



# CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

## AGENDA

CITY COUNCIL - REGULAR MEETING  
TROUTDALE CITY HALL  
COUNCIL CHAMBERS  
104 SE KIBLING AVENUE  
TROUTDALE, OR 97060-2099

7:00 P.M. -- January 9, 2001

### Mayor

Paul Thalhofer

### City Council

Pat Smith  
David Ripma  
Bruce Thompson  
Jim Kight  
Paul Rabe  
Doug Daoust

- (A) 1. **OATH OF OFFICE:** Mayor Paul Thalhofer, Councilor David Ripma, Councilor Jim Kight and Councilor Doug Daoust. Judge Raymond Young
- (A) 2. **PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE**
- (A) 3. **ELECTION:** Election of Council President for 2001.
- (A) 4. **CONSENT AGENDA:**
  - 4.1 **Accept Minutes:** November 14, 2000 Regular Meeting, November 28, 2000 Regular Meeting and December 12, 2000 Regular Meeting.
  - 4.2 **Approve Liquor License:** Stromboli Station and Albertsons, Inc.
  - 4.3 **Adopt Findings:** Adopt findings affirming the Planning Commission's decision to approve a variance for Space #1 of the Sandy Frontier Trailer Court.
- (I) 5. **PUBLIC COMMENT:** Please restrict comments to non-agenda items at this time.
- (A) 6. **NOMINATIONS:** Troutdale City Council nominations for JPACT and MPAC. Mayor Thalhofer
- (A) 7. **PUBLIC HEARING / APPEAL:** An appeal of the Planning Commission's decision in the matter of Case File No. 00-095, conditional use, site and design review and height variance for Cherry Park Plaza Congregate Care Housing Facility. Jason Seivers
- (I) 8. **COUNCIL CONCERNS AND INITIATIVES**
- (A) 9. **ADJOURNMENT**

Paul Thalhofer, Mayor

Dated: 1-3-01

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

**January 9, 2001 7:00pm**

Meeting was called to order at 7:00 p.m. by Mayor Thalhofer.

**1. OATH OF OFFICE:** Mayor Paul Thalhofer, Councilor David Ripma, Councilor Jim Kight and Councilor Doug Daoust.

Judge Raymond Young administered the oath of office for the Mayor and Councilors elected to office at the November 2000 General Election.

**2. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE**

Mayor Thalhofer called on Councilor Smith to lead us in the Pledge of Allegiance.

**PRESENT:** Smith, Ripma, Thompson, Kight, Rabe, Daoust, Thalhofer.

**STAFF:** Faith, Galloway, Seivers, Kvarsten, Young, Allen, Greif.

**GUESTS:** See attached list.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied we do have one addition tonight and that is under agenda item 4.2 of the Consent Agenda, we need to add Travel Centers of America for approval of their liquor license application.

**3. ELECTION:** Election of Council President for 2001.

Mayor Thalhofer called this item.

**MOTION:** Councilor Ripma moved to nominate Councilor Thompson for Councilor Council President for 2001. Councilor Kight seconded the motion.

**YEAS: 7**  
**NAYS: 0**  
**ABSTAINED: 0**

**4. CONSENT AGENDA:**

**4.1 Accept Minutes:** November 14, 2000 Regular Meeting, November 28, 2000 Regular Meeting and December 12, 2000 Regular Meeting.

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|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.2 | Approve Liquor License: Stromboli Station and Albertsons, Inc.                                                                                      |
| 4.3 | Adopt Findings: Adopt findings affirming the Planning Commission's decision to approve a variance for Space #1 of the Sandy Frontier Trailer Court. |

**MOTION:** Councilor Thompson moved to approve the consent agenda with the addition of Travel Centers of America to item 4.2. Seconded by Councilor Kight.

YEAS: 7  
NAYS: 0  
ABSTAINED: 0

<b>5. PUBLIC COMMENT:</b> Please restrict comments to non-agenda items at this time.
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Mayor Thalhofer asked is there anyone here this evening who would like to speak to us on a non-agenda item?

Jon Cramblett stated I am the Manager and Coach of the Troutdale Hawkeyes. This year we took 6<sup>th</sup> place out of 14 teams. I wanted to present you with the trophy that we won and a picture of the team. We want to present this to you because we do represent the City of Troutdale.

Chris Cooke stated I am here to state my position on an ordinance of the city. 8.28, public nuisance ordinance. I became aware of this after I was given a vacate notice, I am not here to dispute that because that needs to go before the court. Section 8.28.030 is the purpose and it states the program is to control hazards to the safety, health and welfare of people in the City of Troutdale. After reading through 8.28.070 subsection "A", I find five particular parts of that subsection that stand out and do not fall under any hazards to safety, health and welfare. They would be 5, 8, 11, 20 and 21. Also the entirety of subsection "B" and the entire section 8.28.075. These laws are written in such general terms that anything going on on private property is left to the Judges discretion as to whether it is right or wrong. In my opinion, these laws are unconstitutional and they are an invasion of my privacy. Laws that go to far are viewed as a taking by the Supreme Court. Any governmental agency or body that takes a property is liable for compensation. On a second note I would like to speak on enforcement of these issues. On Saturday evening I watched a Troutdale Police Officer drive through my neighborhood looking for vehicles that are parked on non-approved surfaces. He was looking for violators of this particular ordinance. We have a lot of other problems in the City of Troutdale that need more attention from the police then this. We have prostitution and drug problems stemming from the truck stops and speeding in the neighborhoods. I was strongly urged to not even come down here tonight and speak against this. I talked to a lot of my neighbors and the general consensus is that this town is very strict on this and that anything that I say will bring me undo retaliation. I would like to see this on a formal agenda at a future City Council meeting.

Mayor Thalhofer stated Ms. Allen, City Attorney, would you like to comment on this.

Allen stated I think there are two issues here. One is the matter of policy, does the Council want to review the provisions in the nuisance ordinance and are you inclined to make any amendments. The other issue is the constitutional assertions that this gentleman has

raised and I would be happy to look into those issues but would recommend that he put those in writing and identify specifically which provisions of the code he has objection to and the City Attorney's office could respond to that.

Mayor Thalhofer asked could you do that and submit that to the City Recorder and she will forward it to the Attorney's office.

Cooke stated okay. Thank you.

**6. NOMINATIONS:** Troutdale City Council nominations for JPACT and MPAC.

Mayor Thalhofer called this item and read the memorandum which can be found in the packet.

**MOTION:** Councilor Thompson moved that we nominate Councilor Kight for the JPACT representative and Councilor Ripma as the MPAC representative to continue in their positions. Councilor Rabe seconded the motion.

Mayor Thalhofer asked are there any other nominations?

None.

**YEAS: 7  
NAYS: 0  
ABSTAINED: 0**

**7. PUBLIC HEARING / APPEAL:** An Appeal of the Planning Commission's decision in the matter of Case File No. 00-095, conditional use, site and design review and height variance for Cherry Park Plaza Congregate Care Housing Facility.

Mayor Thalhofer called this item.

Faith stated before we proceed with the public hearing there is a housekeeping item in conjunction with this appeal and that is the decision on the scope of review. As you may recall the Troutdale Development Code outlines various options available to the Council in terms of how they might consider an appeal of a previous decision, a Planning Commission decision, that comes before you. Those options are restricted to the record of proceedings of the previous hearing, limited to those issues which you determine that you are willing to take additional evidence or testimony on, or a completely new hearing termed a de novo hearing as if no previous hearing has taken place. The appellant in this particular matter has not requested a de novo hearing or indicated he does wish to submit any new evidence or testimony. Therefore we have construed that his request is to conduct this hearing restricted to the record. The applicant has also indicated that he has no desire to submit new evidence or testimony. Based upon that we have noticed this hearing tonight as being restricted to the record, however, once again you do have the option of conducting it as a de novo hearing or to accept new evidence or testimony on items or issues which you feel need to be further discussed. Both the applicant or the appellant could request that this evening if they wish to, but we have received no indication from them that they do wish to submit new evidence or testimony. Our recommendation

is that by motion that the Council will decide to limit the scope of this appeal hearing to the record.

Mayor Thalhofler asked does the applicant or appellant have any comments towards this?

None.

**MOTION: Councilor Ripma moved that the appeal hearing be restricted to the record. Seconded by Councilor Kight.**

**YEAS: 7  
NAYS: 0  
ABSTAINED: 0**

Marnie Allen stated item #7 is a quasi-judicial land use hearing. Therefore the procedures are set out in State Law and in the Troutdale Municipal Code. A staff report was prepared and made available seven days before tonight's hearing. The staff report identifies and analyzes the approval criteria that the City Council will consider in this hearing. If you want the city to read those criteria, please let the Mayor know and we can make arrangements to read the criteria to you. The staff will begin the process tonight by presenting their staff report. The Mayor will then open the public hearing and the applicant will have the opportunity to address the Council. After the applicant addresses the Council, anyone who wants to address the Council in support of the application will be given a chance to address the Council. Then anyone who wishes to address the Council and testify in opposition to this application will be given a chance to address the Council. If anyone presents arguments or testimony to the Council in opposition to the application, the applicant is given the opportunity for rebuttal and will get a chance to speak last. After everyone has presented their arguments and testimony to the Council, again that will be limited to evidence that is already in the record and was presented at the Planning Commission Hearing, the Mayor will close the public hearing and the City Council will deliberate towards a decision. They may instruct staff to prepare written findings and come back in two weeks to adopt the written decision. If you are going to testify or present arguments, we would ask you to identify yourself and identify the approval criteria that you believe are applicable. If there are approval criteria that was not addressed in the staff report that you believe apply, you need to raise those issues and identify the criteria for the City Council's consideration. Likewise, if there are any issues that you want to raise later on appeal, should you decide that you want to appeal the City Council's decision, you need to raise those issues tonight with enough details that the City Council and other parties can respond to the issues. If you fail to raise the issues you will not be able to appeal those issues before LUBA or in any other proceeding. I will remind the Mayor and City Councilors to disclose any ex-parte contacts, conflicts or bias at the beginning of the hearing.

Mayor Thalhofler asked the Council, are there any ex-parte contacts, conflicts or bias that need to be put into the record?

Councilor Ripma stated I ran into Neil Handy down at Rainbows End Café. Two words were spoken but we didn't speak on this issue at all, but I feel I should disclose it just in case.

Mayor Thalhoffer opened the Public Hearing and asked staff to present their report.

Seivers stated the matter before you is an appeal of the Planning Commission's approval of a Conditional Use permit and Site and Design Review to build and operate an 82 unit Independent Senior Retirement Community, and a Variance from the 35' height standard to allow a 36' - 4" building height, subject to conditions contained in the Final Order. The original application for this project was submitted on September 11, 2000. The applicant identified the proposed building as an Independent Senior Retirement Community. Independent Living Facilities of this type are categorized as "congregate housing," and congregate housing is listed as a conditional use in the A-2 (Apartment Residential) zone. The site is zoned A-2 (apartment residential), and when it was given that zoning designation the intent was for high density development to occur on the site. An apartment complex of similar size and shape would be allowed on the site as an outright permitted use. Congregate housing is a conditional use, but it is generally recognized that congregate housing will have less of an impact because the residents are required to be over 55. However, the site is adjacent to an R-10 (single family residential 10,000 sq. ft lot) zone in the Anton Ridge subdivision, and several neighbors are expressing concerns about the potential impact of the new building to their property. The site is an irregular, a 2.66 acre, "L-shaped" lot that "wraps around" the Alterra Clare Bridge facility, which sits on the corner lot of 257<sup>th</sup> and Cherry Park Road. The site is currently an open agricultural use, and there is no history of urban development on the site. A single family home and some small farm-related outbuildings occupy the west side of the parcel. A stand of large trees is located near the center of the lot. The Troutdale Development Code says that existing trees with a trunk diameter of 6 inches or greater shall be preserved except when removal is specifically authorized by the Site and Design Review Committee and/or Planning Commission. 79 trees on the site are larger than 6" in diameter, and the applicant proposes to remove 72 of those. Several neighbors are also concerned about the removal of the trees. Chapter 13 of the Troutdale Municipal Code, known as the Tree Ordinance, only allows trees over 6" in diameter to be removed by obtaining a tree removal permit, which may be obtained in conjunction with a land use permit. The municipal code stipulates that a tree permit may be granted if tree removal is necessary in order to construct reasonably required improvements. The applicant has stated that the removal of the 72 trees 6" in diameter or greater is absolutely necessary in order to construct the building and parking improvements to the site. While the applicant meets the code requirements for tree removal, the removal will have a significant impact on the aesthetic character of the area, and the Planning Commission has imposed a condition requiring additional new trees to be planted on site to mitigate the impact. The variance request would allow the building to be 36'-4", which is 1'-4" higher than the 35 feet allowed. The applicant has said that the requested height is necessary to meet building code requirements. Staff conferred with David Traxler, Troutdale's building inspector, who confirmed this to be true. Furthermore, the Planning Commission found that there would be a negligible difference between a 36'-4" tall building and a 35' tall building. However, several neighbors are also concerned about the height of the building, and the Planning Commission attempted to address those concerns by imposing the condition that the building be moved south an additional 1'-4" beyond the required 15' setback on the north property line, which is adjacent to the Anton Ridge subdivision. The Planning Commission held the public hearing and granted approval for the applicant's request on November 15, 2000. On November 28, 2000, the appellant submitted an appeal of the Planning

Commission's decision. In reviewing the matter under appeal, the Council may by order affirm, reverse or modify in whole or in part the decision of the Planning Commission.

Councilor Ripma asked did I understand that you are saying if this wasn't congregate housing but was apartments on the site, a building at least three stories tall, 35' tall, could be built with only a 15' setback from the property line as an outright permitted use, in other words there would be no variance required?

Seivers replied that is correct.

Mayor Thalhofer asked why is a height of 36'-4" variance necessary to meet building code requirements?

Seivers replied not being a builder I couldn't tell you the engineering reasons for it but I did talk with Dave Traxler and he penciled out the numbers and I am relying on his expertise to confirm that the State Building Codes require a certain number of feet for each floor and he said that was required.

Councilor Kight stated as I understand it this particular facility is being built to support the folks that are staying at the Alterra Clare Bridge property immediately to the east, is that correct?

Seivers replied that is my understanding.

Councilor Kight asked how many beds or apartments units do they have in the Alterra Clare Bridge facility?

Seivers replied I do not know.

Councilor Kight stated you mentioned that they could put apartments on this property. If they did it to the same level of density as the current unit, would they have enough parking to support that facility?

Seivers replied if I understand your question correctly, they would not be allowed to do it to the same density. The reason for that is that the congregate housing allows an increased density beyond the standard apartments.

Councilor Kight asked how many units could they put in there?

Seivers replied we have calculated that the maximum number of units would be 57 and the minimum required would be 46 based on the minimum density standard.

Councilor Kight asked are we talking one bedroom, studio or three bedroom?

Seivers replied that would be up to the developer.

Councilor Kight asked the tree situation. As I understand it, those trees are right in the middle of the property, how are they going to be able to save the seven trees?

Seivers replied the trees that they are planning to save are on the perimeter of the property.

Councilor Kight asked what is your feeling about windfall on those particular trees since the majority of trees are going to be coming out?

Seivers replied I am not an arborists and I wouldn't be able to speak to that.

Councilor Kight asked has anybody given expert testimony if we leave those seven trees that it could in fact provide a hazard to the surrounding property owners?

Seivers replied there has been no expert testimony.

Councilor Rabe asked have we seen at any point any alternative plan for this site? What I have before me, is the only plan that has been presented? Has there been any two story or three story with a lower section that may be a little less obtrusive to neighbors and then continuance of a three story, did anything like that ever come across the board?

Seivers replied there was earlier in the Alterra Clare Bridge proposal, in the drawings submitted for that development there was shown a potential future development within this "L-shaped" lot. I would describe it as conceptual though, it wasn't any part of any formal application. However, the drawings that were sent out to the public for review as part the Alterra Clare Bridge facility, did include that proposed area. So, there may have been some impression left, I believe they were three unit townhouse designs, that those were going to go in. But again, across that area it read potential.

Councilor Rabe stated so a concept was presented to the neighborhood. But what is before us today was never presented?

Seivers replied to my knowledge it was never presented.

Councilor Rabe asked so we haven't even went to site and design yet have we?

Seivers replied yes. The conditional use permit for site and design review and the variance all came before the Planning Commission.

Councilor Rabe asked to your knowledge the Site and Design Review Committee found this to be more or less in compliance?

Seivers replied correct.

Councilor Daoust asked along the northern property line adjacent to the back yards of the homes, there is suppose to be some vegetative screening put there, we call it "80% okay when viewed horizontally from between two and eight feet above the average ground level." Has there been discussion as to what kind of vegetative screening that would be?

Seivers replied it is usually vegetation that complies with the city's approved trees and that is usually something that is reviewed as part of the landscape plan. It needs to reach that



vegetative density in a certain period of time. It is up to the developer to choose which kind of tree.

Councilor Daoust asked and this will work with the emergency driveways in the rear of the building?

Seivers replied yes. The vegetative screens need to be pretty much on the property line so that would not affect the emergency lane.

Councilor Daoust asked why was the one lone Deodora Cedar Tree picked out of having to have approval of the adjacent property owners.

Seivers replied it was one of the trees that the applicant had proposed to leave remaining. One of the neighbors, Mr. Day, expressed some concern about the potential for that to be a hazard because it would be a lone tree. He requested that the tree come down, the developer didn't propose to have it come down. The Planning Commission tried to address that and that is why that particular tree was singled out.

Councilor Daoust asked so that was the only tree that the neighbors had a concern about.

Seivers replied I believe so. It was the only one that was spoken to.

Councilor Kight asked the developer indicated that the reason he has to put in the 82 units is because it is economically viable. Did the developer at any time provide documentation to show that was the case or was that just based upon his statement?

Seivers replied it was based upon his statement.

Councilor Kight stated so we have no supporting documentation to prove that it has to be 82 units or 60 units or 70 units, is that correct?

Seivers replied that is correct.

Brian McCarl, project developer for the Cherry Park Plaza Independent Living Facility. It is our belief that the service enriched senior housing is an important resource in Troutdale. The 82 units to be included in the Cherry Park Plaza will become a positive and important community asset. Together with the Alterra Clare Bridge memory care facility that is on the property adjacent to us that our team developed, the two projects create a very low impact senior campus that will permit more seniors and their families to enjoy their lives and get the special services that they need. I should point out that the Clare Bridge facility is completely separate and under an independent ownership from this project. We are interested in building a high quality investment here that will be successful and that we can be proud of for years to come. We have a very good tract record of being good neighbors with our projects. The appeal that is before you this evening is based upon our submittal to the city, which you have. Our work with the city staff, there were two hours of discussions with neighbors and the Planning Commission and gaining the Planning Commissions approval for our proposal. We have worked hard to meet all the provisions of the A-2 high density residential zone. Senior apartments come under the heading of

congregate living in the Troutdale Code and therefore we were required to apply for a conditional use. Otherwise, as it was pointed out many times in the record, we would have been allowed as an outright use in this apartment zone, which is what we are building. Our only special request that was not permitted outright was for one vary minor variance to go from 35' which is allowed outright. I would also point out that is the same height on residential property on the other side of the fence. We were willing to live with 35' but we were required by the code to ask for that variance otherwise we wouldn't have asked for the variance. Our proposal was reviewed by staff, they concluded that we met every criteria of the code. Where special emphasis and consideration was desired by staff and the Planning Commission, we agreed to over twenty-four conditions of approval which you have in the Planning Commission's Final Order. There will be a discussion tonight about zoning. If you look at when we started this project, originally this site was 5.6 acres and would have permitted as many as 163 apartments on this site under the A-2 high density zoning. That would have required under the code 380 parking spaces, which means that over 2 acres of the entire site would have been covered with surface parking and would have generated in excess of 2,500 vehicle trips per day on this site. As was just discussed a bit ago, the combination of Clare Bridge at 44 units and the Cherry Park Plaza which includes 52 beds, we basically meet the 80% requirement under the Metro standard which has been adopted by Troutdale. I want to point out that this is the minimum standard for this zone under the Comprehensive Plan. Collectively between Clare Bridge and our project we will generate approximately 20% of the trips that would have been possible on this site had it been completely developed for apartments and I think that is important in the approach that we have taken. The other thing that I think is important is the concept of high density apartments on much of this site originated in 1977 with the Comprehensive Plan and much of this site was a transitional zone and the entire site was approved and targeted for high density A-2 zoning in 1986. It is important to establish that all or parts of this site could have gone into high density apartments at the density that we have discussed and as staff has presented to you, any time over the past fifteen or twenty years. Of the nine single-family homes that are in Anton Ridge, which was approved as a subdivision in 1979, started building in 1980, seven of the people that are signatories to the appellants letter built their homes after the zoning was approved on this site. I just point that out that the appellants have made testimony to the fact that they wouldn't have built, but in fact this comprehensive plan and zoning was discussed and fully put in place before much of the subdivision was even built. Before I respond to specific issues of this appeal I would like Greg Handy to come forward and share a few comments with you.

Greg Handy, resident of Troutdale. I want to give you a little background on where we are today and why. In 1996 we made a decision to pursue options on the Cherry Park property. We solicited three different proposals for apartments. We reviewed those proposals over a two-year period and decided as a family that we would rather pursue other options. What it ended up being is we met Brian McCarl and Clare Bridge became a reality on the property. The other thing that occurred prior to that was that our late Aunt and Uncle were involved in a situation where my Aunt developed alzheimers and because of that situation she was separated from my Uncle. He was limited to visits with her. He was not able to visit her when he wanted to because of the proximity and the fact that he didn't drive. That brought a certain amount of concern on our part that there are probably other people out there like that that have the same type of problem. With both the fact that we are not keen on apartments for the property and the fact that we thought that this was

a good opportunity to develop opportunities for other people who might be in the same situation, we pursued the option of this type of a facility. We feel that this facility is first of all financially feasible. Councilor Kight in response to your concern about financial feasibility we have done feasibility studies. We think we have done the right thing for the property, we think we are developing the right type of facility for the community. We think there is a need here and the reality is that sooner or later we will all find ourselves in a position of making a choice of where we live as old people. I don't think that there is any facility in Troutdale for people that live in Troutdale. That is why we made the decision that we made and we think it is a good decision and we will stand by it.

Brian McCarl stated I would now like to respond specifically to some of the issues that the appellant has raised. We have talked about the height issue and I think you understand that we didn't ask for that, it was imposed on us, we would have been willing to go with 35'. In consideration of what was imposed on us, the city also asked for an additional setback above what is required in the code of 1 ½ feet, which was the maximum that we could setback any further and still build our building, and we agreed to that. In terms of site characteristics, staff has made reference to a concept that was presented to the neighbors, let me clarify that for you. At the time that the Clare Bridge project came forward and we subdivided 5.6 acres into the two parcels, the County, in approving the circulation access for both pieces, wanted to resolve that circulation issue for both pieces at one time. They asked us to show that we could draw a road from 257<sup>th</sup> to Cherry Park Blvd. and that you could in fact fit buildings along the side of that road. That was all that was asked of us and that is what we did. It was never brought forward and never discussed in any matter on the public record with regard to what was proposed on the remaining site. We never made any representations to anybody publically, the city or otherwise, as to what could be done on that site other than the fact that the circulation would work. The plat was debated at the time about its configuration, it was felt that the Clare Bridge project and the remaining apartments could be viable and it was discussed that apartments could be built on the remaining site. We did get approval for our circulation, we did get approval for our plat. No one suggested that the zoning be changed on the other property at that time from A-2 to anything else and nobody objected to our circulation to the extent that it wasn't approved. The site is and remains properly zoned consistent with the Comprehensive Plan at A-2. It is a very suitable site for apartments which it could easily be developed for and it is consistent with what we are proposing to build. We do not consider the site to be a restricted site. Another issue that has been raised by the appellants is the style of our design and I would just submit to you that our team is the same team that designed and built Clare Bridge and we think we did a good job. I will now ask Gunnar Langhus to show you the site plan and point out some of the features.

Gunnar Langhus stated as always in these type of facilities we are concerned with creating a sense of community within the building itself and also architecturally trying to fit into the neighborhood. To achieve that we have chosen some materials that are residential in character. (Gunnar reviewed the plans)

Brian McCarl stated one comment about Gunnar's design and the way we approach these things, you really have to build superior quality and superior design to attract people and make them want to live there. This is a serviced enriched apartment for seniors, it is expensive but it is an elected decision. Since we hope to attract people from the

immediate neighborhoods who are moving out of nice homes, you can't build a lesser kind of project, you have to build something that appeals to their sense of what a quality home would be like. So, we bend over backwards on the details to design these things and I think Clare Bridge is one example of that. In terms of the issues of trees that has been raised, we were asked to and saved as many trees on the Clare Bridge site as we could. On this particular piece of property in order to build this kind of facility and achieve the density that is economically viable. I want to point out that most independent living facilities of this type are typically in the range of 140 to 180 units. We have done this at 82 units so that we can build this kind of property in Troutdale and we are working incredibly hard to make it work here because of the need and the demand. We think it is the right thing to do for the community and we love the relationship next to Clare Bridge. Even though they are separate, this is a project that we want to build for Troutdale and make it work. This is absolutely the minimum density that we can build and make it work. I would also point out that is partially a function of the value of the property, the property has a very high value as apartment land and as a consequence we have to maximize the number of units that we can get. We are slightly under the maximum number that would be allowed under the zoning. Regarding trees, when we build a building of this size with circulation requirements there really isn't a lot of room left to save those trees. We were asked to add twenty-five additional trees above and beyond what we have in our landscaping plan and we agreed to that. We did go through all of the prescribed measures that are set out in the code and made our justification, it was reviewed by staff and supported, it was reviewed by the Planning Commission and supported. As you can see from our site plan that we don't have a ghost of a chance of building a building anywhere near this size without removing those trees. With regard to the one standalone tree, which was the Deodora Cedar, it was mentioned that the tree could blow over. The Handy's family and our feeling about that tree and the research that we have done with qualified people is that the Deodora Cedar is a very deeply rooted tree and there are many standalone Deodora Cedars around the area. We would be happy to leave it. If the applicant wanted it taken out, we would agree to take it out at our expense. We don't want to take out any more trees than we have to. The way that the Planning Commission resolved that was to add language as a condition that both parties needed to come to an agreement. In closing I would like to reiterate that we think that the project is far superior to what would inevitably be built on this site unless you decide to change the A-2 zoning and change the development code that would allow apartments to be built. Even if you built 57 apartment units, the code would require that you have well over 150 parking spaces there, that project as a straight apartment building would generate easily three times the traffic that our project will generate. There is another 256 units of apartments going on down the hill from this site which is going to generate an enormous amount of traffic. We are across from the high school, there are issues with the intersection of Cherry Park Blvd. and 257<sup>th</sup> now. This is a quiet use, walk over to the Clare Bridge project any day of the week year around and you won't hear a word. With this project you will have a very quiet population as well. We think across from the high school that this is an appropriate use. We think that opportunity to co-locate these facilities and create a senior campus for Troutdale will be a great community asset. I will be glad to answer any questions that you have.

Councilor Ripma asked you keep referring to Clare Bridge, how tall is Clare Bridge?

McCarl replied Clare Bridge is designed as a very specialized alzheimers facility and those facilities have to be one-story. To the top of the roof of the Clare Bridge facility I believe we are at 32 or 33 feet.

Langhus stated the very front gable comes up to the maximum height limit, but most of the rest of the roofs are on average about 25 feet.

McCarl stated which points out that what you will see looking into the project if you are looking over the fence that we have agreed to build, you will really just see up to about 26 or 27 feet so you will only see about 19 feet of the building.

Councilor Ripma stated you are saying that from the neighboring property, looking over the fence you would see above 19 feet?

McCarl replied envision a fence of approximately 8 feet and up to the eve of where the roof starts back is a distance of about 27 feet, subtract 8 feet from that which would be about 19 feet. The roof slopes back, it is a 3 and 12, so the roof really slopes back so you are going to get a lot of relief from the roof. The roof isn't going to tower over you the way the roof of an apartment would.

Councilor Ripma stated obviously one of the big problems that the people have is that there are third story residences that are looking down into their back yard. Clare Bridge, you keep referring to it as a great example, and it is a one-story building with a roof. If that were the type of structure being built where you are proposing, it wouldn't suit your needs, but I doubt that you would be getting the same complaints. The setting of this large building facing the backs of houses along the north west side, how long is that part of the building?

Langhus stated we have 150 feet that is at the 16'-4" setback, then you have probably about 120' at a 23' setback.

Councilor Ripma asked the building is a long narrow "L-shaped" lot, so you built it back against one side with a driveway on the other side. Was it ever considered at the instep of the "L" rather than the outside, therefore setting it back from the residents and toward the parking lot area of the other property?

Langhus replied very early on we did look at schemes that did entertain that idea. There were some issues with the fire lane access and the other huge issue that affected everything was the main front entry door. If you put the entry over here, nobody could see it except the neighbors.

Mayor Thalhofer asked the setback, 15 or 16 feet and then you have a 36 foot building, it is really close to the property line and the folks who live in Anton Ridge. Have you done anything or investigated any other ways that you can make that a little less obtrusive for the adjacent property owners.

McCarl replied we do have limits on the site. We have many different criteria to meet in the code. There are minimum requirements for setbacks, minimum requirements for the

safety access on the site. In terms of designing a building of this kind you basically have to have a corridor built efficiently, so you have a corridor with apartments on both sides. With the corridor going down the middle like we have, that responds to seniors, it is a little bit wider corridor. With the fire access around the building, the driveway, the minimum building widths and the setbacks, we literally are at the full width of the property. When we were asked at the Planning Commission level, would we be willing to setback the building another 1 ½ feet, we said yes. After talking to our architect that was the maximum setback that we could achieve and we agreed to that. There isn't a lot of room to make this work. These things are difficult and complex. We have scrupulously studied the code to respond to every element in the code, but in terms of setback this was the very best setback that we could achieve.

Mayor Thalhoffer asked is it your position that you feel that this building is compatible to the surrounding neighborhoods?

McCarl replied absolutely for the reasons that I pointed out.

Councilor Kight stated you brought up the fact that you are putting in an 8 foot fence. Traditionally I think in terms of a 6 foot fence, is this standard for a commercial property or do you have to get a variance to go from 6 feet to 8 feet?

Langhus stated I believe that actually the staff report suggested a 6 foot high fence.

McCarl stated we have often put in 8 foot fences where they are permitted just because of the privacy issue between properties.

Councilor Kight stated so you will have to get a variance. What would be the construction of that fence?

McCarl replied that was not resolved by the design review. There is a mixture of fence types out there.

Councilor Kight asked would you be willing to work with the neighbors and find some kind of compromise between the neighbors and yourselves?

McCarl replied within the context of reasonableness, we would be delighted to work with the neighbors.

Councilor Daoust stated in the conditions of approval all they require is along the western boundary.

McCarl replied I think they added to that. It says "in addition to the proposed landscaping, construct a 6 foot sight obscuring fence along the entire line of the western property line. The screening along the northern property line that is adjacent to the parking area shall be at least 80% opaque when viewed horizontally from between two and eight feet above the average ground level. The screening shall be composed of plant materials that are adequate in size so as to achieve the required degree of screening within three years after installation." So we suggested a fence at that point and the Planning Commission

suggested landscaping.

Councilor Daoust stated that is the way I read that. So there is a fence the western property line.

McCarl stated it was an issue of headlights and we said we would be glad to build a fence. In fact staff called me before the hearing and said the neighbors are concerned about lights in the parking lot would you commit to building a fence and I said sure.

Councilor Kight asked how many affected property owners immediately to the north of your project are affected by that, where the parking is?

McCarl replied probably two or three.

Councilor Kight stated I am a little concerned, I know the Planning Commission said to put in landscaping, was there any input at all from the neighbors as to which they preferred - landscaping or fence?

McCarl replied we are completely open to doing the fence.

Faith stated the reason why there is no condition addressing the fencing along the north property line is because there is already existing fences the entire length. Neither the Planning Commission or staff felt it was necessary to double up the fencing along the north property line. So the landscaping condition was put in there to add for additional buffering between the parking lot and the existing fence that is already there.

Councilor Kight asked was there any input from the neighbors?

Faith replied the only comment that I remember coming on the issue of fencing had to do with the west property line, that there was no fence being proposed and there is not currently a fence there and that is why the condition was put in there requiring a 6 foot fence along the west property line.

Seivers stated that there was a adjacent property owner, Mr. Virostko, he is to the north towards the western end, he was concerned about light pollution from the parking lot. He did express to me an interest in a sound barrier proof wall, but staff discussed that and did not feel that it was appropriate for that type of residential setting.

Councilor Kight asked is there an age limitation on this building. In other words do you limit it to age 65 and older or can younger people rent space?

McCarl replied it is restricted to seniors. It is restricted to 55 and older.

Councilor Kight asked Mr. Faith, is there anytime in the future that this particular facility could be converted to an apartment?

Faith replied I would imagine that the owners of this facility could potentially in the future decide that they want to sell it or convert it to apartments. I am struggling with what

procedure or permitting requirement we would need to put them through in order to put them through that conversion. Because this is being reviewed as a conditional use and that is the use that they would be restricted to, if they were to change the use to apartments that would very likely trigger a requirement for another site design review or some type of land use permit for us to evaluate it. As congregate housing they are entitled to exceed the underlying density by 50% and that is why they are talking about 82 units as opposed to a maximum of 57 if this was being built as apartments. So you couldn't convert all 82 units to apartments and continue to meet the underlying density, so there would have to be some kind of a review of a land use permit in conjunction to converting to make sure that they did not exceed the underlying density. To answer your question, it is possible that a future owner may want to convert from congregate housing to apartment units, but it would trigger the need for some kind of a review of the project.

Councilor Kight asked Mr. McCarl, one of the major objections that I keep hearing is the barracks type look of the facility. You have given us a word picture and pointed to the facility next door, which by the way was very nicely done. But maybe part of the limitation that we are dealing with, not only the Council but the public and in particular the neighbors, is that we are visually oriented. Unfortunately what you have is only one dimension. You have pointed out where there are gables there are also bump-outs. Could you give us a word picture, if you were a neighbor on the other side, what would they visually see.

McCarl replied it doesn't look like any military housing that I have ever seen. I think there are some unique characteristics to this site. For one thing the site is an "L-shape" and so you really don't see all of this building at one time. There are three property owners that are in the back that are going to look squarely into the building. Those people will see the elevations that I passed around to you. Again, it is relative to what you can have on this site in terms of what someone else might build as an apartment. We don't build low end apartments. What we have is a building that has an architectural composition roof, same as Clare Bridge.

Councilor Kight asked how many bump-outs do you have on the back side to the property owners to the north.

Langhus showed the Council the plans and pointed them out on the map.

Councilor Kight asked how far do those bump-outs come away from the front elevation?

Langhus replied 8" to 12" approximately.

Councilor Kight asked what kind of landscaping would we see if this facility were built, particularly if you were the neighbor on the north side.

McCarl replied we hired David Evans and Associates as our landscape architect. It calls for the preservation of the trees that we talked about. Basically along the parking lot, conifer trees, screening with shrub and grass so it is a series of step downs. It calls for existing site obscuring wood fence along the north property line.

Councilor Kight stated I am getting a mixed message. You say there is a wood fence on



the property that faces north?

Langhus replied there are existing fences in place. It is our understanding that staff is saying that there is existing wood fence and they are asking for additional screening here.

McCarl stated this is calling for a screen planting on both of those faces, particularly the face along the neighbors. Typically what that would mean is in addition to the conifer trees, we would typically plant a hedge material. I would be delighted to meet with the neighbors when we come in for our permit with our landscaping plan.

Councilor Kight asked what about a fence on the north. Even though there is pre-existing fences by the neighbors, I don't know what the conditions of those fences are.

McCarl stated our plan shows that we are putting one in on the north: We will do the fence and then we will plant the hedge. Excuse me, the plan says existing sight obscuring wood fence, but we are open as we told the city staff, to putting another fence in.

Councilor Kight state Mr. McCarl what I am hearing from you is that you sound like you are willing to work closely with the neighbors. Your opening comment is that you want to be a good neighbor and I am sure that you do. I think I am hearing the right things but I want to repeat it and that is you are willing to sit down with the neighbors and to the degree you can, work out any differences that you might have. Is that accurate?

McCarl replied with regard to the whole landscape issue and any other issue, absolutely. During construction we create a monthly newsletter that goes out to all the neighbors. We invite neighbors into the building at periodic points and times. We have a barbecue periodically at the beginning and the end. We bring the neighbors in so that people know what is going on and how we are doing it.

Councilor Rabe stated I have looked through the conditions of approval, the HVAC system which is I am assuming is an acronym for heating ventilation and air conditioning. If I lived next door and it is a hot day, I can imagine that everyone is going to crank up the A/C. I am wondering about whether or not any consideration has been given to noise abatement. Most homes have their bedrooms to the back of the house, and if the neighboring properties want to open their bedroom windows in the evening, are they going to have to listen to those HVAC systems all night?

McCarl stated I think you have a good issue and let me tell you how we address that in the whole building. Our furnaces are in the attic so they are enclosed inside the building and they are covered with insulation. So they are very quiet anyway. The typical way of heating these apartments is with a through the wall unit. Typically we have gravitated over time both out of maintenance and operation and noise, if it is noisy for the neighbors it is noisy for the residents. The residents won't put up with it so we have gravitated towards a higher quality product. If you put a good piece of appliance in to begin with you have a happy tenant and most likely have a happy neighbor.

Councilor Rabe stated lets just say that I was an unhappy neighbor, if I have a particular issue with the facility itself, is it as simple as coming to the main office to mitigate my

problem and feel as though I have been listened to and something will occur, or am I going to be forwarded to someplace else?

McCarl stated I don't think there is a more professional operator of these types of facilities in the northwest than Larry Draper. I have never met anyone that is more open and congenial with his residents or with neighbors in the way that he operates his facilities. I think that the staff that he puts on this site knows that they're in a neighborhood context, that they have residents and they will respond politely and intelligently to neighbors.

Larry Draper, Court Yard Development, we have our own operating company. I live in Portland and I operate a number of these facilities. Two issues that you generally have based upon my experience, is a light issue and noise issue from the fans. There is outside lighting required by the building codes and by the fire department for access. Sometimes the lens on the lights is not adjusted properly and it does shine in the neighbors backyard. What we have developed is a lens to cover the portion that would go into the backyard and actually focus down on the property that we have. The other issue is the noise. We did have an occasion on one of our buildings that it was noisy. A neighbor called and I had a mechanic come out and look at it and the pulley had slipped. When we replaced the bearing and pulley, it quieted right down. I called the neighbor back and thanked him because he saved us a lot of money. When we get issues with the neighbors we meet with them, we invite them over to the building.

Councilor Rabe asked Mr. Faith, could you tell me when this particular building site was zoned as such?

Faith replied in 1986.

Councilor Daoust asked there is a facility in Gresham that this reminds me of, Courtyard Fountain. It is a three-story facility similiar to this, it is a very nice facility and it is surrounded by neighborhoods also. Is that similiar to what you are going to build here?

Draper replied yes. I was the prime developer on that property and that is very similiar. This building has more detail then what we did on that one, which means it will look sharper and better.

Councilor Daoust stated the Courtyard Fountain facility has the entryway roads on perimeter of the property and actually the entrance is in the back, did you consider something similiar to that here?

Draper replied in the original layout of the property the building wouldn't function the way a senior project needs to function because you have to have visual recognition where to go. 50% of our people drive and a lot of those shouldn't. You have to have short hallways and centrally located and just a whole lot of things go in on the design stage for a building to operate comfortably for the people that live there. I have done ten buildings and not that we are architects but after you have designed and operated some of these building you have a feel for it. It would not serve the residents if we did it that way.

Councilor Daoust stated so what you are saying is the placement of this building, you don't

have much flexibility as to where you could move it. My last question is I think related to the main concern of the neighbors and that is somehow shielding this facility from the homes in the back of it. I get the impression that you are working hard along the parking area to put landscaping in, but what about the back of the building that most of the homes will be looking at. Is there any landscaping concept or would you be able to plant conifer trees in back of the building so that when they mature you will have a buffer between the homes and the visual impact of looking at a wall?

McCarl replied that is a good question. When that was raised by Councilor Kight, we have discussed the idea of a hedge but we also said we would work with the neighbors. We would also be glad to talk about a tree which can be pruned more like a hedge that would have height to it initially. There are trees like the Canadian Hemlock, those can be planted and trimmed like a hedge.

Councilor Daoust stated well I was talking of things higher then the eight feet.

McCarl stated well this could be substantially higher than eight feet.

Councilor Daoust stated so that would be something that you would be willing to work with the neighbors on, above the eight foot height?

McCarl stated I would be glad to have our landscape architect develop two or three options and we would be glad to host a meeting and invite the neighbors, have coffee and talk about it. Within a range, all things being equal, I would be glad to go with preferences of what the neighbors want as long as it is reasonable and we can make it work, we would be glad to give them options to pick from.

Councilor Ripma asked was there a requirement that you have entrances on 257<sup>th</sup> and Cherry Park?

McCarl replied the circulation concept for this site was required to be approved in the plat process. Life safety was one of the issues, but having viable access into the site from both sides was considered important. It is important to the way that this building functions. As I recall we stipulated that we have a right turn-out and right turn-in only on 257<sup>th</sup>, so that was a stipulation and then we are two-way on Cherry Park.

Councilor Ripma asked was it required that it be a through road?

McCarl replied yes that came out of the planning process. The other issue that I think is probably most important is that we do have a building that extends along both parts of the driveway a considerable distance and in terms of fire and life safety, getting to this gives the Fire Marshal a redundant form of access into the building. That was an issue with Clare Bridge and that is also the preference of the Fire Marshal here.

Councilor Ripma stated I am still searching for some reason why the building has to be put three-stories high so close to a residential neighborhood. I see the constraints of the site and I hear all of your arguments but if the road didn't have to go through both roads you could push the building over and have the driveway around the back on the northwest side

and on the west side have the driveway in the front, that is an example.

McCarl stated there are other reasons as well. If you look at our parking layout, we do have parking requirements also. We have parking at the entrance at either end of the site which basically demands access from both ends of the site. Then going the next step, you have access to the life safety lanes going behind the building for fire access. Then from that point you have to have access of ingress and egress into the front of the building for drop-off for seniors.

Councilor Ripma stated Mr. Draper said that the building could not have an entrance in the back and a perimeter road on the outside like the building that Councilor Daoust identified in Gresham, this one couldn't work that way. I really never heard why, could you elaborate on that.

Draper stated the project on 223<sup>rd</sup> was a different configuration. The perimeter of the property abutted a street, so some of the services provided in that were off the street. The main drop-off was in the center and that worked well. The Fire Marshall had outside access all the way around the building, so that was an issue. Transportation issues and some of those things, the garbage pick-up was off of the back side on a short street. This building if you flipped it the other way the neighbors could then complain about the vehicular traffic coming and going because there backyards would then be right next door to the drop-off.

McCarl stated I can tell you that we have looked at that and in my opinion this site is not buildable the way you are suggesting.

Councilor Kight stated we have talked about trees and the Deodora Cedar that is on the property line, there was the additional seven trees, was that a concern to the neighbors?

McCarl replied there was concern expressed that trees, particularly fir trees that are left as free-standing trees don't have the benefit of a grove of trees to protect them from high winds. We said at the time that we would be glad to consult with an arborists and get an opinion, we did that on the Clare Bridge project. If that is the pleasure of the Council, we would be glad to do that. If the judgement of the arborists is in fact that the specific trees in the specific locations that we proposed to keep can be kept safely and don't impose any unreasonable threat to the neighbors or to our buildings, then we would propose to keep them. If the judgement is negative and that they ought to come out, what we would do is come back to staff and make application to remove those trees as well.

Mayor Thalhoffer called for a 10 minute break.

Tom Day introduced his wife Linda, Dorothy Virostko, Steve Wright, Gloria Eki. Steve Wright lives next door to Harold Wright and his wife and they are the neighbors immediately to the west. We appreciate the opportunity to come before you and present our case. At the Planning Commission hearing we heard comments from the developers about communicating with the neighbors and all the things they do. I want you to know that there has been absolutely zero communication prior to the Planning Commission hearing and in the two months since then. There has been talk about all the newsletters

that go out to the neighbors while they are in the construction phase, well when Alterra Clare Bridge was under construction that did not occur. We have never had any communication with these folks at all nor have they made any attempts. Talk is cheap, I am a person that believes in action and facts. There has been discussion tonight about trying to search for some form of compromise and I think we are all reasonable people and we are certainly willing to look at that. Regardless of all the technical facts and everything I am sitting only 15 feet away from you right now, that building will go more than twice the length of this room immediately above us. You'll look out the window and there will be many many lights and people that peer right down into our back yards. Our back decks on our homes are only twice the distance from you to us here and again I look up, it makes my neck hurt just to look up that high straight up overhead. We, my wife and I, were at the Planning Commission hearings two years ago back when the Clare Bridge project was discussed. The facility is very well designed and is aesthetically pleasing, we think it is a plus to the neighborhood. We had no problem with the high density zoning, but that can come in many forms, it doesn't have to come in a 3-story building that is 300 feet long and be so imposing to the neighbors. My mother is 73 years old, she lives in a senior housing independent living facility and I can understand how those folks network together and support each other and I am supportive of that. But you know there is only 51 or 52 beds in Alterra and we are talking 113 in this 3-story building. I don't know how many people would need that kind of housing to be supportive of other family members in Alterra because they are outnumbered two to one anyway. I think there are different types of housing that could be compatible with the neighborhood that can meet the family needs between the folks at Alterra and family members that may want to live in close proximity to them. There was discussion about no one said anything about the zoning at the Planning Commission hearing two years ago, there was no discussion about what kind of facilities were going to be built in the future. If you go back to the minutes of that particular meeting, members of the audience tried to raise those issues, I brought up one or two of them myself. We were told that the only thing that we could address or talk about was the Alterra development, we could not talk about the "L-shaped" piece of property and what was going to happen there. But proposed doesn't mean conceptual, it says proposed future development and this is what was sent out to everybody. Whether there was any discussion about it or any attempt to mislead anybody, all grant them that they weren't trying to do that, but what was implied to us based on the information sent out was that the proposed development is what was sent to us. There were questions about dividing that property up because that "L-shaped" property was going to potentially create some problems for development in the future. We were told you can't address that now, we will cross that bridge when we come to it but it was also recognized at that time, and I don't know if it was the developer or the Planning Commission that said we understand that in developing that piece of property there could be some restrictions to what we can do in the future. Well what this development is right now looks nothing like what was on that information that was sent out and it is built to the absolute max and in fact beyond. I think the overriding thing in all of this is we have zoning and develop codes and the whole reason for those is so that something like this will not happen, otherwise why have them. The idea, in talking with other planners, is to have a transition so we don't go from 10,000 square foot single-family residential lots to a real high density development. We are really not against the high density so much as we are the intrusion upon our property. It will absolutely block out the sunlight, some will lose their view of Mt. Hood, I will lose my satellite signal because that building is so high and so close. The reference that they try

to defend that this isn't a barracks style building, well a professional planner used that term to describe that very structure. The light in the parking lot, that is a big issue. Did you see how many windows are in the back of that building and how many of those lights that might come on and peer down into our yards and homes. There are other types of independent living facilities, they don't have to be 3-stories high. If I was 70 years old, I wouldn't want to live on a third story. The home my mom lives in is for senior citizens and they are a single story. If we go back and look at what is the basic intent of the codes, all throughout the codes it talks about blending in and being compatible to surrounding neighborhoods. That is the whole concept behind land use planning and zoning and developing codes. By taking the property two years ago and dividing that up into the two pieces, that took away a lot of flexibility to allow, if they wish, to put a three-story apartment in there and they would have had a lot more buffer between our homes, but this is all just crammed up against the properties. The Deodora Cedar that we talk about, that tree is over 100 feet tall and we love that tree, we don't want to see it go. That tree, depending on the wind, could fall over on any one of three homes. When we are so willing to cut down so many of the trees, I really have to question why the owner of the property even objects to the removal of that tree because we really don't want to remove it either but we live here and we know what the winds are like and it does present a hazard. Again, we can talk about all the technical specs and how everything is being complied with but the basic intent of the code isn't there. Why this property was re-zoned from single family residential in 1986 to high density residential, I don't know. The fact is it happened. If it is going to be high density residential, we could probably live with that, but maybe there needs to be a little bit more limitation put on what that may look like. There is no question in my mind that the reason for a 3-story building with that many units is economically driven, I think that the developers even said that. This isn't the only thing that will work, it is the only thing that they propose is going to work on this site the way they laid it out. We talk about compromising on whether there is balconies, 4" trim versus 6" trim, types of shrubs versus trees but it doesn't change the fact that we have lost our open space, we have lost our views and our satellite signals, we lost our sunlight. You wouldn't want this in your backyard and you have the ability under your code to say that this particular project does not fit the spirit and intent of the codes in place. It comes down to this, we have made investments in our property, we can't change what is there. There is nothing there now and there hasn't been for 20 years plus. They are at a point where they can make adjustments on there property. It may not bring the greatest return on investments for them, but don't do it at our expense because I guarantee you that our property values will go down.

Councilor Ripma stated you heard the developers talk about how they could put in apartments as an outright use, they could be three-stories tall and they could put them in 15' from the property line. What is before us is whether to approve this or not. I am curious whether you folks would prefer that it be apartments.

Day stated the problem here is a self-imposed development process. When they approved the Alterra development they then narrowed down what there option should be. It may be zoned A-2, that little piece, but when it was assigned the A-2 zoning it was a big piece and you could have put a three-story structure on that property and had enough setback that we wouldn't be sitting here tonight.

Councilor Ripma asked if this were not approved by the city, they could, without ever coming to the Planning Commission or City Council they could build apartments there and there is not a thing we can do. Maybe you have answered the question, you would rather have neither. If it was setback further from your property line, say having the entrance go around the outside of the property and the road is up against your property and the buildings are further away, would that be an improvement?

Day replied the more distance in proportion to the height, the less the intrusion.

Councilor Ripma asked so the big problem for you is the three-stories of windows looking down into your backyard.

Day replied that is the number one issue for all of us.

Steve Wright stated my house sits behind the church, they have done a good job back there. I have no problems whatsoever with lights and noise.

Day stated it is disappointing to me to hear comments about what we could have done. The fact is if you are truly a good neighbor you take into account your neighbors when you do your development and plan. That didn't happen, never has. This project is real tight and they have built it to the absolute max and they have done it with total reckless disregard for the neighbors and that is a fact. That is why I am very skeptical about all this good neighbor policy you have heard tonight. There may be some room for negotiations, discussions or compromise. If they are going to ask us to take their word for it, I am sorry but I am going to have to ask for something more than that.

Councilor Thompson asked you say that the building is going to be 15 feet away from your house, but you have a setback between your house and your fence.

Day replied I misstated that, 15 feet from the fence line and another 15 feet to the back deck of my house.

Mayor Thalhoffer asked what would you rather have apartments or this facility?

Day replied I don't really feel like that deserves an answer because I think the answer is so obvious. I don't care if it is a different type of an apartment building that is 1'-4" shorter, the issue here is that building is too tall. I don't care if it is this building or another building. I don't think any development like this of that height and that close to the property line ought to be approved. I go back to the code where it says it should blend with the neighborhood, not be detrimental to the properties and maintain the aesthetics and all of those other things that it talks about in the code.

Mayor Thalhoffer asked what do you think the developer should do with this development by way of a compromise or something to that nature?

Day replied if you are trying to compromise based on that size of structure, I don't see any compromise. If you are talking about putting in different type of structure with different heights and setbacks, by all means we are open to that.

Councilor Kight asked Mr. Faith, do we have the ability to address the problem of the size of the building, can we say we want a two-story building as opposed to a three-story building?

Faith replied because this is a conditional use, you have a lot of latitude in the conditions that you can impose in order to make it compatible in your view with the surrounding properties.

Councilor Kight stated so the answer is yes?

Faith replied yes that is within your authority of conditions that you could impose.

Councilor Kight asked Mr. Day, hypothetically speaking, if that was the situation, would that satisfy you and your neighbors?

Day replied I can't speak for my neighbors, but that would basically satisfy my concerns. I don't want to say that it automatically makes everything else okay. If you look at order of preference, single story, duplexes, triplexes would probably be the most pleasing. Second would be a two-story type of structure especially if it could be broken up with some daylight between the buildings to provide some kind of open space and not just a big solid wall. Third option would be the two-story building that is the barracks style with a solid wall. The least desirable one is the one that we are discussing today.

Councilor Rabe asked the two-story option would that be something worth pursuing?

Day replied yes.

Councilor Rabe asked if they were willing, would you be willing to sit down and look at other options with them? Would you be willing to give the time?

Day replied absolutely.

Councilor Daoust asked when the Planning Commission met, were any of these concerns brought to them?

Day replied every one of them.

Councilor Daoust asked do you agree that the Planning Commission met all the technical criteria for this zone as far as the planned development?

Day replied if you are talking about numerical criteria, 15' setbacks, 35' maximum heights, yes. But again if you look at the verbiage it talks about detrimental, blending in and being of scale and size, those are not defined by numbers but they are certainly very clear to me that when you look at the surrounding community that description doesn't describe the action that has been taken and approved.

Councilor Daoust stated the conclusion that you draw is that a two-story building would meet those criteria but what if we would not be willing to reduce the height under a



conditional use, are there any mitigation measures that would be acceptable?

Day replied more setback. If there were a large parking lot between us and that large building, you would get away from this looming building that blocks out everything.

Councilor Daoust asked well half of the back side is setback 23', are you thinking of more than that?

Day replied it is hard to visualize how much more 7' gains.

Gloria Eki stated I have a couple of concerns that I know that the developer was talking about. One of the considerations that they made when they were developing is to create light in the front access where the roads were coming in. But what they have done is taken the light away from us. It appears that, and I know that they are financially motivated to develop this property in the most economical way for them to get the most dollar out of developing it. It isn't fair that it takes it away from us and it will make a difference on our property. My property is pretty much where that road is and there is a 24' setback there but there is no room for any trees. There is nothing to shield my back yard even from the lower level let alone the third story. I feel really disappointed I guess, I feel terribly unimportant in this whole process. I think we were misled when that mailing was sent out in November that says proposed future development. A development that would have been similiar to that would not have been objectionable at all.

Councilor Ripma asked do you generally agree with Mr. Day and the answers that he gave to questions that we asked?

Eki replied most of them. I think a two-story, if we could get there would be terrific. The height cuts out all of the sunlight and privacy. I would certainly like to see screening, it doesn't look like where my piece of property is situated that there would be screening there because of the road.

Councilor Kight asked would you be adverse to having a new fence put in the full length?

Eki replied no.

Councilor Kight asked do you want that as a requirement?

Eki replied yes.

Councilor Kight asked Mr. Faith if it went to a two-story building would they still receive the same kind of relief, do you know what kind of blockage they would have if they had the same setbacks?

Faith replied one thing to bear in mind is the 15' setback that we are talking about is the minimum because of the height of this 3-story building. The actual side yard setback in the A-2 district is 7 ½ feet. But to compensate for looming structures, the code also calls out that for every 3 feet in excess of 20 feet in height you must set back one additional foot. So the code is already accounting for large 3-story buildings that might be built near

the property line and requires an additional setback.

Councilor Daoust asked is that the side yard or back yard?

Seivers replied it was considered a side yard and that was based on 257<sup>th</sup> being the front yard.

Councilor Daoust said so the west side is the back yard and has a larger setback.

Councilor Kight stated if we could get these folks to go with a 2-story building, then the building could move 7 ½ feet closer to their property line?

Seivers replied that is correct.

Mayor Thalhofer asked is there anyone else here who would like to testify?

None.

Mayor Thalhofer asked Mr. McCarl if he has any rebuttal?

McCarl stated I think that change is difficult for all of us. I think we are all living with more density. I do appreciate the issues of these three property owners. I think a building within an A-2 zone must by definition be considered in the context of what is good for the entire community. There are many issues that are appended to a building of this magnitude or apartment buildings of this magnitude in the city and issues like traffic and density and dozens of issues come into play on this kind of a project. Taken on balance, I think we have been very responsive to this community, and we will do that with this project. With regard to the residents and the mitigation measures that we have talked about that are reasonable measures, we will do that, we will live up to those mitigation measures. With regard to the discussion that has been here recently about reducing the building from 3-stories to 2-stories, independent living facilities have an enormous amount of common area that is shared by all of the residents and their guests and visitors. The way that you justify the development of all that common area, which is not returning space it is amenity, the library and barber shop are all amenities, is that you have other apartments. If you look at the proportion of common area as it is distributed throughout our building, virtually the vast majority is on the first floor. If you cut out a whole level of apartments in this project, which would typically be 150 to 180 units, the proportion of apartments to common area is absolutely and totally untenable. That will not work economically. If you make that decision, I will not, I can not develop this project on that piece of property and we will not proceed. In reading through the code in my experience with it in many jurisdictions, there is a level of reasonableness as to mitigation. I think we are open to twenty-four conditions that we have agreed to. We are willing to work with the neighbors and help them select trees, but taking out a complete story of the building will not work. The concept on the setback that we can put our entrance to the north, I would submit to you, or the road to the north, we looked at that option in good faith. It wasn't discussed by the Planning Commission, it wasn't discussed by the staff and it was never discussed by the neighbors or us as an option so that would be a brand new site plan that you would be coming up with. Again, that is not an option that we are interested in building. We are willing to work

with this additional setback that was imposed. The staff has indicated to you that the additional setback that we have already reflects the height of our building so that has been taken into consideration. I want to leave you on a positive note which is, we love Troutdale. Out of all the jurisdictions in Oregon that we have worked in, Troutdale is the best. You have the best staff, the most reasonable to work with. We enjoyed building the Clare Bridge. We would love the opportunity to be here and build for you a very high quality independent living facility. We think it is absolutely needed in the community. We have given this our best effort, you have the best design team and contractor that I know of. You have a decision to make. I would like to tell you that we could do otherwise, but we will work with these neighbors in good faith the way that we said we would in terms of reasonable mitigation but we absolutely can't lower the building down and we can't change our street location. With that I am sure that you will give this your best judgement.

Councilor Ripma asked do you have any comments on the neighbors saying that they have had zero communication from you. It is evident that the impact of this proposal on at least a couple of properties is extremely severe. I was very disappointed to hear about the zero communication, do you have a response to that?

McCarl replied we are working with a family that has been here in Troutdale for many years. They know a lot of people in this community. I relied a lot on those contacts to meet a lot of people in the community. We have talked extensively to the staff about the Clare Bridge project and we knew that notices would be sent out on this project, notices were sent out on Clare Bridge. So the fact that high density development would occur here is something that we felt that the general public was aware of. We had already built one phase here, in retrospect I may have made an oversight in not talking to these specific neighbors. Our communications with neighbors is typically done in the process of when issues come up, for example the planning staff called me and said neighbors have come in to the north of you and they have raised issues about lights and fence. They would like to know if you would like to build a fence, these are the same neighbors, and I said I would be delighted to build a fence. We didn't speak to these folks directly, we knew we would have an opportunity in the forum of the design review process to talk. We did spend 2 ½ hours with the Planning Commission and this same group talking about these issues. We will invite them into the process as we go forward and we will work with them in the ways that we talked about in regard to trees and mitigation and the other issues. They will be invited into the process, they will get a schedule of the project. All of those things will happen. I give you my word that we will do that.

Councilor Ripma stated the preliminary notice that was sent out at the time Clare Bridge was built doesn't look anything like this. You sent something out and it was your preliminary effort of communication but it was totally misleading.

McCarl replied that proposal was requested by the County as a conceptual plan to show how the circulation worked on the project and they asked us to show how buildings would work on either side of the roadway. They were trying to determine, would circulation work for this site. We weren't allowed to speak to the issue at the Planning Commission hearing. We didn't make any comments to the affect of what we would build and we didn't make any promises to the neighborhood. It wasn't discussed and it wasn't put forward as a viable proposal to the neighborhood.

Councilor Ripma stated however you just mentioned it to me as an example of communication with the neighbors. I am just pointing out that on its face it was completely misleading and you are saying now that we didn't really mean it or something. I am disappointed. Your three most seriously impacted properties right behind a huge structure and no communication with them at all and now they appealed this to the City Council who could possibly make a decision that could be adverse. For what it is worth, I can't imagine why you didn't try to work with them earlier.

McCarl stated the reality is that the code has a tremendous number of requirements to it. You must see a lot of developments that come before you that have a number of transportation issues, lots of adjustments, lots of variances. We meet the code. Typically when neighbors object is when you are over reaching the code. In our opinion, we meet the code. I guess I would offer that as a defense, staff has said and the neighbors have said, the Planning Commission has said, our whole design team worked very hard to make sure that we didn't do anything that was substantially in anyway out of the code and that took a lot of effort to do that.

Mayor Thalhoffer stated the neighbors feel that they are going to lose property value, there are three of them. Have you thought about compensating those folks for the property value that they will lose in order to move forward with this development? In the scope of this project I would think that 8 or 9,000 dollars might not be all that bad if you can build what you want to build. The things I hear that they want is either additional setback or a lower profile, 2-story. Is there anyway that there could be a compromise here that would alleviate the concerns to some extent?

McCarl replied we want to be good neighbors. We have explained to you the economics and that lowering the building down doesn't work. Setback issues are what they are, so that doesn't seem to work. So what we have come to is the issue of mitigation and now you are suggesting the opportunity of perhaps for some economic mitigation. We have other partners in this project and I think I can't speak for all of them now because we haven't been able to talk about this issue. Conceptually, bearing in mind that what we would be doing is working with three neighbors specifically. Three neighbors that have the primary impact on this project that are nearest the 15' setback not the 23' setback, behind the building. Those neighbors, we need to make an investment that we have offered to you of fencing and landscaping and other things and we would be willing to work with those neighbors pretty pro-actively. Larry suggested to me that the budget for the work along their yard area could be anywhere from \$5,000 to \$8,000 for the distance along their property. I think what we would conceptually be able to offer would be something in the range of \$7,000 or \$8,000 which is generous in terms of what we will spend in terms of per household and that they could elect to work with us and our landscape architects and we would make that design service available to them as part of our detailed planning effort so that they could use an allowance as part of what we are proposing to do and they could work with our team as though they were their consultants as long as it fits within the context of the rest of the project. In lieu of that we would be willing to install the Planning Commission approved program with the fence that we have agreed to and the hedge if that is what you want and we will give them the money in cash.

Councilor Kight asked would you be willing to put the money in escrow up front?

McCarl replied sure.

Councilor Kight asked how many units would that take out if you removed the top floor?

McCarl replied 30.

Councilor Kight asked is there anybody in the industry within the last five years that you are aware of that has this type of facility that has under 60 units.

McCarl replied that would fall into the category of an alzheimers unit which is 50 units or below.

Councilor Kight stated so you are saying that it could be assisted living care and you would still generate enough income from those units in order to have a smaller facility.

McCarl replied in our opinion there is no market for assisted living.

Councilor Rabe stated I was thinking of an option where maybe the northeast wing would have a reduced height as opposed to the wing that projects southerly. I don't know if that would still keep you within your operating parameters.

McCarl replied we are borderline on this property right now.

Councilor Daoust asked Mr. Handy, if this proposal fell through, what would you look at developing on that site?

Greg Handy replied a for sale sign would go up. We feel that we are doing a good job of providing a good development along with Alterra and we think you ought to make the right decision.

Neil Handy, President of Handy Investment Group which will be a partner in this project. We will not pursue any other project for us to build and hold as part owners. We are not interested in building apartments or managing apartments. This is something that has an emotional attachment for us and our parents. This is something that we just haven't decided to do recently, we have thought long and hard about it. We think it is the best project to do on this property and we think it is the right thing to do.

Mayor Thalhoffer asked is there any further testimony?

Day stated I really appreciate the comments by Mr. McCarl and some willingness to consider one of the issues and that is if this development were to go through as they wish, quite frankly we would lose enough that we would put our property up for sale and as a result we would lose. Rather than just pick an arbitrary number based on some landscape or fencing scheme, it would be appropriate to have an agreed upon appraisal, and it could be with three appraiser, we could average them. The risk I take is they could come back and say there is no impact. This isn't the point and place to be negotiating but we are willing to look at all of these options. I appreciate the effort that people have made here to look at some alternatives. I agree with Mr. Handy and I hope that you will make the right

decision and all we are asking is that it be fair to both parties.

Mayor Thalhoffer asked Mr. McCarl do you have any rebuttal?

McCarl stated I think we are kind of getting out into the realm of religious experience with the mitigation that we are talking about here and I think we are getting out of the context of what is appropriate. For the record I want to make this statement that we have offered to give the neighbors the opportunity to work within our planning and design and budgets that we have up to the economic limits that we have discussed and give them the opportunity to participate in the project. That is the way that I would like to characterize it. We aren't offering cash allowances to neighbors, we certainly wouldn't want to discriminate against this group or any other group of neighbors that are contiguous with this property or set a precedent that legally we can't live with with other neighbors that may arise in the course of this project. I just want to be clear that we would not entertain what he is talking about with regard to appraisals. We will work with them. I think that we have tried to demonstrate that we are willing to go the distance to be reasonable with this group because they are the ones that have showed up and they are on the record. This would be the only group that we would work with and we would limit the amount that we are talking about to the amount that we said which I believe was in the \$7,000 to \$8,000 range for these residents. Bearing in mind that it is within the context of the budgets that we have for the project and the resources that we have. We would be willing to put that amount of our budget into escrow for the project and the neighbors would have access to it, versus characterizing it as a cash haven in lieu of mitigation to these people. I think it is important to clarify that because it could lead to a lot of confusion and problems down the road.

Councilor Ripma asked Ms. Allen, is it possible to set aside this decision to allow the parties to talk and make our decision another night?

Allen replied it is possible to do that, although I understand that the 120 day limit on this application is February 6<sup>th</sup>. Unless the applicant was willing to extend the 120 day time limit to allow you additional time to come back in two weeks, but you wouldn't have another two weeks to come back with a written decision to adopt. You may have to call a special meeting to adopt the findings.

Councilor Ripma stated given the lateness of the hour and two weeks will probably tell whether there is any hope for the parties to talk and reach an agreement, I would favor putting off the decision if that is allowed.

Allen stated I would advise the Council to be very cautious about considering conditions that would require payment of any money. To the extent the parties want to reach some mutual agreement between themselves on that, that is appropriate. For the Council my advice would be that your conditions be tied to measures that make the development consistent with the criteria.

Mayor Thalhoffer asked what the parties come up with among themselves would be okay.

Allen replied yes, the parties are free to reach whatever agreement they can reach among

themselves.

Mayor Thalhoffer asked would we incorporate their agreement into our decision or do they just make their own agreement?

Allen replied they make their own agreement.

Mayor Thalhoffer stated so they would make their own agreement and we would then we would still have to handle the issue and render a decision.

Mayor Thalhoffer closed the Public Hearing.

**MOTION: Councilor Ripma moved to put off the decision until the next City Council meeting. Seconded by Councilor Kight.**

**Day stated without question the most preferable thing would be that the parties could work this out. If we were able to reach an agreement on this, we would withdraw the appeal. If we can't then you will have to make the decision.**

**McCarl stated I am a little concerned here that you have created a context here where the neighbors feel that they have license to negotiate with us and if we are not successful in negotiating with them that they can report back to you in whatever format that they want that they didn't get what they wanted. That is my belief, it is sort of left up to conjecture what the deal between the parties might be and if we disagree, I want to just say for the record, that we've agreed, which I think is actually outside of the purview of the kind of measure that should be suggested, that we would offer part of our budget and allow them to participate in that process as part of the project. Above and beyond that I don't know what the negotiation with the parties would be, or the appellants inference that we could work out some kind of an agreement. We have put issues of substance in front of you, there is criteria and standards for evaluating that that are on the record, they were on the record with the Planning Commission. What you are suggesting is way outside the purview of the record of the planning bureau when I think of the conditions that are typically imposed in this kind of a situation. I, just for the record, want to state that we don't feel that this creates a situation of leverage with the neighbors, we have made an offer in good faith to them about the part of our budget that we have got and that is what we have offered and that is what we would put forward.**

**Mayor Thalhoffer stated for the record, we will make a decision on this in two weeks at the January 23<sup>rd</sup> Council Meeting.**

**Councilor Daoust stated we are not telling them to negotiate amongst themselves, the motion is just that we are postponing making a decision for two weeks. We are not giving any further direction for the parties to negotiate.**

YEAS: 7  
NAYS: 0  
ABSTAINED: 0

**8. COUNCIL CONCERNS AND INITIATIVES**

Mayor Thalhofer stated due to the lateness of the hour, we will skip this agenda item.

**9. ADJOURNMENT**

**MOTION:** Councilor Ripma moved to adjourn. Seconded by Councilor Kight.


YEAS: 7  
NAYS: 0  
ABSTAINED: 0

Meeting was adjourned at 11:45pm.

  
Paul Thalhofer, Mayor

Dated: 2-14-01

**ATTEST:**

  
Debbie Stickney, City Recorder



# CITY OF TROUTDALE

## PUBLIC ATTENDANCE RECORD

January 9, 2001  
CITY COUNCIL REGULAR MEETING

PLEASE COMPLETE THE FOLLOWING

NAME <input type="checkbox"/> (please print) <input type="checkbox"/>	ADDRESS	PHONE #
CHRIS COOKE	1585 SW CLARA ST.	503-492-8149
QUINTEN MILLER	1585 SW CLARA ST.	503-492-8149
LONNIE ROBERTS	15815 SE MILL 97238	503-255-9887
ROBERT PAINE	1022 SE 172 <sup>ND</sup> 97233	503-254-4129
TOM J. CRAMBLETT	26713 S.E. STARK ST. apt #22	503-665-1696
BORIS McLELLAN	118 SW Porter St. 97201	503 2433365
CUNAR LAWRENCE	6720 SW MACADAM ST 97219	503 245-7710
Ed Murphy	9875 SW Murdoch St Troutdale	503-624-4625
GLORIA EKI	1328 SW 13 <sup>TH</sup> PL TROUTDALE	503 667-0249
GREG HANCOCK	1105 S.W. HANCOCK TROUTDALE	503526-3120
THOM & LINDA DAY	1346 SW 13 <sup>TH</sup> PL.	503 666-9316
Porot by Virost Ko	1226 S.W. 13 <sup>TH</sup> PL.	(503)667-2161
NEIL HANCOCK	146 W. Columbia Hwy	503-665-4752
Mario & Jennifer Garcia	1303 NE 192 Ave	503-618-0370
Perry Howell	2080 SE Midvale Rd	503 666 1332
Ellen Graham		665-5508
Nancy Culp		
<del>XXXXXXXXXX</del>	1703 SE. WOODRIDGE	
Andrew Stamp	1211 SW 5 <sup>TH</sup> Ave Pdx OR	796-2892
John E. Lemley	810003 SW Duken Rd Tigard	503 670 8182

