

**MINUTES**  
**Troutdale City Council – Special Meeting**  
**Troutdale City Hall**  
**104 S.E. Kibling Avenue**  
**Troutdale, OR 97060-2099**

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**Tuesday, August 15, 2006**

**1. ROLL CALL**

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

**PRESENT:** Mayor Thalhofer, Councilor Gorsek, Councilor Ripma, Councilor Thomas, Councilor Canfield, and Councilor Kyle.

**ABSENT:** Councilor Daoust.

**STAFF:** John Anderson, City Administrator; Marnie Allen, City Attorney; Rich Faith, Community Development Director; Elizabeth McCallum, Senior Planner; Jim Galloway, Public Works Director; Travis Hultin, Chief Engineer; Olaf Sweetman, Civil Engineer I; and Sarah Skroch, Office Support Specialist.

**GUESTS:** See Attached List.

Mayor Thalhofer asked if there were any agenda updates.

John Anderson, City Administrator, replied there are no updates.

**2. PUBLIC HEARING / APPEAL (Continued from July 25, 2006):** An appeal of the Planning Commission's approval of a 19-unit condominium project.

Mayor Thalhofer stated the City Attorney, Marnie Allen, will provide us with the legal parameters for tonight and the order of the meeting because this is going to be a little bit different than it was at the last meeting.

Marnie Allen, City Attorney, stated this item is a quasi judicial land use hearing and the way this hearing is conducted tonight is controlled by State Law and the Troutdale Development Code. At the last meeting I explained there was a staff report that had been prepared that identified all of the approval criteria in the Troutdale Development Code that applied to the application. That staff report was made available before the meeting, all testimony was to be directed to those approval criteria. At the end of the public hearing at the last meeting the City Council continued the public hearing over to tonight for the purpose of talking about three

items only. One was to receive additional information regarding access to 257<sup>th</sup> Street and traffic and transportation issues associated with that. Two was to have a consultant, retained by the City, review the geological report. Three was to review a proposed redesign of the layout in the buildings on the parcel. For tonight's proceeding, the staff will present new information on those three items to the City Council. I believe that there are staff from Multnomah County here who will be given an opportunity to speak to the Council regarding access to 257<sup>th</sup> Street. After the staff presents the new information on those three subjects, similar to the last meeting, the applicant will have an opportunity to speak to those three issues. Then the appellants will have an opportunity to speak and then the applicant will have the final rebuttal. The testimony at tonight's hearing should be addressed to the approval criteria that apply to those three issues and to the new information that was presented at the last meeting. It's not a review or a new hearing to consider all the criteria and information presented before. If you believe that one of the criteria in the Code applies that hasn't been addressed or there is an issue that you want to preserve for your right to raise it later on appeal, should there be an appeal, you need to raise that issue before the City Council or you'll waive the ability to raise that issue later on appeal. We ask all City Council members to declare any ex-parte communications that may have occurred after the last meeting and disclose those and the substance of what was discussed if there were any ex-parte communications and declare bias or conflicts of interest if there are any.

Councilor Gorsek stated I referred a couple of things on to City staff regarding e-mails that were sent to me about suggestions and those were sent to John Anderson.

Allen stated for the record, those have been reproduced and provided to the Council, the applicant, the appellant, and are in the record. If you have any questions or concerns about the substance of those communications you need to raise that.

Councilor Ripma, Councilor Thomas, Mayor Thalhoffer, Councilor Canfield, and Councilor Kyle stated that they had not had any ex-parte contacts since the last meeting.

Elizabeth McCallum, Senior Planner, stated you have the e-mails that Councilor Gorsek provided to staff and also e-mails that Councilor Canfield provided to staff. In addition you have a letter dated August 7<sup>th</sup> that came in too late to be included in the staff report and also the City Attorney provided to you the transmittal of the Sedona Park covenants, conditions, and restrictions and the deed for 257<sup>th</sup> Avenue and it was made available to the applicant, and this evening to the appellants. The applicant requested I hand out an August 15<sup>th</sup> memorandum to which they will speak to when they come before you. At the July 25<sup>th</sup> meeting we were requested to have the applicant prepare an alternate layout for the site plan, to meet with Multnomah County with respect to access to 257<sup>th</sup> Avenue, and to have the geotechnical (geotech) report evaluated by a firm hired by the City. Before you this evening you have a site layout from the applicant, Exhibit 1 of the staff report, showing the modification for the location of Building 1. It has changed the orientation of Building 4 on the property and it's indicated in the staff report that the buildings remain in compliance with the setbacks otherwise required. In your staff report you have letters from Multnomah County Transportation from Ed Abrahamson and the Deputy Director of Community Services, Robert Maestre. There is an individual from the County to speak to those this evening. The City

contracted with AMEC Earth and Environmental Inc. to evaluate the applicants updated geotechnical report prepared by Geotech Solutions, Inc. dated April 18, 2006. AMEC's report is Exhibit 3 and Greg Rollins, a representative from AMEC, is here to speak to that evaluation. In the staff report you have the summary of their conclusion that the site overall has a suitability for development.

Councilor Ripma asked from staff's prospective, what difference does the alternative layout make?

McCallum replied the former site plan had 5 units abutting lot 18 and then there were 3 units on the 257<sup>th</sup> side. The revised plan has made a 2 unit building next to lot 17, 22.7 feet from the property line, and a 6 unit building in more of the center of the property. (A PowerPoint presentation including 2 slides were shown and are attached)

Councilor Ripma asked was alternative B part of the proposal before the Planning Commission and the Citizens Advisory Committee?

McCallum replied no this was submitted at the request of Council from last meeting.

Councilor Ripma asked was there an attempt to move the building more centrally on the site?

McCallum replied it's in response to Council's request to have the applicant see if they could re-orient the buildings on the property so that they were further away from the single family lots.

Councilor Kyle asked was what we just looked at option B?

McCallum replied that's what they entitled it. You'll have to ask them why they called it option B.

Councilor Kyle stated I'm confused because we have a letter dated August 15<sup>th</sup> that says "the applicant believes that the original plan works best for the site and for the development, for the reasons given above. The applicant does not request approval of Option B."

McCallum replied I just received this letter when I handed it out to you this evening. I haven't had a chance to read this letter. I believe they are referring to this drawing as Option B.

Olaf Sweetman, Civil Engineer I, stated as directed by the City Council at the last meeting we hired a professional Geotechnical Engineer to review the geotech report. That Geotechnical Engineer is here today, his name is Greg Rollins and he can review the report.

Greg Rollins, Geotechnical Engineer with AMEC Earth and Environmental, stated we were retained to provide a third party review of the geotechnical report that's associated with the proposed development. On August 2<sup>nd</sup> I visited the site and subsequently did a check on the calculations and recommendations for the conclusion in that geotechnical report. I found no

major disagreements with their methods or approach and did not find any evidence that the site was unsuitable for development.

Councilor Gorsek asked one person sent me an e-mail that indicated a question about whether you could grade the site down further?

Greg Rollins replied that's difficult for me to answer because we weren't retained to look at the possibility of additional work. I can offer a preliminary opinion from a view of the site. The geotechnical report that was submitted did ask that all of the fill on the site be removed. It looks as though with proper uphill slope care, that some additional excavation may be possible.

Robert Maestre, Multnomah County Community Services Deputy Director, stated I sent a letter to the Mayor describing our thinking about this development and access to the development to stress the issue of whether it was possible and safe to have this development access directly onto 257<sup>th</sup>. The County and the City have very similar codes about traffic and access onto major arterials and this is a major arterial. The codes that we share, we developed deliberately and sensibly. They're based on a lot of research about traffic speeds, sight distance, curvatures, stopping distance, and they're also based on a lot of experience of traffic engineers. The County wishes to respect all of the decisions that have been made in the past about this project as a whole or this location as a whole. Ed Abrahamson, our Principal Transportation Planner, has a very detailed history of the decisions that were made about this property, the neighboring properties, and access onto 257<sup>th</sup>. One of the things I'd like to highlight is it was very conscious on the City's part and the County's part in 2001 to set up this site so there would be no access onto 257<sup>th</sup>. The reasoning behind this was for traffic safety, also the safety of pedestrians and bicyclists. The attached staff report from Multnomah County staff addressed to me outlines a lot of details about behavior that what we think could happen at 257<sup>th</sup> and Cherry Park and on Sturgis. Those comments are based on a lot of experience and observation, you might call it common sense but it's also a lot of historical information that we have. The summary of my comments is we don't think that access for this development directly onto 257<sup>th</sup> is safe.

Councilor Gorsek asked have you heard the discussion related to a having a potential 3<sup>rd</sup> lane on 257<sup>th</sup> or an extension at least in the area of the development much like you see around the apartments down below?

Ed Abrahamson, Multnomah County Principal Planner of Land Use and Transportation Program, replied the simple answer is it's possible, is it sensible and practical here, no it isn't. Because of the tapers that are required to accommodate that, a deceleration lane might require taking out one of the buildings on Troutdale Terrace. The acceleration lane coming out of this development would probably require taking 6 houses to the south of Tyson's Place development to properly accommodate that.

Councilor Gorsek stated north bound on 257<sup>th</sup> from this location you have the trailer parks to the right. Further down there is another apartment complex that's ride-in ride-out. What was

the history of that in terms of the County saying that development is ok but it doesn't have any acceleration or deceleration? Why is that different than this location?

Ed Abrahamson replied with respect to the one that's furthest north, the apartment complex. It's only ride-in ride-out so they can see when traffic is coming down the hill. The manufactured home park, to the south of it, has a little better sight distance for the traffic that is coming down the hill. It's not ideal at that location, we wish it was a little further north to be honest with you. At that time, the person that did it felt it was ok.

Councilor Gorsek stated 257<sup>th</sup> is a serious issue in terms of traffic. We don't seem to account for the potential impact of what those cars do on the backstreets where children are playing. Does the County have a way of measuring that impact or has any way to evaluate that?

Robert Maestre replied we have what's called an urban pocket neighborhood in southwest Portland. They also have concerns for safety of children and others in the neighborhood. We've been working with them to discuss speed bumps, neighborhood signage, self policing, and also the law enforcement performing extra policing of neighborhood streets. We can provide history and some basic sensible suggestions on how neighbors can cope with additional traffic. We also have statistics based on how many trips per day is the average generated by homes and how many additional trips per day are generated by residential units, I think it was a 20% increase. Even though it feels like a significant percentage increase, the neighborhood streets are really quite capable to handle them.

Councilor Gorsek asked in terms of the common law access section of the memo we have from Cynthia, section II Partition Plat provides public access, under facts it says "that when 257<sup>th</sup> was built the County condemned property owned by Fuji. As part of the negotiated settlement, Fuji was provided a deed that stated that "access is unrestricted". Fuji transferred the property to Winkler. Thereafter, Winkler developed a portion of the property and was limited to one access location." Why does it go from access is unrestricted to restriction in Winkler's case? What happened that changed that?

Ed Abrahamson replied before this partition, it was a single lot and we were granting that access as a single lot. When the partition came about we didn't want to add two additional access points onto 257<sup>th</sup>. When we reviewed this development it was our recommendation that there would be no direct access from this development to 257<sup>th</sup>. I say direct access, we're not eliminating access, we're saying no direct access because we recommended that the developer get an easement across the property to the north which is a major part of the parent property, or get access to a local street which in this case would be Edgefield. That was our recommendation to the City as conditions to impose upon the developer and that's what was done. The developer was able to gain adequate access to Edgefield so they did not get an easement. With an easement they could have accessed through Troutdale Terrace.

Councilor Ripma stated I said at the last meeting the County always says no. The City is asking for access to at least consider more than the dismissal that we're getting now. I've had a long history on the East Multnomah County Transportation committee representing

Troutdale and so have you. You said no and I thought you'd say no but you don't seem to be giving any possibility of making this work. Could access to 257<sup>th</sup> be made safe?

Robert Maestre replied if we could come up with a safe engineered design for this, we'd say yes. It really seems impractical. I don't have a lot of history about this particular development. I really did try to take a fresh look at this. I've been on the site a few times standing there watching cars, looking at the fence, and looking at the neighbors fence that was hit years ago. I stood at the corner of Cherry Park, South of Cherry Park and Sturgis, and 257<sup>th</sup> and watched the cars. It really feels unsafe to have access onto 257<sup>th</sup> there. We did some brainstorming to see what it would take. It would take basically an entire redo of 257<sup>th</sup> on the west side and be around \$20 million dollars.

Ed Abrahamson stated safety is one issue and a very key issue. The only way that we think they could really gain access to 257<sup>th</sup> would be an easement or some other way to use Troutdale Terrace's access. The grade of the site is why they've gone to Edgefield. From the safety standpoint we're going to have to look at crash history at this very location. Given the crash history data that's there, add another friction point of cars going in and out, that'll exacerbate that problem. I took a look at the sight distance. If you get rid of the trees you might get better sight distance and make it a little safer, but with those trees there you don't have enough sight distance to be able to pull out of there.

Councilor Ripma stated Councilor Gorsek brought up the 60 unit apartment complex across 257<sup>th</sup> on the same stretch where the trees are down the center, it has ride-in ride-out and no deceleration/acceleration lanes were required. In fact the County made no comment at all about safety. I had the City Attorney look up the approval and the County simply said that the builder or developer will have to apply with the County for a permit. What's the difference here, just the trees?

Ed Abrahamson replied I wasn't there and I wasn't a part of that. It may not have access to another street. If it had access to another road, we would have required them to take access from that road. Given it's location and the grade to the east of it, I doubt that it had access to another road. Given the sight distance, yes there are trees there but the difference is there is a longer view of 257<sup>th</sup> looking to the south at oncoming traffic that this sight doesn't have. The other entrance, where Jennings Way and Troutdale Terrace come in, we wanted it about another 300 feet further north to get greater sight distance.

Councilor Ripma stated the manufactured home park across the street has full access on 257<sup>th</sup> and has a second. What difference does it make? If we, as a City, were to forbid access onto Edgefield would that make a difference to the County? Would they then look at it with new eyes?

Ed Abrahamson replied if there had been no other access, probably. As a condition of partition plat we acquired access and the access was part of the conditions, either an easement or access through Edgefield. The developer chose Edgefield.

Councilor Ripma stated when Troutdale Terrace was built, the site in question was part of the same lot as Troutdale Terrace. You were very involved with the access of Troutdale Terrace so you knew that this site didn't have access to Edgefield at the time and the only access you were contemplating was through Troutdale Terrace or onto 257<sup>th</sup>, right?

Ed Abrahamson replied when this was one lot, it was granted one access onto 257<sup>th</sup>.

Councilor Ripma asked what about this particular site, it's part of the same lot? Are you saying in your mind, access was only going to be through Troutdale Terrace at that time?

Ed Abrahamson replied at that time before the partition, yes.

Councilor Ripma asked there would still be access through Troutdale Terrace?

Ed Abrahamson replied if they had an access easement today, yes.

Councilor Ripma stated Mr. Maestre also mentioned that safety studies were made in 2001 and decisions were made.

Robert Maestre replied what I was referring to was that partition plat process.

Councilor Ripma asked at the time you considered safety aspects of accessing this site on 257<sup>th</sup>, did you make consideration to the access of the site via the Sedona Park neighborhood or did you only consider the safety of the 257<sup>th</sup> drivers and not the neighbors?

Ed Abrahamson replied yes. The way that it was considered is this gets into the classification of what roads are. We discussed that 257<sup>th</sup> is a major arterial and that the access through Sedona Park is a local street. By our road rules and standards, a development such as this would get access, especially if it's a dual access lot, off the lower classification. Recognizing that Edgefield is a local street, we say what's the capacity of traffic that this could handle? For the whole neighborhood it's a 20% increase of traffic, going from about 500 trips a day to a little over 600 trips per day. That is a lot and I'm not going to deny that but a street such as Edgefield is build, designed, and capable of handling up to 4,000 vehicles. We are well below the functional capacity of that road. To say that's a balloon you can fill up, that doesn't mean you have to fill it up. But it does demonstrate that there is plenty of excess capacity on this road and the addition of 19 units is not going to really negatively impact the operations of everybody.

Robert Maestre stated we did talk about neighborhood safety. There are some basic responsibilities that the driver has, to watch out for children and to drive safely. The responsibilities of these owners would be the same as the people in the neighborhood. Since Edgefield is a City street, the City could make helpful suggestions to the neighborhood or maybe put some conditions on the developer about safety issues of traffic coming out into the neighborhood. Those are manageable with normal adult sensible driving behavior.

Councilor Ripma it sounds to me that if there wasn't access on Edgefield, you'd have to allow access to 257<sup>th</sup> or would require it through Troutdale Terrace.

Robert Maestre replied in this case we would have required access through Troutdale Terrace. As we re-discussed this and said is there any way that we'd allow access from this lot go directly onto 257<sup>th</sup>? We said no for very good reasons. When the partition plat was reviewed in 2001 we thought this out and said there's a potential to build this particular lot and if someone wants to develop it they need to either go to the local street or through Troutdale Terrace.

Councilor Ripma replied I think your decision was that it was through Edgefield not through Troutdale Terrace.

Robert Maestre replied what we were thinking about at the time is these were basically the options that we had.

Ed Abrahamson stated I have a memo that we wrote to the City as part of the partition plat review on May 13, 2002. That memo talked about other requirements, it specifically states "no access for the new parcel to 257<sup>th</sup> Avenue will be allowed. Access must either be achieved through cross over an access easement to the parent parcel or a local street to the west". Those are the conditions that we passed and we want to see Troutdale move forward We're giving the City of Troutdale the options of which one you want to impose.

Councilor Thomas asked if you were to add a 3<sup>rd</sup> lane, would it be more safe or less?

Ed Abrahamson replied adding a 3<sup>rd</sup> lane is a deceleration or an acceleration lane. I'd presume you'd want to carry it all the way up, which is what you may have to do given the tapers that would be required. We'd have to take it to engineering to see what would be required to do that. Would it be less or more safe, I think it's a real safety issues having that. The deceleration part of it would be like coming down the Terwilliger Curves where you're turning a car to the left and now you have to pull right and go downhill. That's not a safe move even with the deceleration because you're going against the force of inertia. It'll probably be a right turn only lane which makes it difficult if people want to make a left turn at Cherry Park. You have some grading issues as well.

Councilor Thomas stated it was mentioned that there was the possibility of having to take out some properties for the 3<sup>rd</sup> lane.

Ed Abrahamson replied to be able to put a lane in there, the lane itself is 12 feet wide. Given the grades there it's going to be a requirement for a retaining wall as well. The proximity of those houses to 257<sup>th</sup> really precludes putting another lane in without taking out those houses or going into their yards.

Councilor Gorsek asked what if you got rid of the trees?



Ed Abrahamson replied part of the problem with that is you are reducing the radius as you're going southbound at 45 miles per hour, which is less safe.

Mayor Thalhoffer stated when the Troutdale Terrace development was being discussed we talked about a u-turn at the top of the hill. If a u-turn was ok then, why is it not now?

Ed Abrahamson replied it wasn't ok then.

Mayor Thalhoffer stated I thought it was discussed in favor.

Ed Abrahamson replied we were looking at anyway to restrict Troutdale Terrace to ride-in ride-out. We were saying how can we better accommodate them. We thought let's see if we can make u-turns at Cherry Park/Sturgis and also at Columbia River Highway. There is insufficient space for a vehicle to make a u-turn so it was ruled out. Can it accommodate in the current right-of-way? The answer to that is no. You have a traffic signal and a controller box on the northeast corner of these intersections, in order to make that u-turn you'd have to move those. To move those you'd have to get additional right-of-way into the manufactured home park and that would have impact on a couple of the houses at their southwest corners. There are a lot of impacts when you look at a u-turn. You also have to analyze how well traffic is going to operate if that were allowed and we never took it that far.

Mayor Thalhoffer stated a u-turn is always a possibility.

Ed Abrahamson replied it's always a possibility. I'm not going to say no outright. We considered it then.

Robert Maestre replied we looked at it again as part of this review. It was one of the factors for us to consider. If you make a u-turn at the top of the hill on 257<sup>th</sup> it will really impact vehicle flow, much more than years past. If a large truck tries to make a u-turn, something with a 40 – 50 foot trailer or even a 30 foot cargo van, you could have a monumental jam or accident. It's hard to regulate a u-turn and say short cars are allowed, station wagons are not. You're all very well aware of the increase in traffic on 257<sup>th</sup> and the change in the nature of the traffic on 257<sup>th</sup> and the potential changing in the nature of traffic on 257<sup>th</sup> as it goes through at a 4 lane, then 5 lane all the way down to Highway 26.

Mayor Thalhoffer stated you are saying there is no way to safely engineer ride-in and ride-out access to 257<sup>th</sup>.

Ed Abrahamson replied subsequent to our original condition that we asked for in 2002, we've taken a look at the site. There are some grade differences between the property and the road, especially hearing your earlier discussion about trying to lower the grade of this site that would exacerbate the issue of how steep it is to get from the residences up to 257<sup>th</sup> Avenue. You combine coming up a grade and trying to see traffic that is moving at 45 miles per hour up the hill with impaired sight distance, knowing that motor vehicles already crashed into this site which has been the cause of people asking us to put in a guard rail. You know this is a dangerous site and by putting in the additional access point with the poor grade entrance to

the road, it exacerbates the problem. When we weight safety, we first look at the safety to the people that are already in the public right-of-way, that's our primary concern. Then we look at the safety of people entering and exiting. We have a commitment to the Troutdale public to provide a safe environment. That's why when there's a property that has dual access we require that they take it from the lower classification, especially if it's compatible with the classification.

Mayor Thalhoffer stated the thing that really (in audible) and Mr. Winkler made this into Troutdale Terrace, he figured out a way to make it useful for himself. The access to that site, parcel B, was through Troutdale Terrace. There is still access to parcel B through Troutdale Terrace.

Ed Abrahamson replied that may have precluded the design of Troutdale Terrace. In taking a look, there is a building there that would probably have to be removed or they'd have to purchase additional property to the west because of the grade difference. The slope is such that you can't just take a straight shot down you have to have a switch back and there's not adequate distance. Mr. Winkler knew that, I think at the time he could have designed around it. We talked about that as part of the discussion, being an access there. We gave Mr. Winkler two options of gaining access, through Troutdale Terrace or a local road. He was able to secure access to the local street.

Mayor Thalhoffer stated he took the burden off of himself and put it on the neighborhood. That wasn't his only access, he still had access through Troutdale Terrace. What's happened here is instead of him assuming the burden, he has put the burden of that on the neighborhood of Sedona Park. You can say it's legal but on the other hand the folks of Sedona Park had no notice that anything was going to happen. I'm not going to dwell on that right now. So you wrote a letter to the City of Troutdale saying there are two access points to this property.

Ed Abrahamson replied they had a couple of options.

Mayor Thalhoffer asked what were the options again?

Ed Abrahamson replied we provided as part of the partition review were that either an easement be granted through Troutdale Terrace to gain access to 257<sup>th</sup> Avenue or that the developer gain access to the local street to the west, in this case it'd be Edgefield. Those are the conditions that we recommended to the City for the City to pass on as part of the development requirement.

Mayor Thalhoffer asked either one of those two access?

Ed Abrahamson replied that's correct.

Robert Maestre stated in partition plat reviews the County is really a partner with the City because it's in the City limits but fronting a County road. The issues are common issues between the City and the County in terms of mobility, traffic safety, and pedestrian safety. In

our review in 2001/02 we said these are our recommendations to the City. The City said based on what's going on and the information that we have in 2002, we'll go along with the County's recommendations. It looks like it was, at the time, a wise decision.

Mayor Thalhoffer asked did you make a specific recommendation for one of the two options?

Robert Maestre replied no.

Mayor Thalhoffer stated you talked about the safety of 257<sup>th</sup>. We were so concerned back when we did Troutdale Terrace about not being able to do a ride-in ride-out. Mr. Winkler would not have any part of that, he thought it would kill the deal, that ride-in ride-out would cause his bank to not finance the project. I asked him many times, how does that work, a ride-in ride-out would be safer for the public and traffic on 257<sup>th</sup>? You're not going to be able to get a loan for that. He said no, they wouldn't do it. We care about the safety but what's happened here is we're trying to provide safety measures on 257<sup>th</sup> and transferring the risk to the neighborhood streets of Sedona Park. You can say there are traffic calming devices there and people should be careful when they're backing out of their driveways. We know that and the neighbors know all that. It's just a transfer of risk. Should the neighborhood be subjected to that burden because a developer, Mr. Winkler, didn't want the expense of providing access to parcel B?

Robert Maestre replied those are exactly the questions that we wrested with. In any development we are making our best judgments based on research, based on a lot of experience, and all of us know that it's difficult to accommodate. What we're doing is our best analysis of risk management.

Mayor Thalhoffer stated I'm not sure I agree with you but I understand where you're coming from.

Councilor Canfield asked which has better sight distance, the existing Troutdale Terrace entrance or the proposed Tyson's Place, southbound?

Ed Abrahamson replied Troutdale Terrace has a much better sight distance to the south than Tyson's place from the southbound traffic.

Councilor Canfield stated given the accident history of this specific spot, how would having a shorter radius affect the probability of more accidents?

Ed Abrahamson replied I think people are risk takers when they drive. They wonder if that gap is big enough for them to get through. On a road such as 257<sup>th</sup> Avenue you have a combination of high speed and volume. We don't have the volume now that we're going to have because the segment between Division and Powell Valley Road that's going to be constructed in a few years. When that segment is constructed to our major arterial standards, you're going to have a lot more traffic that's coming from Highway 26 to I-84. We're going to have more traffic at a high speed on a major arterial that's meant to carry traffic in this manner which is why we try to reduce the number of access points on there. It's

not a safe location even if these other factors weren't to come into play, it has poor sight distance. If you tighten the radius up even more, as hard as it is for people coming out of the development to see oncoming traffic, the same is true for the uphill traffic, especially given the grade difference there, that car is going to be coming up onto the road. The person driving southbound is now looking down over the edge for a car. The visibility of that person on the low grade is almost none existent and so you have the opportunity for more crashes.

Councilor Canfield asked even if a redesign of 257<sup>th</sup> was approved, would you have \$10 to \$20 million dollars for such a project? Does that sound like it's in the ball park?

Robert Maestre replied I'd like to compare some of the project that we're doing. We're taking an intersection and making it wider so that larger trucks can turn, just that little portion at 223<sup>rd</sup> and Sandy is \$1 million dollars. Probably one of the most expensive things to do on a road is to create a new road shoulder. There are two ways to do it; buy a lot of property and slope it gently or buy less property and build some kind of retaining wall. Retaining walls are astronomically expensive. Anything past 4 feet in height costs triple. I think this would be well over \$10 million, maybe \$20 million dollars.

Councilor Canfield asked given the high competition in the metro area for transportation dollars, what would be the likelihood that funding could be obtained for something like this?

Ed Abrahamson replied one of the things that we've tried for years to get funding for is for pedestrian improvements. We tried to get regional funding for that project and it's always ranked very poorly. This is with pedestrian improvements being at the top of the metro list. Road capacity is at the very bottom. If you're doing poorly in a good segment how would you do in a very competitive segment that they don't want to fund? There's only \$43 million dollars in this biennium for projects. Our likelihood of getting more than \$1 million dollars for a project is slim.

Councilor Kyle stated we want to look at as many options for access as possible. The Troutdale Terrace folks came and begged and pleaded for a stop light. I'm wondering if once again perhaps you might consider a light in there and synchronize the light at Sturgis and do an access there with maybe a blinking light for ingress and egress into this. Is that anything that could even be considered? The other thing if we did an access with ingress and egress there, there'd be 6 houses that would be taken out. Were you talking about the proposed condos?

Ed Abrahamson replied I'll answer your second question first. Councilor Gorsek asked if a deceleration and an acceleration lane could be put it. The answer was yes but it would require additional right-of-way. In this case, to the south would require us to move 6 houses to the south of Tyson's Place development. As far as a traffic sign at Troutdale Terrace, in order to install a traffic signal, one has to look at what's called signal warrants and whether or not those warrants are met. The way that the Troutdale Terrace approval was when they do meet traffic signal warrants, consideration would be given at that time. We're not anywhere close to meeting signal warrants that would be required there. We're reluctant to put it in there because the primary concern on safety is to the traveling public already on the right-of-

way. To put a traffic signal at that location puts the people already in the right-of-way at risk because the northbound traffic is going downhill with poor sight distance. When that traffic signal would be activated, a vehicle coming down 257<sup>th</sup>, their sight distance isn't adequate to stop for the length of that queue. Can we put in a warning light to let people know that there's a red light ahead? Because of the distance that's required, you'd have to put the signal ahead warning sign, south of the intersection of Cherry Park and Sturgis. It's not effective at that point. It's warning people that they have a light coming up, not the one their looking at but one that's further down the road that is out of sequence with the one at Cherry Park and Sturgis. We wouldn't put one in until it warrants a signal and we want to make sure it still operates.

Councilor Kyle asked could you put a signal going southbound only at Troutdale Terrace and not affect both lanes?

Ed Abrahamson replied that's an interesting question, I've never heard anything like that. My reaction is probably not, we'd have to take a closer look at it. It's nothing we've contemplated. How would we accommodate the people coming in and out of the manufactured home park, people going northbound?

Councilor Kyle stated I can understand why a light coming downhill would be a challenge because it's treacherous. I've seen a lot of accidents coming down hill, not so many going uphill. That's why I was wondering if this would be possible with a light at Troutdale Terrace and synchronizing it with the one at Sturgis and work out some kind of access.

Robert Maestre replied we really can't tackle that one sitting here.

Mayor Thalhoffer stated we had that long discussion, for Troutdale Terrace, about using Halsey Loop and taking some of the pressure off of 257<sup>th</sup>. That never came to pass because it would require condemnation. If that had happened, that would have relieved a lot of pressure on 257<sup>th</sup>.

Ed Abrahamson replied absolutely, I believe so.

Councilor Gorsek asked Mr. Galloway, in terms of property that is west of all of this, is that part of the County Farm properties that are being sold?

Jim Galloway, Public Works Director, replied Rich Faith (from the audience) said yes.

Councilor Gorsek asked with that do we have any plan to build any roads up from Halsey in this area that could maybe come in to the back side of this?

Rich Faith, Community Development Director, replied there was a plan at one time but the Council rejected that.

Councilor Gorsek asked so it would have come up in this area from Halsey?

Faith replied that was the plan, yes.

Councilor Gorsek asked we don't currently have any plans to have a road that goes through?

Faith replied no we do not.

Mayor Thalhoffer stated now the applicant will have the opportunity to comment or ask questions about the information.

The applicants introduced themselves: Ed Sullivan, Attorney for the Developer; Leslie Ann Hauer, Planner; Catriona Sumrain, Transportation Analyst; and Tom Sisul, Sisul Engineering, Civil Engineer.

Ed Sullivan stated you asked for three things to be done at the last meeting, we've responded to all three. We have given you a redesign to take care of the issue on 18, to be neighborly. We think it's an inferior design compared to the one that we've given you. We're not asking for your approval of that redesign. The second thing had to do with the geotech report and you've already heard from the expert that found both our methodology as well as our findings to be consistent and that are accepted in the practice. Most of your time has been directed to access. We will want to respond again after others have been heard. I've give you some materials for your consideration. I have given you a copy of the City's decision on the partition and lot line adjustment. That decision contemplated exactly what the County folks told you tonight. There was a deliberate decision, certainly the County's recommendation, that yes they may have talked about two alternatives but the recommendation for approval was whatever you do, there is no access onto 257<sup>th</sup>. By the time this was done it was not possible to go over the Troutdale apartment complex because there is a big grade difference. The County knew that, the City knew that. The only alternative open to us, or the predecessor, was to find other access. That was done. Councilor Ripma raised the issue at the last meeting about whether there was an easement or not by necessity or by implication. I've given you a memorandum from Cynthia, she's a lawyer in our office, she's had 15 years with the Oregon Department of Transportation. There is no reason by implication. By the time that all of this was done, there was access available to Edgefield. Once that's done the County is within its rights, if the City makes a land use decision, to cut off all other access to 257<sup>th</sup>. For us there is no other alternative, it's either on Edgefield or it's nowhere. We don't have the right to go over to Troutdale Terrace and ask them. They gave us a piece of property with access and there's no way we can revisit that. I'll also discuss the deed from Mr. Fuji to the County. If you look at it there are 9 parcels and the last 6 of them are slope easements. The 3 that were left were 3 parts of what is now 257<sup>th</sup>. What was done in that deed was a substantial amount of that changed hands but there was nothing that obligated the County to give access. If you look at the very end there's a note. I had to have Ms. Allen translate the note because it's coated over. The note said unrestricted access to 1 to 9. That unrestricted access ended when the City made it's land use decision in 2002 to grant the County's request that there be a 1 foot non-access strip with the exception of the left and right turn on 257<sup>th</sup>. Whatever right that was there, and I don't think there is a right because it's only by a note, it isn't there any more because of the action of the subsequent property owner, Winkler, to cut off all of the access. We have nowhere else to go. The City's decision

has the cut off of all the access for both A and B. It has the approval of the access and deliberately says that, onto Edgefield. It has, ultimately, the approval following extended Council discussion over the access that the County did give to Troutdale Terrace. That site plan was done and apparently recommended after Council discussion which it left us with a piece of property that we bought which we thought, and we do have access and no other alternative. This is a site plan review, not a zone change so the amount of discussion that's involved is limited if any exists at all. That's why we've asked you to approve this proposal with the access that the City approved in 2001. I'll ask Ms. Hauer to comment and after we've all finished, if you have any questions of us, we'd be glad to try and respond.

Hauer stated my task tonight is to respond to some comments on the revised site plan. This was not submitted as a new proposal that would trigger a new 120 day review, but rather a response to the Council's request. We believe it's inferior to the original design for the five reasons that I've outlined in the memorandum. Primarily because the way the spaces are arranged, because of the way the buildings don't fit as well together, the parking impinges upon the buildings private spaces, it just doesn't make as nice of a layout, furthermore we think that the driveway next to lot 18 eliminates a buffer and puts a whole lot more traffic by that lot than would be the case if the building was serving as a buffer with the driveway in the middle.

Sumrain stated I have nothing to add at this time. The County went over it thoroughly but I can answer questions.

Sisul stated that same for me, if you have any questions.

Councilor Ripma asked you wouldn't be willing to go with Option B?

Ed Sullivan replied if you imposed it on us, I think that we'd have to probably go with it. But I have to tell you that we're not asking for it. You asked us to give you an alternative and we did.

Mayor Thalsofer stated I'd like to take some time to give us an opportunity to read this because it was given to us at the last minute. It's not been possible to read this and listen to testimony.

Councilor Kyle asked when we had the drawing up on the screen, was that the one that you brought back revised?

Sisul replied yes, it's our alternative option.

Mayor Thalsofer called for a 10-minute break at 8:27pm and reconvened the meeting at 8:42pm.

Mayor Thalsofer asked if there was anybody to talk about the new issues on behalf of the applicant?

There were none.

Mayor Thalhofer stated now we'll move to the appellant to discuss the new issues that have been presented tonight.

Chad Tippin stated we'd like to apologize for not being prepared tonight. We were under the impression that we weren't going to be able to speak and left thinking this was going to be a working session. Some of the material, as the Mayor said, was last minute and we would have liked to have reviewed it prior to this meeting. I would like to rebut a few things that happened from the last meeting. I won't speak for all of Sedona Park for this but I myself was very appalled and offended that a member of the Planning Commission would sit before you and say that Sedona Park did not act in time. Sedona Park was not notified in the proper manner. When they were, the phone lines lit up that day. We had over 90% from our neighborhood that wrote letters in opposition to this development. To say we did not react in a timely manner is false. In fact it's the very codes that the Planners sighting, is the reason for our lack of action. Those codes need to be looked at. We've played by the rules, we've tried to be good neighbors, and we've tried to come up with alternatives. Councilor Gorsek mentioned in the last meeting, is there no room for being a good neighbor? By the actions tonight there is only one way, the developer's way. Nothing else had been explored until Sedona Park asked people to look into certain things. As a good neighbor, we know what kind of a neighbor we're getting. We're getting a developer that has not maintain their parcel for over 4 years. It seems to us neighborly must surely go hand in hand with the livability that we spoke of in the last meetings. Your goals clearly defined more open spaces and less congestion. I went to Halsey Loop and there is room for access on that street. All it would take is condemnation of that little 25-30 foot stretch into Troutdale Terrace. It would be the access that Multnomah County wants, and it would be the access that we want. We noticed that in the paper that the City of Troutdale is looking for a condemnation lawyer, probably for the urban renewal project. Surely such a lawyer could take on this little piece too. We wonder how much more we can be asked to compromise. If you go this far in helping us and if Grey, Winkler, and Service (owner of the adjacent apartments) agree, to this alternative access, we still loose our views and a good portion of the character of our neighborhood but at least we've saved our kids from the increased traffic. That's really important to us and we hope you'd consider that. Thank you for inviting Multnomah County here. It's good to put faces to the people that have been denying Sedona Park their safety for over 10 years. We've asked and asked for that intersection to be looked at and something to be done. We did get blue reflectors on the curbs and we're appreciative of that. However, it has not stopped the crashes. Their concern is for traffic on 257<sup>th</sup> and that's all they'll speak to. They're not willing to put out a dime for our safety. I'd like to rebut from Multnomah County, what responsibilities do the drives have coming up and down 257<sup>th</sup>? Talking about the responsibilities of us backing out of our driveways, we're well aware of that. What should a reasonable drive on 257<sup>th</sup> be doing, they should be watching for cars making turns in and out of there. The sight distance that Multnomah County speaks of, if you're at the top of 257<sup>th</sup> looking down at oncoming traffic southbound, the sight distance is huge. I've stood up there many times. You can see all the way down past Troutdale Terrace Apartments, almost to the corner. I'd like you to take that into consideration when you're talking sight distance. Everyone's acting like this is the original grade of parcel B, it's not. The original is 4 to 6 feet



lower than it exists now. If we lower the grade to the original native soil, you take away a lot of that slope for access. You reduce the grade by a ton allowing access. You don't need switchbacks to come up that hill, you need to remove the fill. By lowering the fill, we get our access back, maybe a couple of buildings off of the hillside have to go away to maybe 17 units. We're just looking for compromise. I'd like to consider the lowering of the grade of that entire lot 8 to 10 feet. You would also help the access for the fire and emergency too. We're all pretending that the only access is from the north end of this lot, why can't it be from the south end where you could get additional footage from ingress/egress. It doesn't seem like anyone has spent a lot of time looking at the impact that this has to our neighborhood, from the County's standpoint. We haven't ever been invited to these sessions with the developer. They did invite us to the very first neighborhood meeting where they told us what they were doing and got our feedback and pretty much did what they were going to do anyway. There was an attempt to change this to Sedona East and we said we didn't like the name. We were wondering why we weren't more involved as a neighborhood group with the development, and the plan. It seems like there's a big disconnect here. We meet every couple of weeks and go through this format but nothing's really ever resolved.

Bob Bents stated our issue isn't a marquis issue like urban renewal or the former Reynold's Metal site but it's important to us. The City Planners and the City Council have so many things on your plates all the time and as Councilor Ripma pointed out, you're not obliged to look at every single pre-application. Something has to be thought about so that people like us can be noticed earlier on so we can be more involved. When I first heard about this I went down to Planning and my very first comment to them was figure out a way to break down the slope and get down to Troutdale Terrace and use the existing access at 257<sup>th</sup>. They said no the County won't allow that but tonight the County said they would allow that. Then these recent things were mailed to us that told us more about the history. It was really interesting reading. Not knowing what the applicants attorney told us tonight that addendum at the end really isn't binding. I don't know if that's true but it's interesting. I thought maybe that it would be. We could put an access wherever we want to. Another neat way would be to access it to the west. When the County completes it's sale to the Reynolds School District, if they haven't already, they're planning on 2 tiers of schools and something else, an environmental services building or a community college. They need a road from Halsey and the logical place to put it would be on the east side. That could be easily useable by this condominium complex, maybe exclusively. That would require minor grading going out to the west by lot 18. I drove Halsey Loop and wondered if that's a public street. If it is true, there's a cyclone fence and it's not really a loop. You go into Columbia Crest and you stop at their parking lot. Is it a public street all the way? If it is, we're paying for its maintenance and that fence shouldn't be there because then it becomes a private street. Driving to the south from Halsey, when you get to the end there's a slightly sloping dirt embankment that's crossing it. I could grade it myself to accommodate a driveway to Troutdale Terrace. If they don't want Tyson's Place people going out onto 257<sup>th</sup>, they could go straight through their complex and out to Halsey Loop and, I'm sure almost undoable, bar access to all Troutdale Terrace people. At first the applicant told us they have no working relationship with Mr. Winkler but later said they have some sort of water easement. I suspect they do have a working relationship with them and some of this stuff is doable. We're not asking for much, we're down to access alone.

Stan Strickland stated at the last meeting we heard work session. When we heard work session, that implied to us that this was going to be a problem solving forum not a your side/our side, let's all part ways. We came with solutions and alternatives. Unfortunately due to the format by the City's Council, we're not able to discuss those.

Mayor Thalhoffer stated I don't think that's quite right. You can discuss them. I'm sorry you had a misunderstanding about that. We call it a work session because when it's on an odd Tuesday we usually don't have a regular Council meeting and often times they are work sessions. This time it's a regular Council meeting but we moved it to the 15<sup>th</sup> so we'd have time to make some adjustments to everything.

Stan Strickland stated one of the gentlemen from Multnomah County commented that they didn't want to add additional access to 257<sup>th</sup> for the new lot when they partitioned lot B. I've been in the safety business for 20 some odd years and one of the issues that's a pet peeve of mine is that when people tell me you can't do it because it's unsafe. That might sound unusual from a safety person but I've learned you can do anything safely. It's not a matter of you can't do it, it's finding a solution to do it safely. It seems that Multnomah County is unwilling to pursue that issue. I think they have some very legitimate concerns. I'd like to address comments about access and an acceleration and deceleration lane. I think they assume that the road that is currently scheduled to access at Edgefield would go directly across 257<sup>th</sup>. If you move that north, you won't have to remove 6 houses from Sedona Park to make an acceleration lane.

Mayor Thalhoffer asked is there a map that we can look at?

Elizabeth McCallum pulled up the map from her earlier PowerPoint presentation on the laptop to view (attached).

Stan Strickland stated if access was here (north of the emergency entrance), you've got this property here for a deceleration lane and property here for an acceleration lane. His comments as I understood them were that he was assuming that the road would be here (emergency lane). It's pretty easy to see down at that angle when you're uphill. He made a comment about coming off the road and down a hill as you come off the acceleration lane. Last I checked, all of this property is uphill from 257<sup>th</sup> so I don't understand. If Multnomah County is so terribly concerned about the safety on 257<sup>th</sup>, I think it's inarguable that the speed is the primary factor of safety. The other comment on the u-turns at the top, I've seen u-turn signs that say except trucks, or some verbiage to that effect that doesn't allow trucks to make u-turns. The guardrail issue is unresolved and it's an undisputed fact that this development is contingent upon Multnomah County's approval of the design. They haven't shown that their design is acceptable and feasible. They haven't even submitted their plan to Multnomah County. There have been no heavy metal profiles or carbon profiles on that site to our knowledge. We've addressed the environmental issues and raised concerns. There was an undisputed dump site there in the past and nothing's been done to assess what level of environmental consideration is needed to be considered.

Kristy Curletto stated one thing that we didn't mention was to not build. This is something that was talked about 5 years ago and you kind of feel like its been swept under the rug. Councilor Canfield talked about the mountain versus the mole hill regarding the Sherwood situation. This has become our mountain. It was something that should have been taken care of 5 years ago when you discussed how you were going to access this area. All of a sudden it's become our burden to deal with. To us it's obvious that this development is being crammed into 1.5 acre in a neighborhood, not down the street or next to it. Our covenant 10 years ago states we're a subdivision of single family dwellings only. When the lot line adjustment occurred, 275 square feet of our subdivision was taken away from us to be used for high density without us knowing. In our eyes that 275 feet is ours. You might take into consideration that this development does not fit into our neighborhood. I understand that the developer has the right to build and we are coming up with some different ways to access that. The Oregonian today reported about the Beaverton City Council and talked about the Wal-Mart location going in. An ex-Executive Director of Metro said that the City Council did the right thing by voting against it. Opponents argue that an individual has the sacred right to do what he wants with private property but what happens to a piece of property will have an effect on the property next door. Not only in our situation here but there are other infill areas within Troutdale where this is going to come up again. We look to make future decisions on looking at these infill areas as far as our codes and standards, as far as being a good neighbor and understanding that it's going to affect the person next door. Had we known months ago, years ago, we would have been before you before now.

Councilor Canfield asked what would you have done if it had been proposed as single family dwellings?

Kristy Curletto replied we would gladly accept 3 or 4 nice houses that fit within our structure. We'll take the extra vehicles. It would probably be less costly and they could still make their money. That would fit into our neighborhood and Troutdale as a whole.

Chad Tippin stated our first preference would be to not have this built. I brought before you names of people at Metro and the State who have millions of dollars for acquisition of property just like this for green space. We as citizens and property owners are not allowed to apply for it, it has to come from the City. Metro told me that they had the funds and that the State could also help out with those funds. Is that something that you'd consider?

Councilor Gorsek asked when did you talk to Metro last?

Chad Tippin replied at least 8 weeks ago. It was prior to the first meeting.

Councilor Gorsek asked is this before they go out for a new bond or is it existing funds?

Chad Tippin replied I believe this was all bonds and solely for the acquisition of property. What the City did with it was up to them, whether they built on it or not. It was explained that they recognized the value of the property, how high properties were going up, and the importance of purchasing those lots before their out of reach.

Councilor Gorsek stated the County said they'd work with traffic calming and other things. How would you respond to that?

Chad Tippin replied I would have to talk to the group but from my experience with Multnomah County, it's no. We have not had any leniency from Multnomah County, no relief from them, and every word out of their mouth is no. We've submitted all kinds of traffic data, crashes, and yet we get nothing.

Stan Strickland replied I think one of the Council members nailed it pretty well. It's just transferring the hazard from one location to another.

Councilor Gorsek asked the plan's still not in place for the barrier?

Stan Strickland replied the individual at Multnomah County who was tasked to review the plan said they have not received it yet.

Councilor Gorsek asked is this the plan that's still only brings the guardrail to the edge of the development?

Chad Tippin replied the proposed guardrail plan submitted by Sisul Engineering covers the frontage of the Developer's property and 70 feet south of the sidewalk.

Councilor Gorsek asked there's no plan or discussion to take it to Sturgis?

Chad Tippin replied there is absolutely talk between Sedona Park and Multnomah County. If you talk to Bikram, our contract at Multnomah County, he told me that he relayed our concerns to the Developer. I believe he said that only going 70 fee around this corner would do nothing but create a funneling effect of crashes into the very next yard.

Councilor Gorsek asked is the redesign a better design than the original in your groups opinion?

Chad Tippin replied the property owner most affected has looked at it and believes that she is in favor of plan B.

Councilor Ripma asked do you think that Sedona Park in general is in favor of plan B?

Chad Tippin replied we haven't had time to explore it. We briefly looked at it as a group. I don't see a utility plan or anything else, we don't have the design as a whole. Initially, it looks like part of their synopsis is correct in that the parking is staggered. It looks like parking could overflow even more at this point.

Councilor Ripma stated we as a City are running out of time under State Law to make a decision. At least one property owner thinks plan B is a better plan and you're not sure. We have to pick between the original plan or plan B, do you have a preference.

Stan Strickland replied it seems this (plan B) has a little more of a buffer between the proposed structure and the existing structures.

Councilor Ripma stated we have a plan before us that has been appealed to us and we can approve it, deny it, or do some other things. In taking it to green space, it's probably not an option before us. That doesn't mean that it couldn't be bought for green space at some point. I was very involved when the City was helping Metro purchase green space from willing sellers. I'm in favor of as much green space as we can get but I don't think we can turn this down and say we'd rather see green space. If somehow this doesn't get built, I think it's something to explore. What's before us tonight is the application as it stands. We can tweak it or condition it. We're considering all of those things based on what you're saying.

Stan Strickland replied I think they've already given us the asking price. I think it was \$850,000 but I'm not certain.

Councilor Ripma stated just so you realize, it's not that we don't like the idea of green space. An applicant who has the legal right to develop this and has come before us with a proposal and we have to make a decision on it.

Councilor Thomas asked you mentioned the 250 foot notification process (inaudible). However the other question that you brought us was about access to Halsey Loop through the existing Troutdale Terrace Apartments. How do you see that as benefiting this subdivision? Right now there's no way to get a road in there based on what their saying.

Chad Tippin replied we truly believe there is room on the west side of the apartment buildings, there's a stub end street there, and there's probably room for a 14 foot road right beside it. The west end of it is actually the least amount of slope out of that whole slope. We believe Halsey Loop adds an additional safety feature for access for Tyson's and Troutdale Terrace. It would relieve some of the burden off of 257<sup>th</sup> and Multnomah County might be more satisfied with that access. It's my understanding that was probably one of the accesses from the very beginning. In regards to the 250 foot notice, you are correct. If we were a neighborhood association, that would have allowed us to be contacted however none of that paperwork was in process when this came about. We will continue to think about pursuing a neighborhood association but at this time we haven't.

Mayor Thalhoffer asked do you feel that if we were to institute condemnation for Halsey Loop, (in audible). That would solve part of the problem if they could access from Halsey. There are other ways to do this.

Bents stated one of the Councilors asked what good would that do to have the road graded down from parcel B to Troutdale Terrace. From reading the most recent submissions tonight, that was Mr. Winkler's first choice from day one. If that's true, assuming he still owns it, that may be the necessary inducement for him to allow the grading of the road from parcel B down to Troutdale Terrace and on to Halsey Loop.

Mayor Thalhoffer asked if you had notice what would you have done?

Chad Tippin replied I think it would have given us much more time. We're up against a wall now and we don't have time to consider some of the options that we're bringing up now. That notice would have given us a minimal of months, or years of preparation. Maybe if we were aware that there was going to be a lot line adjustment, as a neighborhood, we could have stopped it.

Stan Strickland replied the fact that we're here this evening is a good indication that this certainly could have been processed in a different manner. We certainly would have looked into it and realized the implications of what that lot line adjustment meant, which would have been access to that property. My next question would have been why are they planning on building there? Why is it zoned that way?

Mayor Thalsofer asked how much fill is in there?

Chad Tippin replied the geotech was saying in some places it was 4 to 6 feet. When we would take walks down there during the building of Troutdale Terrace it was not uncommon to see that whole hillside with a large track hoe at the top pulling up dirt and making that hillside. We saw it from the beginning and the geotech confirmed that.

Stan Strickland stated Troutdale Terrace Apartments were leveled out and that dirt was placed on parcel B and created the slope.

Bents stated Councilor Kyle mentioned this memorandum that we got that had three specifics with regards to Troutdale Terrace. That property doesn't look like it did before. There will be topographical changes made as there are with many developments. To say out of the chute that you can't grade that slope and later tonight the County says most definitely, that's an option.

Councilor Canfield stated if we were to condemn the property to Halsey Loop, I could see those property owners make the same argument that you are making today about more traffic in their neighborhood. How would (in audible) suggesting that?

Stan Strickland replied these parcels of property are zoned the same, unlike our neighborhood.

Councilor Canfield stated if you're talking about access as far as safety or increased traffic (in audible) zones.

Stan Strickland replied it makes more sense to me that if you're going to access a high density area that you do it from a high density area, not through an area that substantially lower.

Tippen stated you're also distributing those 118 cars through two accesses and where as we only have one. On us you're putting 118 cars onto the eastern part of the neighborhood, it's not distributed evenly through our neighborhood.

Bents stated the public need standard for condemnation proceeding was considered when the Fuji property was condemned 20 years ago. This is really just an afterthought of that earlier vision.

Councilor Canfield asked who should pay for that road?

Bents replied maybe a pool from the current Developer, Winkler, and perhaps the City could help too.

Councilor Kyle stated Chad talked about a stub end street on the west side. Where would this be in relation to the new plan?

Chad Tippin replied in Troutdale Terrace Apartments have a building. On the front of it is a driveway or a road (not on the map) and it dead ends just past the building. It appears there's a large chunk of land where there could be access where the walking path now is. If you remove the two units next to it, there would be more than adequate space to put a road.

Councilor Thomas stated you had mentioned people at Metro, can you give us the name of them? The last time I talked to people down there, they'd spent it all.

Chad Tippin replied I could dig through the reams of paper, but its part of the record of the Planning Commission. I stated that persons name at the time.

Councilor Thomas stated I talked to Metro Councilor's and they said they spent every dime that they had. (in audible)

Chad Tippin replied I don't remember the name but I believe the figure was somewhere around \$44 million dollars.

Mayor Thalhoffer asked if there was anybody else to speak on behalf of the appellants?

Pat Smith stated I was on the City Council when this all came up with Winkler and 257<sup>th</sup>. We had Multnomah County here and they said under no terms would they put a light in there. I asked them if they could lower the limit on 257<sup>th</sup>, what would it be? They said 45 because they consider that a mix in to a freeway. I feel we have a flaw in our Development Code that lets us get away with letting people put in developments or dividing land with no concern for future access. The Outlet Stores were a good excuse for that and we should have learned our lesson. The Planning Commission, the Planning Department, even the Council should start taking a close look at some of this stuff that we've got on our books. It's letting developers come in and override us. We are quickly losing what we've got in the way of livability. I've been against apartments but thought condominiums would be, we'd lower our population density. But they're taking every available inch with little patches of grass and no parking. They had meetings with the Planning Commission and the Citizens Advisory Committee about what we should have for standards for putting in some of these units. A developer comes in here and in one meeting can change something that looks like it's livable

into cracker boxes. You have arbitrarily changed your minds, especially on the width of some of these. There is parking for 1 vehicle and the rest is on the street. Hensley is a good excuse for that with the apartments crowding in. Edgefield, the idea that you would put a street in at a right angle, a left angle, and then down to 19 condominiums is ridiculous. When we have bad weather you are going to have accidents. When Mr. Winkler divided his property he had an ok to put a road from the top down to the lower section. Because he'd have to spend a little money, he sold the property, left no access, and built right out to the road. You should decide not to put a road up through Edgefield to a neighborhood. If you put in auxiliary roads, through the stub street or into the apartment complex, Winkler should have to pull his share of the cost. We should take a closer look at some of these developments.

Michelle Eisenbart stated if we're going to lose our green space, I'd rather see Option B because it would give me more privacy. If the access doesn't get granted, I feel it should be the minimum condo's, 17 units, with more parking spaces because there is no room for parking in front of our houses now.

Mayor Thalhoffer asked if there was anybody else to speak on behalf of the appellant?

There were none.

Mayor Thalhoffer asked any rebuttal on behalf of the applicant?

Ed Sullivan asked the Mayor for a break to speak to his client.

Mayor Thalhoffer granted the break at 9:43pm. The meeting reconvened at 9:44pm.

Ed Sullivan stated I understand Council's desire to try to find another way of doing this. I'm going to try gently to give you our perspective on that and try to make the best case that I can for the applicant. We're not dealing with what if's. We're not dealing with can you condemn and have us go over Troutdale Terrace. We have an access. The access is lawful, the access was imposed on this property before we bought, it by the City. The City cut off all alternative access when Winkler got the partition and lot line adjustment. It would be speculative to say why don't you go over Troutdale Terrace, besides the fact that it's developed, besides the fact that we have no right to go over Troutdale Terrace, it would prohibitively expensive. We bought a piece of property that had City land use zoning and access that allows what we're asking you to allow tonight. It has the lowest density that is lawful on this property under the City's regulations, 80% of the maximum. We are doing what is absolutely allowed under the City's code. We have met all the criteria for approval. To say that you can do it some other way isn't fair or lawful. We have to look at the Code, expectations that the law creates, and the application before you. Yes maybe you should change the Code, maybe you should add some further notice provisions. Oregon Law requires that you use the criteria that were in place at the time of the application. That's what we've done and that's what we've met. We didn't think we'd be able to do more than to comment on the three items and this is much more wide open than we expected. The appellants say they've played by the rules. They tried to be good neighbors and they dealt



with alternatives, so did we. We bought a piece of property and presented you with an application that meets your standards. We looked at alternatives as you asked us to do. We tried to be good neighbors. Yes I wish we could have talked more. It's a little hard with the name calling that occurred during this process, I regret that. You were asked to put aside your own views on what should be the law and apply the ordinance that you adopted, to this application. A suggestion was made that all you need to do is condemn. You can't condemn somebody's property for another person. That's really what's being asked. What we have is not a zone change where you have a tremendous amount of discussion, but a site plan review. This is not a time to change the transportation plan or redesign the roads within the couple of weeks you have left to make this decision. The guardrail is a Multnomah County decision and that decision can't really occur until you've made your decision. They're going to have to decide how long the guardrail's going to be. They have their own criteria and we'll deal with it. The land fill is not a criteria for your consideration tonight. It was also discussed that there is a lot of development crammed into 1.5 acres. That 1.5 acres is zoned to allow this use. We came in with a use that was allowed and then put in a site and design which is really the only issue before you. You may have this issue to deal with in other infill areas, as you deal with areas that are vacant and zoned for higher density. There has been some discussion of condemning our land. If you want to talk about acquisition, that's fine but it's not appropriate to do that here. That's a separate decision from the one that is before you tonight.

Hauer stated D.A. Grey has owned the site for a year and a half. The neighbors may feel slighted but they haven't been. We held a neighborhood meeting which we weren't required to do and we listened to what they said. Last time I said it was obvious that access was a key issue. We went back to the County and asked them to reconsider their decision. We learned that vehicles had a tendency to leave the road way and come across that site. We became concerned about the safety issue and have been looking for solutions. The required parking for guest is the same on the plan that was submitted and the revised plan that you just saw. We feel that the arrangement is not nearly as good having them scattered this way.

Councilor Gorsek asked it's not good to have it split up? With it scattered around the complex it seems that it would almost be more convenient.

Hauer replied I think having it centrally is easier to find and easier to use. Plus having it scattered around like this, some of the parking spaces are practically on patios and not nearly as nice.

Councilor Gorsek stated in terms of the number of spaces, that's the same.

Hauer replied yes.

Councilor Gorsek asked is that adequate?

Hauer replied I can only respond to standards and it meets the standards.

Councilor Thomas asked what are the parking standards for this?

McCallum replied it's 2 per unit and 1 guest space per every 3 units. 7 guest spaces are required for the 19 units.

Mayor Thalhoffer stated the memorandum by Cynthia says that an easement by necessity requires that the property has no alternative access. In the beginning we had one big parcel bought by Winkler, to include sub-parcel B. Parcel B at that time had access through Troutdale Terrace. Then when Winkler sold it to D.A. Grey, would you say that Mr. Grey lost his access?

Ed Sullivan replied no, he lost it at the time that the partition occurred. The whole parcel had a 1 foot non-access strip except for the right and left turn onto 257<sup>th</sup> by Troutdale Terrace.

Mayor Thalhoffer asked a 1 foot strip?

Ed Sullivan replied the County has the right to say no access and the City agreed with the County and imposed in the land use decision that approved the lot line adjustment partition with a 1 foot non access strip.

Mayor Thalhoffer stated in the beginning the County said these folks would have two.

Ed Sullivan replied there's a note on the deed that you have before you that said that these 9 parcels would not be access restricted. That was given up when it came time for the lot line adjustment partition.

Hauer stated it was kind of a false choice. Troutdale Terrace applied for the permit in 2000 and the partition didn't come until 2002. Staff has circulated a plan, I think is in your packet, that shows the apartments already in place. Sure you can go through Troutdale Terrace but they're already built.

Ed Sullivan stated the County prevailed upon the City to have Winkler give up access on both parcels as part of the partition lot line adjustment.

Mayor Thalhoffer asked where is that written?

Marnie Allen stated it appears in two places. It appears in the memo that I copied and put before you from the County Planning Staff and says that no access from the new parcel to 257<sup>th</sup> will be allowed. Then it's in the site and design approval, a City document.

Mayor Thalhoffer stated on the memorandum that you're talking about says it that access might either be achieved through a cross-over access easement with the parent parcel or at the local street.

Ed Sullivan replied that was the County's recommendation as you've heard. They gave two options. The City in approving the lot line adjustment and the partition, accepted the access for parcel B off of Edgefield.

Councilor Ripma stated parcel B was part of a parent parcel that had access to 257<sup>th</sup>, it ran with the land. This no access order is a regulatory decision that could be changed by another regulatory decision but it doesn't in itself extinguish a right that runs with the land, does it?

Ed Sullivan replied it does extinguish the right. I'm not sure if it's a right. The deed from Fuji at the end there is a note and it is not granting language and the note is not from the County to Fuji either.

Councilor Ripma stated when Troutdale Terrace was built this parcel had no other access. There was no other access other than across Troutdale Terrace. How could you contend that there wasn't some right of parcel B to cross Troutdale Terrace?

Ed Sullivan replied because Mr. Winkler acquired access to Edgefield. Once you acquire that access you have no right to go over the Winker/Troutdale Terrace property.

Councilor Ripma stated not be necessity you don't but if it runs with the land.

Ed Sullivan replied it doesn't run with the land because the bargain that was made by Winkler was in exchange for the one access at the entrance to Troutdale Terrace, we give up all other access to those two parcels.

Councilor Ripma stated it doesn't say that here.

Mayor Thalhoffer asked if there was anybody else to speak on behalf of the applicant?

There were none.

Mayor Thalhoffer closed the public hearing at 10:04pm.

**MOTION: Councilor Ripma moved that this development not be permitted to access Edgefield and that it be approved subject to the applicant finding access elsewhere. I also approve the plan B layout. Seconded by Councilor Kyle.**

**Councilor Ripma stated my reason for the motion and for favoring it is that the applicant indicated that if the access was available via 257<sup>th</sup>, they'd use or at least consider using it. Everything that the County said to be the reason that they're denying access onto 257<sup>th</sup> is because Edgefield is available. Safety was mentioned but given the history of other similar developments with far more units having access onto 257<sup>th</sup>, I don't buy it. The County is resting the decision on access being available on Edgefield and they're not really trying to consider access. Part of the reason for my motion is if we deny access on Edgefield, I think the County will take another look at it and in the end will grant it. I read the memo and heard Mr. Sullivan and his team talk about access being permitted via Edgefield therefore there's no access anywhere else. I think that's a question and I would like to provide them access onto 257<sup>th</sup> if possible. If not, I think by the wording of the decisions made in 2000, 2001, or 2002, that they**

could exercise a right of access through Troutdale Terrace that I don't think is being tried because of access via Edgefield. The neighborhood mentioned the Covenants, Conditions, and Restrictions (CC&R's), these are not City business but there is some question that part of this lot being developed is subject to CC&R's because it does run with the land and there may be some question about access onto Edgefield because of that. It's an issue but not really a factor in my decision, I mention it because there might be trouble about access to Edgefield in the end. That's another reason that I think it's fair to condition approval like I have. The County indicated that access is possible but they didn't like it. The way access to Edgefield was obtained bothers me. It never came to Council before and I think we are permitted in our decision of approval to consider safety, not just to cars on 257<sup>th</sup> but on Edgefield, given the route through an established neighborhood. It's something that I think we are permitted to take into consideration when I think there are other options available.

Councilor Kyle stated the neighbors have provided some good insight into some options. We've heard from somebody in safety. I believe there could be a way to get to another access. Perhaps because the County had Edgefield to fall back on, it's an easy way out. I'd like to look at some options, there's got to be other options. By passing this motion I hope we can pass the message to the County that we would like to work and brainstorm with them to find other options. As to the no notice, I know that it was handled legally but I think that we really need to rethink the type I hearing.

Councilor Gorsek asked is it within our boundary's to say yes but limit access to this street?

Allen replied like any decision that comes before you, you have to weight the pros, cons, and risks. You certainly have the option to make a decision to impose conditions that you believe are supported by the evidence that was presented in the record. If you believe it's unsafe based on the information that was presented, to take access from Edgefield, it's within your discretion to weight that information and decide what's credible.

Councilor Gorsek stated the neighborhood has a lot of valid points. If we're looking strictly at evidence, our friends at the County haven't exactly been very helpful in proving anything but the reverse is true. I don't necessary agree with their assessments but that is the expert testimony. I'm also not sure we can really say no you can't use Edgefield. It would be very easy to go along with that decision, I'm sure it's the popular decision. If we look at the legal requirements which are to simply base it on the evidence that we have, I'm a strong believer in evidence, I'd have to say that I believe the development people have stronger evidence on their side. Not in a livability way but simply in a legal way which is what we have to do here as quasi judicial hearings officers. If we simply stick to what the Planning Commission decided and what our codes allow, we may not be happy but I believe they met the letter of the law. I won't be able to support this not because I don't support the neighborhood but I see our roles as weighing the evidence and not trying to shape it.

**Councilor Thomas stated I have to agree with the neighbors in that this is a major impact on the neighborhood, bringing in a higher density to a medium density neighborhood, for traffic control. The other side of the coin is that what we're doing is creating essentially a land-lock, I'm not sure we can do that, by saying you can't have access other than onto 257<sup>th</sup>. Based on what I'm hearing tonight is that the 1 foot no access creates a bit of a challenge. I don't know that this would actually hold up in the future.**

**Councilor Ripma stated let me clarify my intent of the motion. It was implicit in my motion that the City would cooperate in any way for that 1 foot access. To the extent if we need to take some action, we would expect staff to work toward removing that 1 foot access strip.**

**Councilor Thomas stated in the same token, you're saying let's make a ruling based on future law.**

**Councilor Ripma replied it's not a law, we (in audible).**

**Councilor Thomas stated it's still future code.**

**Councilor Ripma stated my intention was that we would direct staff to initiate immediately, removing that 1 foot strip.**

**Mayor Thalsofer stated I've campaigned many times in this area and the hallmark of my campaign is livability. When I see this, it appears that perhaps everything is legal but for me it doesn't pass the "smell test". The County had to go along with the most dangerous intersection that exists right now at Troutdale Terrace. The Council at that time was adamant that we want ride-in ride-out. The County said our hands are tied and we're not going to put a signal up either. Everything that we tried to get the County to do by way of safety, they simply could not do it. Mr. Winkler has a piece of property that isn't very desirable, at least he didn't think it was at the time. He thought access was going to be a problem and it might be a little expensive. So he sold it after he got a lot line adjustment and partition. It's legal but the neighbors didn't have notice of it. Had they had notice of it, they would have appealed it. There should have been a type II hearing there where they would've got noticed. That was a wrong that has never been corrected and can't be corrected at this stage of the game. The City of Troutdale participated in that wrong and I'm not going to throw any stones at anybody but I think it was wrong. The one thing that will really steam citizens of any city, is if you have an adverse impact on them without any notice. I've run into that with the City a couple of times. I was hotter than a pistol as well. Here we have an adverse impact on a whole neighborhood and there was no notice, no hearing. By the time they go notice of it, it was too late to complain. So it makes it legal. I think Multnomah County could figure out a way to access this area if they put their engineers on it and started figuring out how to do it and not why we can't do it. Engineers are pretty smart people and can figure out most anything. Maybe it wouldn't be ideal but it would be an access that would work. We need to get the engineers busy figuring out how they can make it**

work without the crash and burn situation, I think they can do that. If Multnomah County feels like they don't want to do that or can't do that, then maybe some private engineers could figure that out. This was snuck in on the neighborhood by somebody who had an idea to utilize that property and there is no harm in that but it should have been done with the neighborhood knowing what was happening to them. Although Edgefield is not a stub street, many argue that it is, if it were you are supposed to state what's going to or what could be going there. It probably should have been a stub street and noted what could have been there so the neighbors could know who their new neighbors could be. Notice is so important. It seems to me that when you have a landowner like Mr. Winkler who sells you a piece of property and the whole parcel had access to 257<sup>th</sup> through Troutdale Terrace and he sold a piece of the property to Mr. Grey, Mr. Grey would have access through Mr. Winkler. There has to be access that runs with the land. The Multnomah County memorandum is saying that no access from the new parcel to 257<sup>th</sup> will be allowed. Access must either be achieved through a cross over access easement with the parent parcel or at the local street and that a cross over access easement could probably be obtained on this site. I'm thinking that Mr. Grey is doing the easiest possible thing by going through the neighborhood. It's the least expensive for him but the most detrimental to the neighborhood. The access issue is a big one and we need to let Multnomah County figure out how they can make it work and not why they can't.

Councilor Canfield stated I've spent hours trying to figure out a way to get out of this. The applicants meet all of the criteria. We could say we'll give you what you want now, especially with the access that's being proposed here. I don't feel it's defensible at all. They have legal access whether we like it or not to Edgefield. This is black and white, it's in the code. How many times have I read that other jurisdictions like Portland or Vancouver didn't give enough notice and that stinks. But was it legal notice at the time, yes it was. The site is A-2 and that really bothers me. However, that's what the City Council and everyone decided was appropriate. A lot of this density has nothing to do with us, it is Metro and there's nothing we can do about it unless we want to have some sort of density insurgency. Maybe that's something we want to look at. As far as the road access is concerned, everybody is saying Multnomah County can find a way. They sat here in front of us and said yes we can do it, it's possible to make it safe, however it would require for the right-of-way the removal of some houses and the removal of some of Troutdale Terrace. Fine let's say let's go for it. There's virtually no chance we could get the funding to do this even if we wanted to. Would it be fair to force the applicant that has played by the rules to wait for something like that to happen, I don't think so. I'd tend to vote no on this.

**VOTE: Councilor Gorsek – No; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes; Councilor Canfield – No; and Councilor Kyle – Yes.**

**Motion Passed 4-2.**

Allen stated the Council's decision is to approve the application subject to adoption and preparation of findings that support your decision to impose two different conditions. One

that requires development of the option B site plan and two, another condition that finds that there's no legal access to Edgefield and restricts the primary access to an alternative. Would the Council direct staff to prepare those findings and conditions and then have you adopt them at your next meeting?

The Council replied yes.

Allen stated one point of clarification, I suspect that the road that's proposed initially to come from Edgefield will have to be there as an emergency access similar to the way emergency access was going to be proposed connecting to 257<sup>th</sup> so that emergency vehicles, fire trucks in particular, could come in and get out. I'd hate to see you adopt a decision with a condition that didn't allow emergency access only onto Edgefield, only to have the Fire Marshall tell you that it doesn't meet basic fire safety requirements. With your indulgence, I'll draft the conditions for it.

Councilor Ripma and Mayor Thalhofer replied yes.

### **3. ADJOURNMENT**

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

Meeting adjourned at 10:33pm.

**Paul Thalhofer, Mayor**

**Approved September 26, 2006**

**ATTEST:**

**Sarah Skroch, Office Support Specialist**