at your traffic study I would hope that you would take that into consideration when you are looking at which direction traffic may be coming from.

Dan Seeman stated we are going to do traffic counts at the existing driveway and based on those directional counts we will know the percentage of traffic that is coming or going from either direction. We would essentially be reassigning it to a new driveway. The issue that you are raising is under a flood condition or any other kind of natural catastrophe where the river renders the highway as unusable. I am glad you raised that so that we can give consideration to what part of the highway would remain because it is on higher ground and therefore how would access be available or possible.

Councilor Thomas stated the reason I raised that is because if you have RV's coming in using Exit 18 you have a 12' railroad bridge to get underneath. A 13' unit is not going to fit and some Class A RV's may not fit, so it will force all of the traffic to come back from the other direction and come through downtown Troutdale and down Columbia River Highway and if that becomes the new access point, or the primary access point, then you have added additional traffic along that corridor where the existing bridge is to get to the new access.

Dan Seeman replied I appreciate you bringing that up. However, that condition is only going to occur for a few days or a week or two at a time given a situation where you have flooding.

Councilor Thomas stated we are talking traffic, which is separate from being able to get there in an emergency situation and that is what a traffic study is supposed to tell us.

Dan Seeman replied we can address the issue of the adequacy of the road system to accommodate that focused traffic.

Councilor Daoust asked if we hold the record open and ask for a transportation study, what is the soonest that can be completed?

Dan Seeman replied given the need for data collection, coordination with the County, and a need for a review, the soonest date that we could reconvene with you is October 14th.

Councilor Kight asked if you have the second access road on the southern most part of that property, would you have to reconfigure the spaces within the Park in order to allow vehicles to turn in and out? What do you guess would be the net loss of spaces?

Dan Seeman replied I think three spaces.

Daniel Kearns stated I would like to reiterate my request for a continuance or an open record as mentioned and our willingness to extend the 120 day deadline.

Mayor Thalhoffer stated in view of the lateness of the hour, can we cancel the work session?

John Anderson replied yes.

Diane Castillo-White stated with me tonight is Terry Tolls a commercial real estate broker, who is representing us. Glenn and I have talked about this overland access with Bob for several years. Recently Glenn and I made a difficult decision to apply for a minor partition. If for no other reason it would allow us to provide a parcel which could be sold to Bob Kaiser as his alternative access. Currently we have a verbal agreement for sale with Mr. Kaiser and have been working on a contract for a number of months. The lack of a traffic study has slowed this process. A few significant items that also are holding up our final agreement include access issues to all portions of the property and a completion of our minor partition application with the City of Troutdale. We feel that both issues will be aided by a traffic study report. Glenn and I have been meeting with Ken Born at Multnomah County Planning Department and we have submitted to him some information and he doesn't seem to see a problem at this time. We will also have to submit a variance application for the other access points that we are asking for on the property. Ken is trying to advise us as to how to best package this together for all of our information to be provided to them because we need to meet the 150' spacing requirement and we are also asking for a variance so that the new location will not have to be located directly across from the bike path, the one that was a current entrance/exit point for Glenn Otto Park. We feel that getting a little bit further away from the Beaver Creek Bridge would provide even more of a straight line of sight. I just want to let you know that we have been working on all of these issues. We feel that with the traffic study, it could be resolved rather quickly.

Terry Tolls, commercial/industrial real estate broker, stated I got started with the Whites about the same time Bob Kaiser bought his property and he has been knocking on the door ever since. We have had, from other folks, a couple of different proposals on the property and we have had a couple that we have worked on with Bob; fairly recently another one. We haven't been able to resolve some of the access issues. I think our biggest issue has to do with how to address access, not just for Mr. Kaiser's property, but the balance of this property. We thought we were headed for a traffic study and hope that we still are because that is what we see as being essential to resolving this. Mr. Kaiser has not been sitting back doing nothing.

Cathy Lamothe stated I am representing myself and my husband Michael. You have received a letter from us from the PC and our letter tonight. Thanks for agreeing to continue the hearing and not waiting for the traffic study. I think it is really important to get the bridge build or the overland access, one of the two. My husband and I feel really strongly that we need the bridge for safety concerns. Our concern is the flooding and we know that the bridge flooded in 1996. I think we are really lucky with all of the precipitation we had this last year, and the snow on Mt. Hood. A lot of people in the RV Park don't have their own trucks to pull their vehicles out, they are just permanently sitting there and they rely on other people to move them in and out. So it would really create a crisis if some sort of flood occurred and we wouldn't have multiple ways in and out of the park. The only thing that concerns me about the overland access, which was covered at the PC hearing, is we got to the point where it wouldn't be a locked gate and we would at least be able to use it with a key pad so that we could have ingress/egress anytime we wanted. What concerns me is that when Mr. Copher

testified at the last meeting he talked about some future development plans that he has for his property and it is possible that he could build apartment units. If those people, Lots 100 and 300, also had access to the key pad and to choose which driveway, there is a chance that we would have a lot of traffic coming through that end of the park going to the other end. I think the traffic study folks need to keep that in mind. My husband is really interested in knowing what the timeframe is for the access road and permits. I know that there was a permit issued in January and it expired in July to build the bridge. I recognize that there has been a lot of effort to design and evaluate all of the factors, but the park has been out of compliance. How long are we going to allow him to be out of compliance? Mr. Kaiser has also stated to my husband that he doesn't really want to build the bridge. I think there is some financial benefit for Mr. Kaiser to have the property down here with the chance of building some houses and stuff like that which adds to the overall real estate chances he has. I think that is an extra benefit on his part. Our real interest is in having some sort of secondary way to get in and out of park and to keep it secure. We already have security problems in the park.

Jerry B, resident at the RV Park, stated my space is in the "red circle" so I have access to see the supposed calming affect that the bridges have that doesn't exist. There was an accident there last night and if someone would have been trying to get out of the park last night they would have been stuck. There are speeders and activity at night that causes that road to be inaccessible. The internal roads in the park are not wide enough to allow two rigs to pass side by side, so they are not 30' wide; they are at best 20', maybe 15' of pavement. You can't put that much traffic inside that park, especially if TL 100 puts 25 or 50 units, and expect them to come in and out of that road. There is no security. It has been stated that they wanted to leave that road open for complete access to come and go as you please. In the last five weeks I have chased three sets of people out that were trying to get river access on that corner, the back area of the red circle. They walked past the manager's office and the managers didn't see them. There is no security, yet they say they have it. If you have that road accessible 24-7 there will be security concerns; there is already people breaking into cars, vandalism and theft. It is not a good idea, but something needs to be done. I would rather see the bridge.

Ted Copher, owner of TL 100, stated I would like to know approximately when we are going to get this solved, either the bridge or the overland access? One of these days I might want to do something down there.

Mayor Thalhofer stated we have a timeline here for a traffic study which we will receive at our October 14th meeting.

Ted Copher asked after that how long is it going to take the City to allow Bob to build and go forward?

Mayor Thalhofer stated we will have to wait and see.

Ted Copher asked if he comes in with a traffic study which is adequate, how long is it going to be before you approve it?

Mayor Thalhoffer stated we will move with as much speed as we can possibly move.

Michael Zachery, summer resident of the RV Park, stated my main concern is that it just doesn't make sense to me to put two bridges side-by-side as the only access to the park. Secondly, the existing bridge has been under water before. I don't know what the plan is for the new bridge, but unless it is going to be somewhat elevated it seems to me that going out the other end of the park where the elevation is 4' to 5' higher makes the most sense to me.

Lois Branch, resident in the RV Park, stated if it is submitted in October how long after that are we going to wait. We have been waiting for a long time. If you look at the map where Ted Copher's property is (TL 100), if they have to come all the way down through the park to where the green arrow is (on Slide #3) there is room for one motor home to come down. You can not get by that motor home going the other way unless you squeeze over onto the sidewalk; there isn't enough room. What if there is a flood? It is going to take a long time for them to get out of there because you have the speed humps that they have to go really slow over, whereas the bridge is the short route out.

Cathy Lamothe stated it is my understanding that the office wouldn't necessarily change places and any new people coming into the RV Park would still check-in in that area and if the gate has a key pad they wouldn't have a code to get in, so any new people would have to come in through the main entry. It would only be the people that are living in the park that would have access in and out of the new entry.

Hal Jones, resident of the RV Park, stated I live in space 204 in the far corner on the left side at the very bottom and this will affect me drastically. Although, I favor adding the road that goes through to the highway. If you ever lived in that park like I have for the past ten years, you would find that in the winter time we have wind storms that come through from the south to the north. If we have a fire in the winter in one of these trailers along the back row or even in the center row it is going to blow at 60mph right to the next trailer and the next trailer all the way down to the end to the office and the fire engines are going to be coming in at that end and the fire will be blowing right across in front of them. We have to have that exit at the end of the park that is proposed. If we don't the fire engines won't be able to get in and we won't be able to get out.

Doug Waddell stated I am speaking on behalf of my mother and father. We are all employees of the Kaiser Company. We do realize that there would be a security issue if it were to be an open gate. They also own Chinook RV Storage on Marine Drive and they have a 6' gate with a key pad and each individual person has a code and it only opens and closes with that code. If they were to put in this overland access they would probably put a gate up since folks are worried about security issues. This entrance to the park would be an issue for people who are trying to check in. They wouldn't be able to come through there, they would have to come through the existing entrance we have now. It is a loss of spaces and I am sure they realize that. I am not entirely sure why people would be concerned about security since there would be a 6' gate and people wouldn't be able to jump over it and you can't squeeze through it. As far as I know where that red circle is, Glenn White has put up a fence

trying to stop people coming in from the park and going through his property. I realize that we do have a security issue when we aren't working in the office with people coming in and out. It is going to happen from time to time. There are people in the park who have chased people out and we do appreciate that the people in the park are watching out for their neighbors. As far as I know the middle row is wide enough that you can squeeze two cars through but it is a tight fit. Another benefit to putting the overland access in is if there is a flood it is 4' to 5' higher in elevation. If I were driving a motor home I would rather go over a solid foundation than a bridge that is pushing water limits.

Mayor Thalhoffer asked Mr. Kearns, do you have any rebuttal testimony?

Daniel Kearns stated I will make a few brief comments because of the hour, but reserve the opportunity to submit something in writing if things close this evening. The question about development of Mr. Copher's property, that is legitimate as well as the development of the White-Castillo property. But those people will have to go through the City's planning process and the City will have control over what is going to be required in order to develop those properties. There will have to be changes to the internal structure of the park if there is an access put at this location; I think everyone understands that. Ms. Branch's question of if there is a flood how will she get out. If there is a flood she won't get out over the bridge, I think that is very clear. How long will it take if Mr. Kaiser gets a permit to do the overland access road? Mr. Kaiser indicated he could have it constructed in approximately 45 days. There is a lot more work involved with the bridge. If we are told to stick with this 1992 permit and fulfill this condition, I don't think there are any guarantees on how long it would take to resolve these uncertainties on building the bridge.

Councilor Ripma stated if we are inclined to approve the PC's decision, we could do that tonight. If they request to leave the record open, which I think they have, I guess I am asking for advice Mr. Ross.

David Ross stated I think you need to decide if you are going to grant the continuance and leave the record open.

Councilor Ripma asked so we actually couldn't decide tonight?

David Ross replied I don't think so.

MOTION: Councilor Ripma moved that we agree to leave the record open until October 14, 2008. Seconded by Councilor Canfield.

John Anderson asked are you leaving the record open for all topics or just for the traffic report?

MOTION TO AMEND: Councilor Ripma moved to amend his motion to add for the purpose of submitting a traffic study. Seconded by Councilor Canfield.

VOTE: Councilor Daoust – Yes; Councilor Kight – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes; Councilor Canfield – Yes; Councilor Kyle – Yes.

Motion Passed 7 – 0.

6. STAFF COMMUNICATIONS

John Anderson stated we would like to hold an executive session to discuss real property transactions. The first one would be to discuss the appraisal on the property immediately east of City Hall and the second would be to discuss an alternative to the original Discovery Block proposal. We would like to have this on August 19 along with the work session topic that was postponed this evening, if that works for the Council.

Council agreed.

7. COUNCIL COMMUNICATIONS

Councilor Thomas asked since two of us will not be here for the August 26th meeting, is it possible to defer that to a later date?

John Anderson replied one of the topics scheduled for that evening is the explanatory statement for the ballot measure, which is time sensitive.

8. ADJOURNMENT:

MOTION: Councilor Ripma moved to adjourn. Seconded by Councilor Kight. Motion passed unanimously.

Meeting adjourned at 10:30pm.

Paul Thalhofer, Mayor

Approved September 9, 2008

ATTEST:

Debbie Stickney, City Recorder