

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

Tuesday, October 14, 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 and Councilor Kyle.

ABSENT: Councilor Daoust (excused).

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

GUESTS: See attached.

2. OATH OF OFFICE: Officer Chad Diekmann

Mayor Thalhofer administered the Oath of Office.

3. PROCLAMATIONS:

3.1 National Magic Week – October 25-31, 2008

3.2 Community Planning Month – October 2008

Mayor Thalhofer read the proclamations.

4. CONSENT AGENDA:

4.1 ACCEPT MINUTES: September 9, 2008 Work Session and September 23, 2008 Regular Meeting.

MOTION: Councilor Kyle moved to accept the consent agenda. Seconded by Councilor Thomas. Motion Passed Unanimously.

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

Bess Wills stated I am here on behalf of Try Local First, which is a coalition of business organizations including the West Columbia Gorge Chamber of Commerce, the Greater Gresham Chamber of Commerce, Historic Downtown Business Association, the East Metro Economic Alliance, the Rockwood Business Coalition and the GDDA of Downtown Gresham. Try Local First came about to help our local businesses. You may ask, why do you do that? Because we can't control Washington, DC, we certainly have no control over Wall Street, but we can control what happens in East County. Our motto is: Shop East County, Try Local First, the job you save may be your neighbors. We spent the month of September educating the local organizations on the benefits of buying local first. This month we are speaking to all of the City Councils in East County. It is extremely important for those of you who spend our tax dollars to always consider buying local.

Jim Davis, resident on Hensley Road, stated I am here regarding the on-going matter of the speed humps on Hensley Road. I am pleased to announce that with a lot of help from Councilor Thomas, we have finished the signature gathering portion of the exercise. We exceeded the required number signatures and the response was most positive. Out of all of the signatures we collected I think there were only four who said they were not interested. The petition is in the hands of the city engineer and we are anxiously awaiting the next phase of the project. Two weeks ago, a portion of 257th was closed for paving and all of the traffic was diverted down Hensley Road, it was in the evening around 5 or 6pm for maybe an hour and a half. There was a lot of traffic coming down Hensley including the trucks that were delivering the hot asphalt. I was outside working on my fence and one of those trucks came barreling down the road and locked his brakes because a women had just stepped off the curb with a stroller. I am really looking forward to the next phase of the project and I appreciate the help I received.

6. RESOLUTION: A resolution to terminate proceedings on amendments to TDC 4.315 Vegetation Corridor and Slope Overlay District (VECO) relating to density transfer provisions (Text Amendment No. 40) as recommended by the Planning Commission.

Elizabeth McCallum, Senior Planner, stated Text Amendment No. 40 pertains to amendments to the existing density transfer standards that were adopted in October 2000 and came into affect November 24, 2000. The density transfer standards were adopted to partially compensate property owners for land that is now limited to development due to being adjacent to protected water features (rivers, streams, creeks, and wetlands). The City has commonly called these standards the VECO standards which is an abbreviation for vegetation corridor development standards. The standards also pertain to slopes of 25% and greater. Following a hearing on annexation of two properties affected by the vegetation corridors and steep slopes on March 11, 2008, in which there was testimony opposing the density transfer standards that would eventually apply to those properties when they developed, two of the councilors expressed concerns about these standards and stated that the city should reevaluate them to tighten up the rules. To process amendments to existing standards we have a

procedure that we must followed that is sometimes complicated and contentious. Some property owners have testified that they were left out of the process and that they should have been involved earlier than the first Planning Commission hearing. However, the City's procedure in considering text amendments was followed. The Director determined that draft changes would be presented to the Citizens Advisory Committee (CAC) for their consideration, which occurred at their April, May and June regularly scheduled meetings. CAC meetings are open to all citizens and they are published on our web site and in the Gresham Outlook. Written notification to potentially affected property owners is not made until the first hearing before the Planning Commission (PC). The CAC was asked to consider the following choices in the matter at their June 4, 2008 meeting: A)The existing standards should not be changed because they provide a necessary remedy to property owners for loss of development potential that resulted when the City adopted the Vegetation Corridor and Steep Slope Standards in 2000 to comply with Metro Title 3 and because they generally comply with Metro Title 13 Nature in Neighborhoods Density Transfer Provisions; B) The existing standards should be amended because they are too generous and result in over crowded development and amendments should be processed as soon as possible; C) The existing standards are generally appropriate compensation for loss of development rights in the vegetation corridor, steep slopes and flood plain but they need to be clarified to compensate for loss of development within the vegetation buffer only.

Elizabeth McCallum stated these changes could be processed with the other changes to the code that Metro has requested as part of Title 13, Nature in the Neighborhoods. After much discussion regarding the merits of the amendments, with some changes to the draft language prepared by staff, the CAC voted for Option B (4-yes, 2-no and 5 were absent). Exhibit B is the same version of Text Amendment 40 considered by the PC as forwarded to them by the CAC. Measure 56 notices were mailed to affected property owners and there has been active participation in the PC's public hearings of July 23rd and September 17th by affected property owners and other interested parties. Their testimonies are part of the record. The PC finds that the criteria for adopting amendments to the text of the TDC have not been met by the proposed amendments as a result of the testimony at their hearings and their own opinions. In accordance with the procedures outlined in the TDC for text amendments, the PC has recommended that Council terminate proceedings on Text Amendment No. 40. A resolution has been prepared for your consideration to terminate the proceedings. The Council may decide to reject the PC's recommendation and continue on with the consideration of Text Amendment No. 40. If that is your preference this evening, then a public hearing will be scheduled before you on October 28th at your next regular meeting.

Councilor Kight asked could you identify the difference between Text Amendment No. 40 and what we currently have?

Elizabeth McCallum replied rather than allowing smaller lots to be spread throughout the subdivision to compensate for avoiding use of the vegetation buffer, the proposed amendment would require those smaller lots to be located immediately next to the

protected water feature instead of scattered throughout the subdivision. The area reduction of the lots would not be a blanket 3,000 square feet per lot regardless of the zone, it would be a 30% area reduction. The amendments also took into consideration that there are other types of dwelling construction such as attached, duplexes, apartments, and congregate housing for which if they are being built on land affected by a vegetation corridor buffer that there should be some compensation for determining their density when that area of the vegetation buffer is excluded from that calculation. I would say those are the main points.

Councilor Kight stated there is currently a development that Centex is working on right now. It is my understanding that is in an R-10 zone, is that correct?

Elizabeth McCallum replied yes.

Councilor Kight stated so as I understand it because of the vegetation corridor the lots are actually smaller, is that correct?

Elizabeth McCallum replied the lots are less than 10,000 square feet but none are less than 7,000 square feet. So they took advantage of the 3,000 square foot lot reduction.

Councilor Kight asked was that done automatically?

Elizabeth McCallum replied that was done as part of their subdivision request. It did not require a variance.

Councilor Kight asked how would the proposed amendment have changed the Centex development?

Elizabeth McCallum replied only the lots right next to Track A, which is the wetland and vegetation buffer area, would be allowed to be reduced in area automatically without any variance or going through the planned development process.

Councilor Kight stated so effectively there is no net loss to the developer.

Elizabeth McCallum replied I can not say that; I haven't run the numbers. I do believe that they would not have the number of lots that they have platted under the current standard.

Councilor Kight stated I think you are right because they can now have 7,000 square foot lots throughout the entire development as opposed to just the area right next to the vegetation corridor.

Elizabeth McCallum stated they have a range of lot sizes, not every lot is 7,000 square feet some are larger.

Councilor Kight stated some of the folks along the Sandy River and Beaver Creek have been adversely affected. How would Glenn White's property be impacted by the proposed amendment?

Elizabeth McCallum replied if they did a subdivision plat their lots could not be any smaller than the standard except for those lots right next to the protected water feature.

Councilor Kight asked how would that change from what we have in place right now?

Elizabeth McCallum replied they could have their small lots throughout their subdivision.

Councilor Kight stated so there would be a net increase.

Elizabeth McCallum replied they don't have an increase. If you have a track of land and there is an acre affected by the vegetation buffer, with the current standard that acre can be added into your net area to determine your density and you have a certain number of lots you can get. Right now every one of those lots can be reduced by 3,000 square feet and built and platted outside of the vegetation buffer. The proposed change allows only the lots right next to the vegetation buffer to be reduced in square footage.

Farrand Livingston, attorney, provided the Council with a letter (copy included in the packet). I represent the Baker family who live on the east side of Troutdale Road between Sweetbriar and Strebin. They own property that is approximately 26.68 acres, of which approximately 7 acres is wetlands. Initially the lands, including the Baker property, were zoned R-10. The VECO overlay was then placed on the property which restricted and limited their ability to use property within 50' of the water feature. That ordinance also gave them compensation for the reduction in the land that they would have been able to use under the R-10 zoning that resulted in a transfer. Councilor Kight, I thought I understood you to say that you believed that there would be no net loss produced by the amendment. Attached to my letter is a letter that was prepared by OTAK Engineering, they have analyzed the Baker property as an example. They concluded that under the existing ordinance the Baker property would qualify for approximately 67 lots, but under the proposed Text Amendment No. 40 that would be reduced to 57, so there would be a loss of 10 residential lots that could otherwise be built on their property. They have expressed an opinion that the loss of 10 lots could be translated into a loss of \$900,000. I think that the questions and answers disclose that property like the Bakers will potentially suffer substantial loss in value because of the loss of lots. I attended both of the PC meetings and the testimony that I heard suggested that the impact would even be greater on some of the smaller property owners, perhaps not in terms of the dollar amount but in terms of the percentage loss on their investment they had in their property if the new amendment were to be adopted. I am here tonight speaking on behalf of the Bakers, speaking in favor of the resolution to terminate the proceedings. I believe that the PC got it right. All opinions expressed before the PC at both hearings opposed Amendment No. 40; no one spoke in favor of it. The second thing I think is important is there is no additional protection afforded to any environmental feature or significant protection, as a result of

Amendment No. 40. So what Amendment No. 40 does, in the context of the density transfer, is to reduce the compensation that is paid to the owners of the property that are having this restriction or VECO overlay imposed on their property, but it doesn't enhance the environment any further. The PC also found that the change in the reduction in the density transfer caused unreasonable and unfair reduction in the value of the owner's properties. Fairly significant is the fact that there was no data presented either by the planning staff or before the hearings which supported the proposition that adequate compensation was still being paid to the owners as a result of the 50' buffer. They also concluded that the amendment actually conflicts with some of the applicable Comprehensive Land Use Planning Goals 2 and 10, which call for maximum flexibility in the development of land and also the standard should only be the minimum standards necessary to address issues regarding public health, safety and welfare. The Bakers and I support the resolution which would terminate the proceedings on Amendment No. 40.

Dalton Williams stated I would like to apologize for my performance during my first testimony. I am here in support of terminating the amendment. You should have in your packet a drawing of my property, the shaded area in the lower left corner of the 1½ acre parcel, that is the only portion of my property that remains buildable given the restrictions that were placed on a developer that tried to develop my property, and that doesn't account for the setbacks in the front or side yards. If one were to apply all of the restrictions on this property you couldn't put a house like the one I have next door on that site. The new restrictions would further complicate doing anything on this property and nearly render it useless. I pay taxes on this property as though it were valued at \$140,000. If these changes are adopted, this property is useless, worthless. I am asking you to terminate the proceedings and adopt this resolution.

Pete Matzke provided the Council with a handout (copy included in the packet). I reside on Cochran Road which is technically in the City of Gresham but it is also under the City of Troutdale planning jurisdiction. The points that have already been expressed are absolutely accurate. There really is no benefit that is brought by Amendment No. 40. Amendment 40 just takes property from the property owners; it doesn't pass on any additional benefits to the community or to wildlife. The bottom line is it restricts the use of the property. The setback restrictions are much more significant. It doesn't allow the land area which is encompassed by water to be included in the calculations, so the net result is that for small property owners, such as myself, this makes a big impact on the value of that land. Any way that you look at Amendment No. 40 I lose at least one buildable lot and losing one buildable lot out of .72 acres is a tremendous difference in the value of the property. I think that Amendment No. 40 should be terminated and I hope you vote that way.

Nick Snyder stated you have heard from several people that have a vested interest in this. I am here to speak to you on behalf of my neighbors and I want to echo their sentiments. We have some concerns with regard to whether you terminate this amendment or not. We are not against developing this land. We moved into this area with the expectation of that, but we do want to see it done right. We feel that property

rights are very important and it is incredibly important that we recognize the property rights that are inherent for all of our properties. If we disregard that we stand in danger of setting a dangerous precedent. On the flip side of that we have zoning requirements in place and there are solid reasons for these zoning requirements. If we take R-10 and move it down to R-7 over and over again, you are also setting a precedent. I think you should also consider that. What I am asking you to do is to find a balance. I think you can achieve a balance as far as meeting the wishes of both the community of Troutdale, the concerns of the citizens wanting to maintain the zoning that we have and the spirit behind that because that improves all of our current property value. But also recognize the position of the folks who testified tonight and their rights as far as establishing values of those properties and maintaining them. There is an opportunity before you tonight to get this right. You can review this again by sending it back to the Citizens Advisory Committee (CAC) and get it right and perhaps we can achieve some balance that is beneficial to both parties. Your representation of the three folks who spoke before me is important, but I think your representation is more heavily weighted on the entire community. Please factor that in as well. I ask you to please keep this open; don't shelve it. Don't terminate the proceedings on the amendment. This is an opportunity to get it right and have the CAC look over the draft again and make improvements to this. There is no reason why we can't work together so that all parties benefit from this.

Christine Singer stated I am here to ask that you vote in favor of this resolution to terminate these proceedings. If in fact you decide to go forward you are going to leave a lot of people in limbo and it has already been held up for months and we need to have some kind of solid agreement as to what we can do with our property. I am hoping that this is terminated today.

Diane Castillo-White stated at this time we have an application for a minor partition to divide our property into three pieces. The piece that our house is currently on is approximately .75 acres and currently 1/3 of it is in the vegetation corridor. If this amendment is adopted as written an additional one-third of that property would become vegetation corridor. Everything in our back yard that is fenced and a lot more of our property is just a few inches below the flood plain. Currently Metro and FEMA have a way that you can develop in a flood plain, you just have to build it to certain standards. If I activated a development on that portion of property than all of those amendments would affect it. If you decided to adopt these amendments I would basically lose the use of my back yard because of the vegetation corridor and you must re-vegetate it and allow different agencies to come and monitor those plants; and no manmade items. Then there is a question of can we still drive to our garage. Not all of the questions are answered within this amendment. Currently on the mapping my entire property is steep slope and in the amendment there is a whole set of rules for steep slopes. Currently under Metro Title 13 they have my property incorrectly mapped. Metro has acknowledged the error in a letter to me but they have turned that responsibility over to the cities to correct those maps. They have said that it is very understandable that Glen Otto Park, my property, and the RV Park are not completely steep slopes, but currently that is what the map says. We can't even discuss this amendment without having the maps correct. Pertaining to my property, we are talking about the loss of usage. Once

we activate any development on that portion of our property, what can I use? We will have to re-vegetate the whole area with native vegetation. So are my rose bushes and other plants not in compliance? This just enters into a whole gray area. A lot of this language was taken from the model ordinance for Title 13, something that we will probably be addressing later on to see if we are in compliance with or not. I met with the Planner at Metro who is the expert on Title 13 and he explained to me at this time as far as Title 13 or Title 3, we are highly compliant. We are more compliant than any other city. So I don't understand. I am in agreement with the PC. I think it is a good idea to say no to these amendments right now.

MOTION: Councilor Ripma moved to adopt a resolution to terminate proceedings on Troutdale Development Code Text Amendment No. 40. Seconded by Councilor Thomas.

Councilor Ripma stated I have followed the progress of this amendment and talked to folks and went and looked at some of the properties. I think it got out of hand a bit and it didn't just fix what seemed like a problem of perhaps a too generous density transfer rule, but did a lot of damage to people. I think we have all had an opportunity to look at the PC transcript and I have also listened here tonight and heard what people have said, including Mr. Snyder. I think on balance there is an advantage in preserving the setbacks that we have, there is an advantage to neighborhoods by preserving setbacks from wetlands but we do need to be fair to the property owners. I think this issue has been examined with Troutdale's usual thoroughness. I think we have given it every thought and a very thorough hearing and that is why I am supporting the PC's decision.

Councilor Thomas stated I did attend one of the CAC meetings where they were discussing this issue. I think protecting what the property owner thought they could do is important. I don't believe that delaying this or terminating the proceedings tonight is a deterrent to the City of Troutdale. I think the ability to shift things around and still be able to get the same amount of development still allows for quality development in the city.

Councilor Kight stated I am also going to support the motion with the following caveat. There appears to be all these unintended consequences as we heard from the testimony of several people. Dalton Williams, his property comes to mind immediately. A lot of these parcels are very small and having these kinds of restrictive amendments renders those properties almost useless and that would be unfair. I think at the same time maybe we ought to think about or consider some kind of compromise. The reason I say that is because we are losing land that is attractive to not only the people who own the property but is one of the reasons people move to Troutdale in the first place. I think most of us are here because we wanted to get away from large metropolitan cities. We like the open space; we like the berry fields and so on and regrettably we see all that being developed and disappearing. As I have been campaigning people are sensitive about the type of development that is immediately adjacent to their property and

they like the larger lots. The Troutdale City Council in the past has actually changed the zones from R-7 to R-10 and those properties were developed with quality homes. We need to have that mix within Troutdale as opposed to squeezing everybody onto 4,000 or 5,000 square foot lots. I would hope that maybe in the future the CAC would look at this problem that we are dealing with and maybe there is some kind of compromise in order to preserve the quality of life that we are use to here in Troutdale.

Mayor Thalhofer stated I am going to support the motion. I think that if there is to be anything else to be brought forward it should start at the very beginning again.

Councilor Canfield stated I am also going to be in favor of terminating the proceedings on this text amendment for various reasons. I attended the CAC meeting when this was discussed. I have great respect for our planning department and for the members of the CAC but I don't know what happened at that meeting because the conversation was very confusing and it ended up with many members of the CAC directing what amounted to personal attacks on an individual member of the CAC. It was my opinion that perhaps this vote was directed more towards opposing that individual on the CAC then actually looking at the albeit confusing issue in front of them. The other thing that concerned me was that there was a question at the time of the CAC meeting, was this language part of the draft language of Metro's Title 13 or not? City staff was unclear on that which only added to the confusion. When we look at the evidence from the PC meetings and the universal opposition, the evidence is clear that nothing would happen here but to reduce the compensation to property owners which to me shows a strong disregard for every single property owner in Troutdale if this were to come to fruition. I am not sure where the wheels fell off of this but a lot people talk about unintended consequences. If this draft language comes from Metro, I am not sure that the consequences were unintended and I am very sorry that this matter has gone this far; it should have been shut down from the start. It was unreasonable, poorly written, and it would have caused a lot of property owners a loss of use of their land and reduced property values. Those are the reasons I am voting to terminate this.

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

Motion Passed 6 – 0.

7. PUBLIC HEARING / APPEAL (Extended from August 12, 2008 when the record was left open for the purpose of receiving a traffic study report): 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.

David Ross, City Attorney, stated Item #7 on tonight's agenda is being processed as an appeal of a decision rendered under a Type III quasi-judicial land use procedure in accordance with provisions in the Troutdale Development Code (TDC). At the initial evidentiary hearing on August 12th I explained that there was a staff report that had been prepared that identified all of the approval criteria in the TDC that apply to the application. That staff report was made available before the meeting and the testimony was directed at those approval criteria. At the end of the public hearing at the last meeting, the City Council left the record open until tonight for the purpose of receiving the traffic study and left the hearing open for the purpose of having further comment and discussion about the traffic study. For tonight's proceeding, staff will present the information about the traffic study to the City Council. After the staff presentation, similar to the last meeting, the appellant will have an opportunity to speak to that issue. Anyone who wishes to testify about the traffic study will be given the opportunity to do so. The appellant may then present rebuttal testimony if necessary. The testimony at tonight's hearing should be addressed only to the traffic study. It is not a review or a new hearing to consider all of the criteria and information presented previously. Failure to raise an issue on the record with statements and evidence sufficient to afford the City Council and all parties the opportunity to respond to the issue will preclude an appeal of that issue to the Land Use Board of Appeals as well as action in Circuit Court for damages. We have asked all City Council members to declare any ex-parte communications that may have occurred after the last meeting and to disclose the substance of those and what was discussed if there were any ex-parte communications, and to declare any bias or conflicts of interest.

Councilor Thomas stated I need to step down for this issue since I am personal friends of the Whites and I don't think that I can make a fair and just decision on this at this point.

Councilor Ripma stated I should declare that I had a conversation with Diane Castillo-White about the possible access to the RV Park across their property. She did indicate that she was okay with the resolution of the matter of access to the RV Park if that was adopted, which is consistent with the testimony we heard from the Whites previously. I do not believe that will affect my ability to render a fair and impartial decision.

Councilor Canfield stated before the previous meeting I did have a long conversation with the Whites on their property and they showed me where the proposed access road would be. I do not believe that will affect my ability to make a fair decision.

Mayor Thalsofer stated I had conversations with them before the last meeting as well.

David Ross stated the question was specifically directed at any conversations since the last meeting.

Mayor Thalhoffer stated I have not had any since the last meeting on this issue.

Elizabeth McCallum, Senior Planner, stated Bob Kaiser is the managing member of the Sandy River RV Resort and he is the appellant in this matter and also the applicant of the Conditional Use Modification Request that was denied by the Planning Commission (PC). Bob Kaiser is represented by Daniel Kearns. The overland access road is on property currently owned by Glenn White and Diane Castillo-White. They have proposed a 3-lot partition plat with the plan to sell one of the lots to the Kaisers. The overland road would be within the lot that the Kaisers buy. The applicable criteria were presented on August 12th. If anyone requests that they be identified again I am prepared to do so. The main focus of the continuance is whether the alternate access point to the RV Park meets Multnomah County's standards and is safe. A transportation impact study was prepared by transportation engineers (Kittelson and Associates, Inc.) for the appellant. Ken Born, Multnomah County Transportation Planner, reviewed the study and his response to the study is contained in Exhibit C of my staff report. He states that the new driveway and resulting alteration to RV Park related traffic patterns will not exceed the design capacity of the transportation facilities in the vicinity, or create a safety hazard and that if the driveway spacing standards of the County is not possible to be met (measurement from the centerline of existing driveway to the centerline of the new driveway) then access must be located so as to provide the best access spacing possible. The Kittelson study finds that the proposed driveway is 150' west of the centerline of the main entrance to Glenn Otto Park. That meets the County's access standard. The study did not however include the measurements for spacing from the other driveways on the White-Castillo property or the pedestrian/bicycle emergency access to Glenn Otto Park on the opposite side of the street. I spoke with Brian Vincent, the County Engineer, following receipt of the written comments from Ken Born to get clarification about what can be done if the driveway spacing standard is not met. He provided the following response in an email to me, "This overland route will require a variance, which I am prepared to grant. There is no way to meet spacing standards amongst the primary Glenn Otto Park access, emergency access and the existing access points across the road. So the best fit will be to align this proposed RV access point 150' to the west of the Glenn Otto Park access. This will leave about 80' of separation from the RV access and the Beaver Creek Bridge." Because the White-Castillo partition plat is pending, Mr. Vincent also noted that there is another variable to come with the small subdivision that would be proposed on that property. It is too early to tell what they really want to do however and ideally we could align the RV access with that subdivision access and directly across from Glenn Otto entrance but I think that would hinder the subdivision options. In response to that the resolution would come about as we review the actual land division that Mr. Kaiser might have and the future development on the lot that Glenn and Diane propose to keep and develop. Right now the question before us is adequate access to the RV Park. Staff concludes that the County's standards can be met for access to the RV Park from the proposed overland location. With respect to the park safety issues raised, the applicant's attorney states that changes will be made to the internal street system to work safely with the new overland access. With respect to providing continued access to the two properties that are not part of the RV Park, the

appellant's attorney Daniel Kearns states that the applicants will grant easements to the owners of both in-holder properties to use both access points. The RV Park is surrounded by flood plain. We provided you with some revised pages to my staff report this evening, which is germane to the elevation of the bridge decks that the County provided for me today for the County Beaver Creek Bridge and the ODOT Sandy River Bridge. That does change some of the facts about egress to leave the park in an emergency flood. The Kittelson study evaluates a 37' flood scenario and in my staff report I explain in some detail that the base flood elevation at Beaver Creek where the private bridge to the park is located is 34.6', which comes from FEMA's modeling for the 100-year flood. The 37' flood scenario matches the base flood elevation at the Beaver Creek/Columbia River Highway County bridge crossing and the Sandy River Bridge crossing as well as the overland access frontage. Staff has concluded that in a 100-year flood event the remaining private bridge to the RV Park over Beaver Creek, the Sandy River Bridge and the County's Beaver Creek Bridge as well as the overland route would not be flooded in a 100-year flood event. The Kittelson report is based on a 37' flood event but that is not the modeling in the flood insurance study for the reaches of Beaver Creek that is referenced. So you wouldn't have the same amount of flood water at their private bridge at the same time as you would at the County Beaver Creek Bridge. Allowing an overland access would give one more point of egress from the RV Park in the event of a 100-year flood. Staff has concluded that the City's conditional use criteria, County transportation standards and safety concerns raised by interested parties can be met with conditions of approval. Based upon procedures for appeals, the two options for Council are: 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; or B – Approve the overland access with conditions to address the issues raised at the PC hearing and at the Council hearing in the matter of the appeal. If the Council decides to approve the overland access a draft Findings of Fact and Final Order have been prepared with proposed conditions.

Councilor Kight asked do we have any kind of report from the Fire Marshal?

Elizabeth McCallum replied no, other than the original comment he made. Mike Kelley, the Deputy Fire Marshal responded to the original request by the applicant (Exhibit G-I). His response was, "Approval of this alternate design based on the following conditions: 1) If proposed secondary access road does not go through in an approved manner, the original permit for the bridge is still required per approved timeline; 2) provide stamped and signed letter from civil engineer that new road will be designed and constructed to support 75,000 pounds and a point load of 12,500 pounds; 3) design of road, including all curb cuts shall comply with Oregon Fire Code requirements; 4) no parking fire lane signs in an approved manner; and 5) total net driveway width, including parking, shall not be less than 20 feet." In the draft conditions for your consideration this evening there is a condition that they must go through a Type 1 Site and Design Review process that would include additional review by the Fire Marshal for compliance with the issues that they have raised.

Councilor Kight asked so as far as the efficacy of having a second exit as opposed to two bridges parallel to one another, he didn't comment in that regard?

Elizabeth McCallum replied no.

Councilor Ripma asked if we were to concur with the staff recommendation, are you suggesting the draft Findings of Fact and Final Order with pages 4, 7 and 8 being substituted with the ones that were put before us tonight?

Elizabeth McCallum replied yes, they address the new findings that I received from Multnomah County about the elevation of the decks of the bridges.

Mayor Thalhoffer stated it seems like the existing bridge and the new one could be under water at the 37' level. Is that right?

Elizabeth McCallum replied FEMA's study for flooding in this area, 37' is not the 100-year flood at the location of the private bridge, it is slightly lower than that. So the bridge deck itself does not have to be above 37' to be above the 100-year flood. On page 4 of my staff report in the table it shows that the base flood elevation at the private bridge is 34.6'. The base flood elevation at the Columbia River Highway Beaver Creek Bridge is 37'. It is an oversimplification to just say we are going to have a flood at 37'. Base flood elevation fluctuates as you go up stream.

Mayor Thalhoffer stated but we know from previous experience that we don't know how high the floods are going to get.

Elizabeth McCallum stated these are all probabilities.

Mayor Thalhoffer stated all things considered, wouldn't it be better to just leave the one bridge and not have a second bridge that could be flooded just like the first one and instead have the overland route which would provide another way to get out of that area safely.

Elizabeth McCallum replied my opinion is yes, I think an overland route is superior to building a bridge that has been designed below the base flood elevation.

Mayor Thalhoffer opened the public hearing at 8:30pm and asked the applicant/appellant to come forward.

Daniel Kearns, Attorney representing the applicant/appellant (Sandy River RV Resort, LLC) state we have responded to all of the issues that we could identify from the last hearing. The written letter that I submitted (Exhibit A) as well as the Kittelson report (Exhibit B), which was the big missing piece before the Planning Commission. We have done everything we can to address the concerns. Dan Seeman, the traffic engineer who prepared the report and Jennifer Beattie, the project manager from CETA Engineering are both here this evening to answer any questions you might have. This

overland access route was the preferred route back in 1992, they just couldn't work out an agreement with the Whites. Now they can and my client who now owns the property is asking to modify that condition. I think there are a number of the current residents in attendance who will testify tonight that are in support of this proposal.

Dan Seeman, Senior Associate with Kittelson & Associates, stated we prepared the traffic report. I spoke with both City staff and with the County Engineer Brian Vincent prior to preparing the study to make sure that we got it right and answered the right questions. The study presents evidence to demonstrate that the proposed overland access will be safe, that it will meet County road operating standards, and that the overland access by itself as a two-way 25' road will provide adequate access to the RV Park. Also, the proposed access with the existing access as a two-way one lane bridge can also operate acceptably meeting County standards. We looked at the flood issues that have been addressed and the bottom line is that the overland access is higher than the bridge that might be constructed in its place, so it is a better way to provide access in those emergency situations.

Councilor Kight asked how do you plan on changing the internal circulation to accommodate the overland road?

Dan Seeman stated we looked at the width of the roads within the RV Park. There is a 20' wide road with a 2½' concrete shoulder that is really meant to be a sidewalk but in a pinch it could be used for RV's to pass each other. RV's are typically a width of about 8½ to 9' wide and you have a 20' wide road. I saw a situation where two RVs passed each other in the opposite direction without any problem or having to use the concrete sidewalk/shoulder. Until one gets to the specifics of how this entry road will tie into the RV Park system, I think internally within the system there is really not a need to alter the system.

Councilor Kight stated maybe I didn't ask the question correctly. Where the new proposed road is going to be entering the park, won't there be some net loss of spaces there?

Dan Seeman replied it looks like it would be a couple of RV spots right at the southwest corner of the RV Park. That north/south westerly most road would extend out to the highway and it would eliminate a couple of RV spots.

Councilor Kight asked how close is that road going to be to Beaver Creek?

Dan Seeman replied there is a setback requirement of 50' from the creek. In addition to that there is a standard coming from the other side where the access would be required to be 150' away from the Glenn Otto Park main entrance. What I wasn't aware of in our analysis was that the bicycle and pedestrian access that comes out of the park is also an emergency access, and the 150' spacing applies to that location as well. I had a conversation with Brian Vincent, County Engineer, about that issue asking him how that works. In his report to the City he indicates that despite the fact that the emergency

access, based on County policy, must be considered, he didn't feel that it is an issue or that it is necessary to space the driveway away from that emergency access 150'. He agreed with me over the phone that as long as the RV Park access is spaced a minimum of 20' away from that bicycle/pedestrian access that would be adequate. That gives the RV Park owners and the Whites the latitude to be 150' away from the main park access and 20' away from the bicycle/pedestrian access. That gives us about 60' within which to work, still complying with that minimum 50' setback from the creek.

Councilor Kight stated in the past there was discussions about gated or non-gated. Where is that at now?

Dan Seeman replied that is a security issue. The key there is that the maximum number of vehicles that would enter at any one time at that driveway would be two vehicles. What that equates to is if we were to apply gates we need to place them inland of the highway a minimum of 50' so that we could accommodate that queue of two vehicles in the rare event that it might occur.

Councilor Kight asked so it is going to be gated for security reasons?

Dan Seeman replied that is not yet decided.

Councilor Kight stated I am concerned about human behavior. Often times when people see a gate they assume that they can't enter, and that can stop the flow of traffic ingress and egress.

Dan Seeman replied it is a clear sightline and it would need to be signed accordingly. On rare occasions what you are mentioning might occur where someone may pull into the driveway and realize that they can't go this way and they have to back out. The volumes on that driveway are going to be relatively low.

Councilor Kight stated I am concerned about someone backing out onto the highway because they see a gate and they assume they can't get in. Has that been addressed?

Dan Seeman replied it hasn't been addressed but there are a number of ways that it can be addressed. There are designs such as a hammerhead design to address this. A hammerhead access is shaped like a hammerhead so when a vehicle comes inbound on that driveway they would have a place to pull off and turn around. The point you raised is a good one. This is also a business and it would be an inconvenience if these vehicles had to back out, and it is a disaster for a business if you have people who want to come to your RV Park and can't get there. So this issue is not going to become a problem. Either the signs will be absolutely clear and people will know where they need to go if they are just arriving at the RV Park, or there won't be a gate that they can't get through.

Councilor Kight asked are you going to put in some sort of lighting on that strip?

Dan Seeman replied yes, there will be adequate lighting for security so that people can see where they need to go or can't go. Again it has to be safe for the people who are there at the park and they have to be very clear about where they can and can not go. The people at the park had concerns about this becoming a public street. I don't think it will because this can be designed a number of different ways. This will be a Type I Site and Design Review, so it will be subject to the City's review after this proceeding where these issues can be taken care of. These are issues that are in the front of our minds and the planning staff is already on them.

Councilor Ripma stated it appeared from your report that the use of the overland road was adequate and the County has indicated that it is acceptable. In your opinion is it actually better than the second bridge?

Dan Seeman replied certainly in an emergency situation I think we would all tend to agree that it would be better. The key here is that we need to have a minimum of one inbound lane and one outbound lane to the RV Park. The placement of those is really subject to putting them in a location that is safe for the highway for ingress/egress. If those parameters are met then I would say they are relatively equal.

Mayor Thalhofer asked is there anyone here that would like to speak to us on the issue of the transportation study?

Jennifer Bettie, CETA, stated I would like to respond to the question of, is the overland road better than the second bridge. Relating to egress out of that site, it is safer to have two points of egress that are further apart than two that are adjacent.

Jerry Westfall, resident at the RV Park, stated none of us have ever built a house with two front doors side by side. You have one in the front and one in the back and you have a plan to escape. Looking at the RV Park that I live in if you were to take the residents in the park now and if there was an emergency and they were to have to exit out the front way (bridge), even if there were two bridges, you would have gridlock. You have to have two exits; one in the back and it has been proven in the studies that the flood plain is higher there than it would be at the second bridge. A secondary bridge would not be advantageous to the traffic flow. It is not going to be detrimental to the park or the residents, other than the two sites that might have to be eliminated in order to accomplish this. It is not going to become a speed trap, a tourist route or part of the Historic Columbia River Highway. If they decide to put up a secured gated entry with the signage, that would be adequate enough to keep people out of the area.

Jerry Breniser, resident of the RV Park, stated nobody seems to take into account that the four proposed residential sites on that road will have on-street parking. It will take up 10' for curbside parking for those folks to park. Now try to get one parked car and two Class-A motor vehicles in that road. If I was one of those residents and my car was clipped by someone coming out of that park I would be suing the City and the Park because there isn't enough room. That road is not going to be an ingress/egress, that road is going to be serving four more homes and there will be no security. There is no

security in that park now, what makes anybody think there is going to be security after that road is there. There will be no gate or they will just leave it open. Your traffic study is all well and good, but nobody is taking into consideration that you get folks with hot tempers or emergency access or egress onto that small road in front of Glenn Otto Park and on that little road coming out; you will have a lot of traffic right there and nobody is going to get out. Now what do you do? Nothing, someone is going to die.

Kathy LaMouth, resident at the RV Park, stated I have testified at the previous hearings. I just want to make sure that when the City Council votes tonight that you consider all prior testimony regarding security.

Mayor Thalhofer asked would the applicant/appellant like to provide any rebuttal testimony?

Daniel Kearns stated I was trying to track the testimony of the person opposed regarding the parking issue. The internal parking is not going to change. The RV Park will be rearranged to make the layout work for this new access point. If he is talking about people parking along this new access route since the White-Castillo's have a partition application in, the proposed findings that are before you include a condition on page 13 of the draft findings, Condition 5-d, "no parking" on this access road will be signed. If those lots are created they will have to park on their lots.

Mayor Thalhofer closed the public hearing at 9:05pm.

MOTION: Councilor Ripma moved to adopt the Findings of Fact and Final Order as provided in draft in our packet, substituting pages 4, 7 and 8 that were placed before us tonight with yellow hi-lights for the original pages 4, 7 and 8 in the packet. Seconded by Councilor Kight.

Councilor Ripma stated the RV Park has been served by one bridge for too long. On balance from everything that we have heard, including the traffic study, instead of building another bridge next to the one that exists, providing an overland route appears to be clearly better. It is better for safety and in the event of a possible flood it provides better egress. Any traffic issues that might have occurred internally in the park seemed to have disappeared or have been addressed. I think that the prohibition of parking on the road does adequately address the one negative comment that we heard about the overland road. Even so, in thinking about it, conflicts can occur in getting on and off the pair of bridges as well. All in all I think this has been processed with the usual thoroughness of Troutdale's procedures and we are arriving at a better solution and it is one that that applicant wanted and it seems to be favored by most of the residents of the RV Park.

Councilor Kight stated 1996 is when we had the last major flood here in Troutdale. I was driving around with our City Administrator and Police Chief and

we were at the point of evacuating the RV Park. The reason was because Beaver Creek had overflowed its banks and water was going across the top of the bridge. We had everyone there disconnecting trailers so we could take them down to the Multnomah Kennel Club. We have waited a long time for a second access to this park. I don't want a repeat of 1996 because trying to empty out the 113 spaces took a very long time and there was a very long queue because there is only one way to get out of there. I called Gus Liam at the Gresham Fire Department and asked him, if it was up to you what would you do. He said I think the answer is quite clear; you don't have a building with two front doors and essentially that is what you would have if you had two bridges side by side. It is clear that you do want total separation for emergency access. We talked a lot about floods but there are other occasions when emergency vehicles need to have a different access point, or people need to get out. If there was a fire you would want multiple ways to get at that piece of property. I think having the overland road is far superior for flood, fire or whatever emergency may occur. I think at the end of the day when you have reconfigured your park and considered the security issue that the residents are concerned about, I don't feel that there will be any negative impacts from having an overland access.

Councilor Kyle stated we have a couple of choices here, uphold the PC's decision or approve the overland access. I am sitting here thinking about the years that I sat on the PC and was annoyed when the City Council overturned our rulings. However, last hearing we heard testimony on the difficulty of locating the bridge on the base that is there and the PC didn't have that information. Tonight we have a traffic study which the PC did not have. I feel like if they would have had that information they would have made a different ruling. I am going to support the motion.

Mayor Thalsofer stated I am supporting the motion as well because I can see how this is going to benefit the whole area by having two different ways to get out. I had a similar concern as Councilor Kyle because I was on the PC for a number of years as well.

Councilor Canfield stated I will support the motion mainly for the fact that we have certain criteria in the Development Code that property owners must meet to get what they are asking for. If they meet all of those criteria we have to give them what they want and if we don't than what happens is it gets appealed to LUBA and everyone has to pay lawyers who in the end are the only ones who really win and then its comes back to us and we have to give it to them anyway. The applicants met all of the criteria and the conditions that were placed upon them, and this proposed order is fair and reasonable. Who can't argue that an overland route that is higher than the bridge is better for everyone? That is why I am supporting this.

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

Motion Passed 5 – 0.

Mayor Thalhofer called for a break at 9:10pm and reconvened at 9:20pm.

8. PUBLIC HEARING / ORDINANCE (Introduced 9/23/08): An ordinance creating Chapter 8.34 of the Troutdale Municipal Code pertaining to Graffiti.

Mayor Thalhofer read the ordinance title and opened the public hearing at 9:20pm.

Dave Nelson, Chief of Police, stated on September 23rd I brought forward a proposed ordinance, Option A in your packet. At that meeting the Council asked us to bring back a second option eliminating the abatement portion of the ordinance, which is Option B in your packet. I think we have addressed all of the issues that the Council raised at the September 23rd meeting.

Council had no questions.

Mayor Thalhofer asked is there anyone here that would like to speak to us on this issue?

Sandy Glantz stated I watched the first meeting where you discussed the graffiti ordinance. Why not offer people a 10 to 15 day window to fix it themselves and if they don't then just have the city fix it?

Councilor Kyle asked wasn't the majority of the damage being done to city property.

Sandy Glantz stated yes, but there seemed to be a lot of concern by the councilors. There was a provision where the homeowners only have a certain period of time and how you would you exempt someone who can not afford to keep it maintained or isn't physically able to do it.

Councilor Kyle asked did you look at the revised ordinance, Option B?

Sandy Glantz replied no.

Councilor Kight read the Option B ordinance language. If we adopt this and find that it isn't working we can change it.

Councilor Thomas asked the City Attorney, can the city go onto private property to take care of the graffiti?

David Ross, City Attorney, replied that would be an issue.

Councilor Thomas stated so that opens up a whole other issue about enforceability. I would be concerned about stepping on private property especially with permission of the owner.

David Ross stated the goal of the nuisance abatement is either you fix it or if you don't we will.

Councilor Canfield stated I am not sure I am comfortable with doing that at this point.

Councilor Kight asked Chief Nelson, have you ever had an occasion where a property owner wouldn't take care of graffiti?

Chief Nelson replied I can't think of a time that we have actually asked them to remove graffiti.

David Ross stated that question might be more aptly directed at the parks supervisor. I think that Clyde deals with that all of the time on the fences on private property that are adjacent to our parks.

Mayor Thalhofer closed the public hearing at 9:30pm.

MOTION: Councilor Thomas moved to adopt the ordinance creating Chapter 8.34 of the Troutdale Municipal Code pertaining to Graffiti, approving Option B Ordinance which eliminates the abatement component. Seconded by Councilor Kight.

Councilor Thomas stated I think this ordinance gives the police a valuable tool to try and control graffiti and a way to at least ask people what they are doing with this equipment that potentially could be used for graffiti. My personal preference would be to ask someone to remove it but I also understand where the Council is at and the fact that it can be a major inconvenience for the property owner. Based on that, I think this is a good start and if it doesn't work I will be willing to look at adding an enforcement section to the ordinance at a later date.

Councilor Kight stated graffiti is a problem particularly as it relates to our public parks (Columbia Park) adjacent to Reynolds High School which is under a major attack of graffiti. I think this is a good starting point. I think we will probably end up revisiting this if things aren't working. We are real conscious about livability in our community and we want to do the right thing and make sure that we don't have this type of thing in our parks, around our schools, or in our residential areas.

Councilor Kyle stated I support the motion.

Councilor Ripma stated I will support the motion. It is on the recommendation of our Chief that the police would like to have an ordinance like this to help control

the problem. I am a little concerned about how well it will work. I am also a bit concerned about possession of essentially graffiti implements being an offense. But lets give it a try, graffiti is a problem. I agree with Councilor Thomas that if it turns out it isn't working without some sort of forced abatement mechanism, we can add that in the future.

Mayor Thalsofer stated I support the motion. Possession of graffiti implements at night would cause me to be more suspicious than during the day.

Councilor Canfield stated I could support the motion but I am going to ask the maker of the motion for a friendly amendment to strike finding #4 in the Option B Ordinance. This language should not be in the findings if we are going to remove it from the ordinance.

FRIENDLY AMENDMENT: Councilor Canfield offered a friendly amendment to strike Finding #4 in the Option B Ordinance which reads, "By requiring property owners to remove any graffiti promptly will enhance the appearance and livability of the City. Property owners that do not remove graffiti promptly can have their property subject to abatement if said graffiti is declared a nuisance."

Councilor Thomas accepted the Friendly Amendment.

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

Motion Passed 6 – 0.

9. STAFF COMMUNICATIONS

Mayor Thalsofer stated when staff finishes their communications we are going to recess the City Council meeting and convene into an Executive Session. After the executive session we will reconvene the Regular Council meeting.

Rich Faith, Community Development Director informed the Council of two events that are taking place this week. There will be an Open House at Gresham City Hall tomorrow from 5pm to 8pm which is being hosted by JPACT. They are taking comments on the allocation of regional flexible funds as part of the Metropolitan Transportation Improvement Program (MTIP). There are two local projects on the MTIP list that are of particular interest to Troutdale: 1) Improvements on 242nd between Glisan and Stark Street to add a center turn lane; and 2) Continuation of the 40-Mile Loop Trail by extending the pavement along the dike from Sundial Road to Blue Lake Park. The second event is an open house that ODOT is conducting on Thursday from 4-7pm at

the Comfort Inn on Frontage Road. They have notified all of the businesses along Frontage Road of the open house. The reason for the open house is to inform these businesses of the various improvements that are being planned. There are three different phases of these improvements: 1) Add an additional turn lane at the Graham Road/257th interchange to allow for two right turn lanes, one through lane and a dedicated left turn lane to relieve the backup that now occurs in the center lane which is now both a through and right turn lane; 2) Allow for two-way access under the viaduct on the west end so that trucks coming off westbound I-84 could turn left and go under the viaduct for access onto Marine Drive; 3) The Backage Road (or the Marine Drive extension) to go along the backside of the businesses on South Frontage Road.

Council discussed this and decided that in addition to the notices that ODOT mailed to the businesses, the Mayor would contact the truck stops and staff would contact the rest of the businesses on Frontage Road.

Mayor Thalhofer recessed the Regular City Council meeting at 9:46pm and stated that the Council will be convening into an Executive Session to discuss real property transactions under ORS 192.660(2)(e).

Mayor Thalhofer reconvened the Regular City Council meeting at 10:10pm.

MOTION: Councilor Thomas moved to direct staff to continue discussions to secure a 2-year extension in order to keep the option available to us for access to the urban renewal site. Seconded by Councilor Canfield.

Councilor Thomas stated it is absolutely necessary to keep that access available to us. Without it, it will be very difficult to develop the urban renewal site. It is paramount that we get that urban renewal process to move forward and get it developed as soon as possible, and in order to do that we need to ensure that we have secured access to the property otherwise developers will see no reason or need to develop that property.

Councilor Canfield stated this additional two-year extension will give us the flexibility we need to complete the project.

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

Motion Passed 6 – 0.

10. COUNCIL COMMUNICATIONS

Councilor Thomas stated the Mt. Hood Cable Regulatory Commission did move forward and recommend a franchise with Verizon to the cities. Verizon does not agree to it in

whole. There are four issues that they are concerned about, which we will be discussing at the next East Metro Cities Regional Issues Forum. You should expect to receive calls from Verizon to give you there side of the story. We have offered several compromises from the Commission's perspective which not only protect the consumers rights, but we believe also protects the rights of the cities.

Mayor Thalsofer stated we have a bond measure for our police station on the ballot and it is badly needed to address the many problems with the existing facility.

11. ADJOURNMENT:

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

Meeting adjourned at 10:20pm.

Paul Thalsofer, Mayor

Dated:_____

ATTEST:

Debbie Stickney, City Recorder