



MEMORANDUM

TO: City Council

FROM: Jana Fox, Current Planning Manager

DATE: April 13, 2020

SUBJECT: APP2020-0001 Appeal of Life Time Fitness Director's Interpretation
(DI2019-0003)

This Supplemental Memorandum is to provide the Council with the letter received by the Applicant, Life Time Fitness, after the previous supplemental memorandum.

EXHIBITS:

Exhibit APP 1 – Appellant Materials:

No additional appellant testimony received.

Exhibit APP 2 – Applicant Materials:

APP 2.2 Appeal letter on behalf of Life Time Fitness by Dana Krawczuk, Stoel Rives LLP, dated April 13, 2020

APP 2.3 Transcript of Sunset Surface Parking Planning Commission Hearing, on behalf of Life Time Fitness by Dana Krawczuk, Stoel Rives LLP, received April 13, 2020

Exhibit APP 3 – Public Comment:

No additional public comment received

Exhibit APP 4 – Agency Comment:

No additional agency comment received.

April 13, 2020

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VIA EMAIL (JFOX@BEAVERTONOREGON.GOV)

City of Beaverton
City Council
P.O. Box 4755
Beaverton, OR 97076-4755

Re: APP2020-0001 - Appeal of Life Time Fitness Director's Interpretation (DI2019-0002). Response to BBO March 16 and April 6 Testimony.

Dear Mayor Doyle and Councilors:

As you know, my office represents LTF Real Estate Company, Inc. ("Life Time") in connection with the above-referenced Director's Interpretation decision (the "Decision"), which has been appealed by Beaverton Business Owners, LLC ("BBO"). Life Time responded to BBO's appeal arguments in a letter dated March 2, 2020, and I will not repeat those responses here. Instead, Life Time seeks to clarify five points in response to the written testimony submitted by BBO on March 16, 2020 and April 6, 2020.

BBO goes to great lengths to attempt to complicate whether the Sunset Station & Barnes Road PUD (CU2013-0002) ("PUD") has vested and raises many policy arguments. The issue before the City Council is actually quite simple: if the Sunset Surface Parking approval vested, the PUD has also vested.

1. If the Sunset Surface Parking approval vested, the PUD approval vested.

Did construction of the guard structure foundation constitute "substantial construction," which vested the Sunset Surface Parking approval? Or, did the site's change in use vest the Sunset Surface Parking Approval? Regardless of the means, the threshold question is whether the Sunset Parking Approval has vested. If the Sunset Surface Parking approval vested, then the PUD also vested automatically.¹

¹ This Director's Interpretation is not required in order to determine that the PUD vested. Likewise, the Sunset Surface Parking decision did not need to include express vesting findings. Instead, the Development Code provides the criteria for any development approval to vest, and once achieved, vesting automatically occurs. Life Time sought the Director's Interpretation in this case in anticipation of another appeal of its approved development.

The Beaverton Development Code (“BDC”) prescribes multiple options to “vest” a development approval—or, to prevent the approval from expiring. One method is to complete “substantial construction.” BDC 50.90.3.B.2.

Substantial construction of any development approval within the PUD area vests the entire PUD:

“[O]nce a subsequent development approval [within the PUD area] is granted, and Substantial Construction, as defined in Chapter 90 of the Development Code, has taken place, the PUD and associated transportation trips will be vested for the full build out of the PUD area.”

PUD Staff Report, p. 6 (emphasis added).

Nobody disputes that substantial construction of an individual development within the PUD area vests the entire PUD. Because the Sunset Surface Parking approval is the first development requiring construction within the PUD area, substantial construction of the Sunset Surface Parking approval vests “the full build out of the PUD.” Although BBO raises policy arguments about why this typical vesting ought not occur, those are irrelevant to the factual and legal issues presented in this appeal.

2. The requirements to vest the Sunset Surface Parking approval are straightforward.

“Substantial construction” can be demonstrated by “construction of footings for the building where the principal use will take place.” BDC Ch. 90.

In this case, substantial construction of the Sunset Surface Parking approval was achieved by (1) issuance of a construction permit for the guard structure foundation and (2) completion of the guard structure foundation (including footings) pursuant to the permit.

BBO agrees that the construction permit for the guard structure foundation was issued, and that the foundation was completed prior to the expiration of the PUD. BBO argues, however, that the guard structure is not the “building where the principal use [of the Sunset Surface Parking approval] will take place.” *See* BDC Ch. 90.

3. Parking is the “principal use” of the Sunset Surface Parking approval, and the guard structure is the building where that use will take place.

BBO makes several arguments as to why construction of the guard structure foundation does not constitute “substantial construction” of the Sunset Surface Parking approval. Rather than

repeating those arguments here, we prepared a table summarizing BBO's arguments and responses to the same. That table is attached as Exhibit A.

4. The Planning Commission and Staff anticipated that construction of the guard structure foundation would vest the PUD.

BBO argued that the Planning Commission did not address the vesting of the PUD when it approved the Sunset Surface Parking project. BBO Testimony, p. 7 (Apr. 6, 2020). In support of its appeal, BBO provided a partial transcript of the Planning Commission hearing. BBO Testimony (Mar. 16, 2020). Under separate cover we will submit the full transcript of the Planning Commission hearing. The transcript shows that the Planning Commission and Staff both anticipated that construction of the guard structure foundation would vest the PUD, which influenced the permitting sequence included in condition of approval 30 to assure vesting:

Commissioner Nye: So does the PUD expire at any point if there's no action on it?

Fox (Staff): Yes, the PUD will expire. The applicant has had two extensions on their original two-year approval, and the PUD will expire, it is in November of this year. . . .

Commissioner Nye: So does this parking lot then extend their PUD?

Fox (Staff): If this parking lot is approved and they are able to construct the foundation of their guard structure, which is what vests us in our code, before that time is completed, so they have to get through the permitting process, get a building permit, build and get an approved foundation through inspection, that would vest their PUD. . . .

Commissioner Nye: Okay. Thank you.

March 16, 2020 Planning Commission, 00:20:30 to 00:21:25, accessed at https://beaverton.granicus.com/MediaPlayer.php?view_id=3&clip_id=2063&meta_id=111616

5. If construction of the guard structure foundation cannot vest the Sunset Surface Parking approval, then the approval must vest by another method.

As previously stated, “substantial construction” is one method to vest a land use approval. Another method is to show that “[t]he use of the subject property has changed as allowed by the approval.” BDC 50.90.1.3.B.2.

In this case, BBO argues that construction of the guard structure foundation cannot be “substantial construction.” If that is true, then construction of the guard structure must be a change in use of the property contemplated by BDC 50.90.1.3.B.2. Otherwise, vesting the Sunset Surface Parking approval would be an impossibility.

Very truly yours,



Dana L. Krawczuk

cc: Megan Eaton, LTF Real Estate Company, Inc.

Exhibit A: Summary of Responses to Arguments by Beaverton Business Owners, LLC

Exhibit A – Summary of Responses to Arguments by Beaverton Business Owners, LLC

Beaverton Business Owners, LLC Letter dated April 6, 2020	Response
<p>B.1. The word “principal” in the use category title, “Parking, as a Principal Use,” is Staff’s sole basis for concluding that parking is the principal use of the Sunset Surface Parking approval.</p>	<p>“Use, principal” means “[t]he main or primary purpose of which land or a structure is designed, arranged or intended or for which it is occupied or maintained.” BDC Ch. 90.</p> <p>Staff found that “[t]he applicant proposes a 460 space surface parking lot with an approximately 200 square foot guard structure. The proposed parking is the primary use of the site, therefore is classified as ‘Parking, as a Principal Use.’” Staff Report for Sunset Surface Parking, at CU-1 (Mar. 6, 2019). The Planning Commission adopted the findings in the Staff Report, and that decision is now final.</p>
<p>B.1. The City Council must decide whether the surface parking lot is one of the “main or primary purpose(s)” for which the PUD was “designed, arranged, or intended.”</p>	<p>The “substantial construction” test must be applied to the Sunset Surface Parking approval—not to the PUD. The question before the City Council is whether the surface parking facility is one of the “main or primary purpose(s)” for which the Sunset Station Parking approval was “designed, arranged, or intended.”</p>
<p>B.1. A surface parking use that was never proposed, contemplated, or approved as part of the PUD approval cannot qualify as a “principal use.”</p>	<p>The PUD did not approve any specific uses: “No new development or physical improvements are proposed in conjunction with this Planned Unit Development.” Order No. 2337, p.1 (2013).</p> <p>The transportation impact analysis (TIA) for the PUD posited a mix of possible uses to analyze potential transportation impacts from the development of sites within the PUD area. But the PUD neither requires nor anticipates that the uses discussed by the TIA will be the final uses of the PUD sites. Staff Memo for APP2020-0001, p. 6 (Apr. 6, 2020).</p>

<p>B.2. The Sunset Surface Parking project is inconsistent with the PUD.</p>	<p>The PUD did not approve any specific physical development. Order No. 2337, p. 1 (2013). Instead, the PUD identified transportation improvements required for the full buildout of the PUD. When a physical development is proposed within the PUD area, the PUD requires the applicant to complete a “mini-TIA” to assess the trips from the proposed development and identify which, if any, transportation improvements from the PUD conditions are required. Staff Report for Sunset Surface Parking, SR-4 (Mar. 6, 2019). The Planning Commission found that the Sunset Surface Parking project is consistent the PUD conditions of approval, and that decision is now final.</p>
<p>B.2. The Sunset Surface Parking project is inconsistent with the SC-S zone.</p>	<p>The Planning Commission found that the Sunset Surface Parking project, as conditioned, met all applicable approval criteria, including requirements for the SC-S zone. Order Nos. 2685, 2686 (Mar. 28, 2019). That decision is final.</p>
<p>B.2. At the Sunset Surface Parking hearing, members of the Planning Commission, Staff, and representatives of the Peterkorts referred to the parking facility as a “temporary” use.</p>	<p>Oral statements at the Sunset Surface Parking hearing are not findings that are part of the final decision. <i>See Allen v. Grant County</i>, 39 Or LUBA 232 (2000) (oral discussion by the local decision makers reflected in the tape of the hearing do not constitute findings).</p>
<p>B.2. Parking cannot be the “principal use” of the site because parking is a temporary use.</p>	<p>The definition of “principal use” does not include a temporal component. <i>See</i> BDC Ch. 90. In other words, whether a use is a “principal use” does not depend on the duration of that use. A “principal use” can also be an “interim use.”</p> <p>The Development Code defines “temporary use” as a “short-term, seasonal, or intermittent use.” BDC Ch. 90. The Sunset Surface Parking project was approved for a period of 5 to 10 years, and is not “short-term, seasonal, or intermittent.”</p>

<p>B.2. The Design Review Build-out Concept Plan (DRBCP) is the actual principal use of Sunset Surface Parking site.</p>	<p>A DRBCP is not a use. A DRBCP provides conceptual demonstration of <i>future</i> development of a site. It is “intended to address feasibility of constructing future phases.” BDC 40.20.10.5.A.1.</p>
<p>B.2. Life Time is arguing that “the surface parking lot . . . is the principal use for the entire PUD.”</p>	<p>Life Time does not contend that parking is the principal use of the entire PUD. The PUD is comprised of multiple sites, each of which will likely contain different uses. Parking is the principal use of the Sunset Surface Parking site.</p>
<p>B.3. At the Sunset Surface Parking hearing, Staff and representatives of the Peterkorts referred to the guard structure as an “accessory” use or structure.</p>	<p>Oral statements at the Sunset Surface Parking hearing are not findings that are part of the final decision. <i>See Allen v. Grant County</i>, 39 Or LUBA 232 (2000).</p>
<p>B.3. The Staff Report for the Sunset Surface Parking application refers to the guard structure as an “accessory” use or structure.</p>	<p>Use of the terms “accessory” and “interim” in the Staff Report are not a conclusive determination that the guard structure is an accessory use. The word “accessory” is only used <u>once</u> in the entire staff report and is applied in the context of Design Review criteria. Staff Report for Sunset Surface Parking, p. DR-6 (Mar. 6, 2019). Likewise, the word “interim” is only used once in the context of Design Review criteria.</p> <p>The Planning Commission did not approve the guard structure as an accessory use. The criteria for review of “Accessory Uses and Structures” are specified at BDC 60.50.05. The Planning Commission did not apply those criteria to the guard structure.</p>

<p>B.3. Construction of the guard structure foundation cannot constitute “substantial construction” because the guard structure is not “the building where the principal use will take place.”</p>	<p>The definition of “Parking, as the Principal Use” is “[a] <i>facility</i> providing for the temporary parking of automobiles and transportation vehicles which arrive and depart daily.” BDC Ch. 90 (emphasis added). The guard structure is part of the parking “facility,” and the principal use of the guard structure is parking. Therefore, the guard structure is the building where the principal use will take place.</p> <p>Substantial construction is demonstrated by completion of the footings for the “<i>building</i> where the principal use will take place.” BDC Ch. 90 (emphasis added). Because the guard structure is the only building approved by the Sunset Surface Parking decision, it would be impossible to vest the approval under the reasoning advanced by BBO.</p>
<p>B.3 Allowing a building such as the guard structure to vest a development approval is inconsistent with the Development Code and would create bad precedent.</p>	<p>Individual land use decisions do not set precedent. Staff Memo for APP2020-0001 (Apr. 6, 2020).</p> <p>BBO argues that if substantial construction of the guard structure is sufficient to vest the Sunset Surface Parking approval, then any number of accessory structures (e.g., garden sheds, gazebos, or storage building) could be used to prevent the expiration of development approvals.</p> <p>The examples offered by BBO, however, are unlikely to be the only building approved under a development approval. For example, unless storage is the primary purpose of a site (i.e., self-storage facility), it is unlikely that a storage building will be the <i>only</i> building approved under a development approval. Here, the guard structure is the only building approved by the Sunset Surface Parking approval.</p>

Transcript
Planning Commission Hearing - March 13, 2019
Peterkort Surface Parking Lot Application No. CU2018-0023/DR2018-0167

START [00:01:55]

Commissioner Nye: The only item under new business is the application for Sunset Surface Parking, case file CU2018-0023 and DR2018-0167. The approval criteria for this application can be found in the city's comprehensive plan and development code, including the developing code sections 40.03, 40.15.15.3.c, and 40.20.15.3.c. The matter is being reviewed under these criteria as specified in the written staff report. Testimony, arguments and evidence must be directed toward the applicable approval criteria or other criteria in the comprehensive plan or development code that the person giving testimony believes to apply to the application. Failure to raise an issue accompanied by statements or evidence with sufficient specificity to afford the planning commission, the applicant, or other involved parties an opportunity to respond to the issue may preclude an appeal to the State of Oregon Land Use Board of Appeals based on that issue or according to the rules adopted by that board. Anyone who submits written comments or presents oral arguments has standing to appeal. The applicant's failure to raise constitutional approval with sufficient detail to allow the city to respond to the issues may preclude an action for damages in circuit court.

The city development code and state law require that each commissioner state on the record the substance of any written or oral communication concerning the matter before us today. If there is any such communication, any person here may request the commissioners...may question the commissioners about the communication and rebut the substance of what was said or heard by the commissioner. To these ends, the following questions will be asked: Does any commissioner have a potential or actual conflict of interest? Make sure to...Are we using our voting buttons? No, okay. Do we have any? No. Let the record show no response. Does any commissioner have any ex parte contact to declare? Okay, let the record show no response. Does any commissioner wish to declare a site visit? Okay. Moving right along. Let the record show no response. Does any member of the audience wish to question a commissioner about an ex parte contact or site visit, or challenge the right of any commissioner to participate in this hearing, or wish to request a continuance of this hearing to a later date? Let the record show no response. The order of the public hearing tonight will be as follows: we will begin with city staff report followed by questions of staff by the commission. The applicant will be given 20 minutes to present to the planning commission, followed by questions of the applicant by the commission. The commission will then receive public testimony in response to the proposed application. Individual testimony will be limited to five minutes. As a reminder, if you would like to testify this evening, please fill out a yellow card and provide it to the recorder. After receiving public testimony, the applicant will have five minutes for rebuttal. After the applicant's rebuttal, the commission will hear any final comments from city staff. And with that...

Anna Slatinsky: I'm actually going to preface Jana's staff report with a couple of overarching remarks. This is Anna Slatinsky, planning division manager for the City of Beaverton. I will let Ms. Fox address all of the issues related to the proposal that's before the commission tonight, but I think it will be interesting for the folks and the commission maybe that haven't been around for previous review with the Peterkort Properties to have just a tiny bit of background. The Peterkort

properties north of 26 represent 80 acres of the most richly served development lands in Beaverton, with excellent access to 26, 217, and of course the light rail. It's also zoned as some of the most highly dense areas in the county, and so it presents a really exciting potential for the future growth of Beaverton. Along with that exciting potential come a lot of challenges. Denser mixed-use development of the kind that is called for in the zoning of these areas is more complex than a lot of the development we've seen in the past in Beaverton and I know all of your work on the downtown planning has highlighted some of those complexities. Among them is the cost of conducting the transportation improvements that are necessary in order to do this development. And on the sites themselves, how parking is handled is one of the more challenging issues. We've talked in staff reports previously about Beaverton's work in developing a parking strategy for downtown and our recognition that managing parking in a smart way as the city grows is really important. I think it's worth highlighting that this surface parking lot has paid parking which is not something we see a lot in the suburbs of Beaverton is something we're going to be watching very carefully because of the implications of how overall development can move forward in terms of individual parcels developed for Peterkort, but also for development in other areas that may benefit from having some confidence about having paid parking in their proformas. So I want to give a little bit of context there and then let Ms. Fox move forward with the staff report for this specific application.

Jana Fox: All right. Good evening Chairwoman Nye and commissioners. I'm Jana Fox, current planning manager. I'm here tonight to talk about the Sunset Surface Parking proposal. And I've got - kind of to piggyback on what Ms. Slatinsky said, I have some background for you. This particular property, the Sunset Stations site, as it's generally called, surrounds Sunset Transit Center and it is part of the Sunset Station and Barnes Road PUD, which I believe maybe three of the seven of you were on the planning commission in 2013 when this PUD was originally approved. So for those of you who were, this is a bit of a refresher, and for those of you who weren't, this is a little bit of background. Um, this PUD was primarily a transportation exercise. The applicant identified a broad range of potential uses on each site. Not that they were tied to those uses, but those uses then informed a transportation impact analysis that looked at all of the transportation improvements that would be necessary to make a full and dense urban-style mixed-use development happen in this area. As you'll note in your staff report and on the map, these parcels are on the north and south side of Barnes Road. They also run all the way from the intersection of Barnes Road, Highway 26, and 217 near St. Vincent's hospital, all the way past the Cedar Hills Boulevard and Barnes Road intersection and Highway 26 just south of there. So the planning process for that PUD involved a significant amount of coordination with ODOT, with Washington County, who is the street authority for Barnes Road, and the City of Beaverton, as well as the applicant team. So as part of the applicant's PUD proposal and subsequent approval, there was a very long list of transportation improvements that will have to be completed as these developments move along, and the way that that works is every time a development comes in on one of these parcels, the applicant has to do what we've kind of called a "mini-TIA," which means that they look at what trips are actually generated from the use that they are proposing at this time, and how that compares to the overall amount of trips that were entitled for this development overall as the full PUD build-out. And with that, that analysis, the additional identification is which of those laundry list of transportation improvements - and there are many - are triggered by any given phase of development. In this case, the number of trips that are proposed are not huge in comparison to the overall amount, and so the improvements we are looking at are more focused on frontage improvements. However, it's anticipated that the

improvements are going to be fairly large for subsequent phases of the development we're going to see out here as the sites intensify. So that's just a little bit of background to put some context on this proposal, that it's part of a larger, um, a larger area and a larger PUD approval, which you probably got some hint of in the staff report, so this is just trying to round that out a bit. So the project itself. So, as you can see on the project site, the red dot in the picture on the left is sunset transit center. You'll note that this site is near the Highway 217 and 26 on ramp and off ramp system, and the parcel in question is the orange-outlined parcel around the transit center. You'll also see through the middle of the picture on your left, the existing kind of road that comes around that is the current road that serves sunset transit center, the parking garage, and the buses to the west, to give you context. On the drawing on the right, you will see the applicant's proposal. The darker gray phase is the proposed phase one, which has 263 parking spaces in the first phase, with the option for a phase two that reconfigures three of those spaces, then adds another 200 spaces. And that's in the white. The applicant has also, um, shown a-you'll see it comes across as pretty dark in this image - access road that connects to the existing sunset transit center and to Barnes road. As part of the PUD approval, the actual connection locations to Barnes road where either fully signalized intersections or right-in, right-out intersections were approved at that time, so the applicant is limited on where they can connect Barnes's access, controlled by Washington County given that it is a very major street, we don't want a lot of driveways in very many places. So the applicant is proposing to connect at a pre-approved access location, per the PUD. However, the number of trips at the parking lot, even at full build-out is not sufficient to warrant full signalization at that intersection, and so they are proposing a right-in, right-out at this time. The absolute, ultimate design of that will have to be approved by Washington County in terms of a pork chop or a median, and there is a condition of approval to that effect.

All right. So this project contains a conditional use application because parking as a principal use is a conditional use in the station community sunset zoning district and a design review three application. The design review three is because the applicant has a design review concept buildout plan, which is a tool for those of you newer to the commission, that is used when the applicant is not proposing to meet the minimum floor area ration in the zoning district with a current proposal. So they have to show how the floor area can be met in the subsequent development phases to ensure that they're not precluding the build-out of the site, the ultimate desired potential. So I've got a site plan here from the applicant. So, noting just where Barnes Road is, this is also a colored rendering so it's a little easier to see things on. **So you can see the guard structure is there in a little bit of off-white with the arrow pointing toward it. It's fairly small in comparison to the parking lot, and that is just intended as an accessory use to have someone onsite for security or if there are issues with the mechanical gates to assist people.** You can also start to see here the sidewalk network along the internal street as well as throughout the parking lot itself. I would note staff has included a condition of approval requiring an additional north-south pedestrian connection through the middle of the parking lot since one is not proposed currently. That would be they'd have to do one with the first phase and then when they come back to build the second phase, they'll have to continue that or provide a new one that connects in.

All right. I do want to touch on the design review build-out concept plan. And this was also provided in a memo that you received yesterday. The one in the packet was not the correct one. The one we provided to you yesterday is the one that was used by staff in their evaluation. So

you can see that the applicant has shown that there is a block pattern. What I would like to note on this and is, I believe, noted in the applicant's memo that you received yesterday is that the one out-of-date piece of this is that the access they're showing is not fully aligned. Their newer proposals move that access to head B ultimate access point. So what you're seeing on the DRBCP, those two access points that look parallel to Barnes Road will be one. That's - just did not get updated to match the most recent alignment of the street at its ultimate location. So to clarify, that's why you see these odd two parallel streets. That is not the intent. But the applicant has shown what we would consider, based on this zoning district, a fairly conservative development of four stories. The height in this zoning district is 120 feet. So there's substantial ability to go quite a bit taller with future development. The applicant's DRBCP did not show any floor area ratio calculations on top of the parking lot, however, given potential land values, I think it's realistic that that would redevelop as actual commercial development in the future. But, to be conservative, in the design review build-out concept plan, that piece was omitted just to show that it could be done without having to remove the parking lot to meet the minimum FAR. And then the last piece, the applicant is proposing the guard structure, which is of course subject to design review requirements. It's a 200-square-foot structure. It basically contains a desk and a little bit of space for the security guard, as well as a restroom. The two sides that face the internal driveway - um, the internal drive access - where the guard would be looking out have windows and doors. I also have a materials board I'll prop up on a chair for you - it's fairly large - to pass around. There's a stone base as you can see and lap siding along the side as well as a pitched roof with a 60-square-foot covered porch area around the front of the guard structure. The two sides that are not articulated with windows are covered with fairly dense vegetation as you can see in the landscape plan that basically try to blend that into the background. **It's a fairly - it's a fairly short structure intended to be accessory to the parking lot.**

With that, staff is recommending approval of Sunset Surface Parking subject to the conditions of approval, and I am happy to answer any questions you may have. Actually, sorry, I forgot I have one more thing. I wanted to introduce an additional piece of public testimony that you received. You did have two memos, one from March 12 yesterday that you received via email and on the dais this evening, and another one from today that had a piece of public testimony from Jake Mintz and Eric Mace that was received this afternoon, as well as a colored landscape rendering I used in my proposal from the applicant. At the hearing, we received from the applicant exhibit 3.4, which is an email exchange with TriMet just reiterating the support for the application because they did not have time to get their letter in. So there is a kind of star next to the piece I believe they want you to pay attention to. So please consider those as part of the public record this evening. Now I'm here to answer questions.

Commissioner Nye: Okay. Do we have questions of staff? Going once. Okay, Commissioner Overhage.

Commissioner Overhage: Sorry. We're all having to learn how to push buttons to request to speak as opposed to raising our hands and we're having a little bit of a learning curve, at least for myself.

I just have a simple one. It has to do with design review build out concept plans because this is essentially an FAR of for all practical purposes zero, in an area that requires an extraordinary intense FAR, and so they're proposing a design review build out concept plan for an interim

project. Is there a time limit by which they need to do this in the code? Just because I think that's the number one question a lot of people have in their minds.

Fox: Absolutely. Our code does not have a time limit for design review build out concept plans that requires them to complete it. So the answer is no there is not a time limit on when this must be completed.

Commissioner Overhage: And then follow-up question. If there is a viable design review build out concept plan and then the rest of the project meets the city code, then that is an approvable document, is that correct?

Fox: That is correct.

Commissioner Overhage: Alright. Thank you.

Commissioner Nye: Commissioner Lawler, would you like to ask your question?

Commissioner Lawler: Thank you. I'm having technical difficulties here. So I can't...I have no network connection. So anyway, I came across what I perceived to be an error in one of the conditions of approval that I would like to point out to you.

Fox: Please.

Commissioner Lawler: Condition of approval, page four, it involves number 20-b, and it was specifically a requirement from Washington County and so I looked back at Exhibit 4.1 which was attached, and it said it needed an administrative deposit of \$10,000, and I believe in condition of approval 20-b we say, basically I look at that as \$10. So I think your decimal point probably needs to be...or there needs to be another zero in there.

Fox: Thank you very much for catching that.

Commissioner Lawler: I think Washington County would probably appreciate that.

Fox: I would probably be in trouble with their staff. So yes, please note that 20-b should be \$10,000, not \$1,000 with a misplaced comma.

Commissioner Lawler: Yeah, I wasn't sure what...okay, thank you.

Fox: Please, and thank you.

Commissioner Nye: Any other questions of staff?

I do have one. So does the PUD expire at any point if there's no action on it?

Fox: Yes, the PUD will expire. The applicant has had two extensions on their original two-year approval, and the PUD will expire, it is in November of this year. I believe it is November 5, but please take that with a grain of three or four days on either side.

Commissioner Nye: So does this parking lot then extend their PUD?

Fox: If this parking lot is approved and they are able to construct the foundation of their guard structure, which is what vests us in our code, before that time is completed, so they have to get through the permitting process, get a building permit, build and get an approved foundation through inspection, that would vest their PUD. The other way to vest under our code is to do a subdivision where you are building streets and get to the point where you have the utilities in and you have the street rocked. Those are the two ways in our code where you can vest an approval.

Commissioner Nye: Okay. Thank you . So seeing no other questions of staff, now is the time for the applicant. And please be sure to state your name and address for the record.

Scott Eaton (Peterkort Representative): Good evening commissioners. I had hoped that the first use would be a little bit more exciting than this. Commissioner Winter is the only familiar face back from the PUD approval days. This process for us started, I think, back in about 2009 with the writing of the new SES code. I'm starting there because that was also a process of public involvement, where we met with the neighborhood and people in the area to talk about, you know, what we were writing into the code with Jana and other members of the staff at that point, and one of the biggest things that we heard from the local neighborhood was the lack of parking at the Sunset Transit Center Garage. So for any of you who know and are familiar with it, you know that it's filled every morning by about 10 minutes to seven, and then kind of magically around 3:45 in the afternoon, some stalls start opening up again. If you're a neighbor, you realize that parking - if it's not policed - is poached from anywhere from the hospital to Peterkort Center office buildings all the way over to all of the streets that surround Cedar Hills - the old Cedar Hills shopping center across the freeway. So there is a lot of pent-up demand for this station. So anyone getting into the development business at this site has to acknowledge that all parking has to be monitored and managed. So this is not necessarily something we wanted to have to do, but we knew even back then because of the demand, we needed to somehow measure it. We started talking to TriMet back then as well. TriMet had always realized that this garage was probably too small to begin with, and this is basically our case study to try to figure out how to maybe differently manage parking, how to nominally charge for it in order to manage it, but then also to try to figure out before we have other uses on site, how much we have to forecast demand for the ultimate development, because as Jana said, this is going to be a very dense development. So we're looking at densities that are much more urban than anything else in the area. If we were in Portland with product like this, we would probably be developing far less parking just because we would be in the urban core and it's served well by mass transit. This is an anomaly because it's served very well with mass transit, but the demand from the park and ride and the neighborhood is extremely large. And so there's this nominal rate that says OK, no one's going pay the same at this location to park and ride a train or a bus downtown, but there has to be something done so that maybe there's more capacity during the day. So we can't tell you much about how we're going to manage this yet because we don't know, but that's what this part of the parking lot is designed for. We will have the automated arms and the ticketing that you're used to, but we don't really know exactly how we're going to charge. We hear from the neighbors that monthly parking is really high on their list, but if we did all monthly parking, we wouldn't be accommodating anyone who would like to park, go to an appointment downtown, and then come back in the middle of the day. **So this is something that's, um, it's definitely a cost that it's doing us some good, it's hard to look at something like this that is basically going to be demolished, but at the same time, in order for us to build enough parking and subterranean under the buildings that we plan to construct here, we need to know how**

much we need to build. And that's the reason for this. Let's see, have I missed anything here? Oh, we did have a public meeting for this. Had a little-you know, it was kind of funny in a way. We had a lot of positive feedback. We expected that there would be a fair amount of negative feedback because "surface parking" with no associated use is usually not a very popular item. Not in this case. Everyone that came basically said, "Yes, this is great. We need this." I just thought you'd like to hear that because I didn't expect that at the public meeting. I think I'm going to quit talking now and introduce Hal Keever with David Evans and Associates. They are the land planners and civil engineers for all the work that we're doing there. And I'm sorry. I didn't introduce myself. I apologize. I just heard commissioner Winter say that. I am Scott Eaton. My business partner Lance and I are assisting the Peterkorts in this development

Hal Keever: Good evening. Thank you for having us. My name is Hal Keever, and I reside at 10984 NW Zermatt Court, 97229. I just wanted to give you a little bit of history. I've personally worked for J. Peterkort & Company for the last 25 years, have implemented all of the residential development on the north side of Johnson Creek. And my firm, DEA, is currently working on a project that has been deemed complete but public notice may have not gone out, and that is on the corner of Cedar Hills Blvd and Barns on the southwest corner, and that is for the very nice fitness facility called Lifetime. In addition, we have this parking lot that we're asking for you to approve for the reasons Scott mentioned, but there's also application pending that Jana eluded to where there's a potential subdivision and partition coming in that we have submitted. We did get a letter of incompleteness on some minor issues last week and we're going to be working on those, but things are beginning to come together in this corridor and all the more reason to test the parking.

We've worked very diligently with the city of Beaverton's staff and I want to congratulate them because they've been really great to work with. It's good for you to hear that. We have also worked with Washington County, ODOT, and TriMet. Part of your package includes a letter from TriMet, that's dated December 21, based upon some meetings we had with TriMet to begin to get their feelings about a paid parking lot to help assist the overflow from the station. As Scott mentioned, by 6:45 it's full. And that's on a good day. You know, my firm and myself have been very integral to the design of this parking lot, and I know it's just a parking lot but there are things that do happen with this parking lot, and a lot of improvements associated with the parking lot that may not be obvious. Just starting with the landscape plan, you know, our landscape architects have done a very nice job in implementing a great tree canopy over the parking and also screening of certain areas, specifically the guardhouse and enhancing the entry areas. The guardhouse itself is fairly simple, as Jana mentioned, however, we have provided some very rich materials, some 1x12 clear cedar siding as well as horizontal culture stone at the base with a single seam metal roof, so that's a very attractive building. The cover at the building, the canopy, is for parking patrons if they have an issue or need to talk to the guard, it's weather proof and there is a counter window there for them. If you want some information on the grading and utilities, I would be happy to get into that, please ask me about that. The grading is fairly simple. The site is fairly flat, and there aren't many huge grading concerns. We do have a small wall in the northwest corner of the future second phase. And the rest is pretty simple. We also have in the middle of...well, kind of the north side of the Phase One parking, a water quality swale that takes care of water quality for both phases. That system is discharged into a new pipe that we're bringing up from close proximity to Valeria View. And we have worked with Clean Water Services, Washington County, and the City of Beaverton where in the year...I think the

year 2000, we built a regional storm water retention facility for the whole basin. Not just the Peterkort development, but the entire basin. So water quality and storm water is taken care of very well. In addition, Scott briefly mentioned the electronics and parking control systems for the parking lot. What we have done is tried to look at our current needs and any future needs, and build a system that is state of the art. It's all kind of a remote pay. I'm sure if you parked downtown at a structure, you take your ticket with you, you redeem your ticket, you take that ticket, you plug it into the gate kiosk, and the gate lets you open...or does open, so it's really 24-hour access, even with no guard there. You know, I think Jana has done a great job in describing the project and some of the issues. We concur with her staff report and the conditions of approval, except maybe one, which was added and it's not a huge issue, but there was an issue...not an issue, a condition of approval that was added last week that required an enclosed trash structure, and we believe that ancillary trash can be taken care of with trash receptacles, even maybe the compost...not composting, but compression trash receptacles, and with our guard there that can be maintained on a daily basis. So we would ask the commission to reconsider a trash enclosure which would take up parking spaces and us go to trash receptacles that are close to the ticket redemption center. I do want to add that if there are questions with the traffic impact analysis, we have two of our traffic engineers here, Don Odermott, who has worked historically with the Peterkorts on the PUD and did all the technical analysis for the PUD and also worked with the City of Beaverton, Washington County, and ODOT on the conditions of approval for traffic on the PUD; and then Josh Anderson, who works for DEA. He has done the supplemental TIA's for the access to Barns Road as an individual access and access through the TriMet driveway as an individual driveway plus a supplemental TIA that was just recently submitted to the City of Beaverton based upon our facility's review meeting about a combined TIA and how that works. And so the conditions of approval are consistent with those TIA's but they are here today if you need them to answer any technical questions. And with that, I would just say that we just ask for your approval.

Commissioner Nye: Do we have any questions of the applicant? Commissioner Matar?

Commissioner Matar: On the overall site plan, the preliminary grading plan you show access alternative A and B, access road Option A and B. Could you expand upon those? Is one going to be chosen over the other? Will both eventually be built out? What are the plans for that?

Keever: Sure, I tried to elude to that about the supplemental TIA's and I did do a very good job. So Option A was done to access only from Barns Road through the Peterkort property. That was done in case we came...we didn't come to an agreement right away with TriMet, and so it would be used exclusively for the parking lot and all traffic would come in and out off of Barns Road. Option B was just the opposite of that, and that was using the TriMet easement that is signalized and so that was done independent of Option A. And as I mentioned just a few minutes ago, we were asked by Washington County and the city to do Option C, which did a mini TIA on a combined access where we were using both. It's our anticipation that we're going with Option C given that TriMet and JPC are working together on this project.

Commissioner Matar: So Option C is A and B combined?

Keever: Yes. Sorry, I could have expressed that better.

Commissioner Nye: Commissioner Brucker.

Commissioner Brucker: Good evening. A couple quick questions for you on access and on-site circulation. If I come here and I originally go to the...initially go to the Sunset Transit Center and I find it full, how do I return back to use the paid parking?

Eaton: Go ahead.

Keever: That's an excellent question because we talked about that a lot. So what we've done...would it be appropriate for me to approach the TV, or the drawing?

Commissioner Brucker: Yeah. I think the board is fine, yeah.

Keever: So Option A...thank you. Option A is here, Option B is here, and the combined is here. So it's hard to see, but what we've done in Option B and C is we have extended these drive aisles out of the structure and gone and put the drive aisle as far west on TriMet's property line. And so if you were refused in this parking structure because it was full you would make an immediate right turn and go to the parking lot as opposed to having to go back out on to the system and back in. Does that answer your question?

Commissioner Brucker: It does. And then same question for this parking lot, because it's going to be so successful, what happens when you come up to the gate and it's full? Do you...well, I'll let you answer the question.

Keever: If you come in here and it's full?

Commissioner Brucker: You pull in and you come up to the card reader and it's full.

Keever: Well, we're going to have warning signs for that first, but the logical thing would be is that you're going to see a warning sign before you get to that point and continue straight through and go back out.

Commissioner Brucker: Okay. But I didn't read the warning sign. What happens if I pull into the parking...I mean is there a way to get out?

Keever: That's one reason why we have a guard there during the operational hours, is that there could be mechanical difficulties as well as operational issues. And, you know, part of our agreement with TriMet is to do an operational study over a two year period so we can begin to understand these things.

Commissioner Brucker: Thank you. This leads me to the question about signage, because I think that eventually people will understand, the daily users will understand how to use this new facility, but the one-timers or initial folks might have some confusion so I would encourage...and I didn't see a lot in here, if anything, about signage, so I think that is important to the success of the facility. The second question is if this is in a phased environment, will you wrap the landscape around that north side of Phase One to create a complete landscape buffer?

Keever: Given that it's so far from the Barns Road arterial, you know, so far south, we had not intended on providing a buffer because there's a natural buffer along through here. Some fairly sizable Douglas Fir trees and some Vine Maples.

Commissioner Brucker: Okay. So as of now, you're not planning anything? You're relying on the distance?

Keever: Correct.

Commissioner Brucker: Okay. And then the last question has to do with the guardhouse and its role. So this is something that is staffed 24/7 or how does that work and if...and would you still build the parking lot and be able to operate this facility without the guard being present?

Keever: We could without the guard being present, but it makes it, I think, a little bit more difficult in terms of the operation and maintenance of the facility. The Peterkorts currently have a guard working in their...in what they call Peterkort Center to maintain and police, you know, parking because it get poached quite easily and people walk over to the transit center. You know, we don't take it lightly about having human activity as a security guard in that building during the peak usage, specifically to deal with problems. Did I answer your question?

Commissioner Brucker: Yes, thank you.

Commissioner Nye: Commissioner Lawler?

Commissioner Lawler: I have a clarification. This design review build-out concept plan-that's kind of a mouthful - my understanding this evening, and correct me if I'm wrong, is that you do not need this area to be the PUD development because you have covered your density in another block, is that correct? Or will you be eventually developing this with residential and commercial as part of the original PUD plan?

Eaton: This will ultimately be developed over. When I stated earlier that it's kind of hard to spend a few million dollars on this parking lot when it's a temporary use, but at this point, we are starting at the far eastern edge of the station site, which is this site, and this is - we're just going to work our way west. So this made the most sense with regard to the way we plan to develop the site, but also with regard to the access and ingress and egress to the TriMet garage.

Hal Keever (Peterkort Representative): If I may add to answer you a little bit more specifically, we can build out the required FAR without developing this site, but to go to Scott's point, we intend to develop this site.

Commissioner Lawler: So will the utilities - and I think of water, sewer and electric- I mean, I know you're bringing some up to serve the guard shack, but will you be oversizing it to basically accommodate the eventual development of this site?

Keever: That's a great question, and um, we're working with Clean Water Services and the City on those capacity issues, and what we have decided to do because - those of you who may not have been here when we had done a different master plan and the market was different, the uses were different. And so with residential development, it requires a much higher sanitary sewer

capacity, and so we have developed a master plan for that so that not only all of the station's site can be developed at the highest density, but so can what we call the Holly site, and then parcel 12, which is directly north of Barnes road. And so, as a matter of fact, we have to provide the city with those calculations as well as Clean Water Services so that they're done. The one thing I didn't mention is that for this parking lot, we are paralleling the storm sewer that we're bringing up from Valeria View with the sanitary sewer where that was planned when we put in Valeria View.

Commissioner Lawler: Yeah, I saw those drawings in there, so I was curious. Thank you.

Eaton: Commissioner Lawler, to further answer your question, **Hal mentioned the minimum FAR requirement per the zone. None of our plans for this site are to meet the minimum FAR for this site. It's actually all going to be predicated by the number of trips, and we have a lot of traffic trips in our TIA that was done with the PUD. So it'll be a very dense area.**

Commissioner Nye: Okay, Commissioner Uba.

Commissioner Uba: Yeah, you made reference to a condition of approval that you objected to. Can you point me to the number, or can staff point us to the number of the COA so we can better understand what they are objecting to?

Fox: Commissioners. And Mr. Keever. I believe it's number 28. I'll let them verify, but send them there.

Keever: Yes it's 28. Number 28.

Commissioner Uba: Okay.

Keever: And I guess I'm not objecting to the condition. I would like to change the word enclosure to receptacles.

Commissioner Uba: Oh, that's...

Eaton: One of the reasons we're doing that is because we don't necessarily think having a dumpster enclosed is as beneficial to the people using the parking, both at TriMet and in this parking lot, as having receptacles spread throughout the area.

Commissioner Uba: Okay. Well that's good to know. We'll see what my fellow commissioners think about that now that it is clear. The TIA you said was done and can somebody talk to us about that? Just give us even a prefix of what you found, or what TIA is showing for this project?

Keever: Yes. We have two experts here, but for your benefit can we be more specific so they don't take us 'til midnight?

Commissioner Uba: Yes. I know.

Keever: No offense, guys.

Commissioner Uba: I agree with you I'm sure it's probably half of this document here.

Keever: Yes.

Commissioner Uba: Yeah, so I am more interested in knowing how much traffic that would be coming in there because the access road...the access point at Barnes Road from the TriMet parking lot, you said there's no plan to put a traffic light there?

Keever: Well, let me clarify. Washington County will not let us put a traffic light there right now because it doesn't meet warrants, meaning enough demand for a light. So until we build something more that creates more demand it has to be a right-in/right-out and that's all they will allow.

Commissioner Uba: Well, Washington County told you that were aware of the results of the TIA?

Josh Anderson: Yeah. So my name is Josh Anderson. I work with David Evans and Associates. 2100 SW River Parkway, Portland, OR, 97201. Yes, the mini TIA was shared with city staff, county, and ODOT staff High level, roughly 115 trips for Phase One, just under 200 peak hour trips for the full build out of Phase Two. So a portion of those inbound, a portion of those outbound. More inbound in the morning, more outbound in the evening. The new access point onto Barnes Road, full development of the PUD requires a signal be installed at that location. Right now with the just under 200 trips in the peak hour, the county has required that to be a right-in/right-out. So if you are heading westbound on Barnes, you will have to pass that new access point to gain access to either transit center or surface lot. If you're heading eastbound on Barnes Road, you can turn into the transit center signal or the new right-in/right-out access point. The county's main concern with allowing that full access is that the trips there and the traffic east and west on Barnes, they're a little bit concerned of people trying to make that left turn out of the new access point. But the traffic volumes don't meet the warrants that we need to justify to put in a signal. So we're not quite to that point yet, but we're a little bit more traffic than it would be safe to have a full access point. Does that...

Commissioner Uba: Yes, that's very helpful. Yeah. And my last question for the meantime is this design that was given to us when we came in here, that shows the block ten on the west side, block four, five, two, and three on the east side. Can you explain to us what those blocks are in relation to the parking lot?

Eaton: Yeah. Commissioner Uba, those were done on a prior massing study we just finished in, gosh, probably November, December sometime. We're working with staff to try to justify, you know, the sites north of Barnes Road have a lot of topography, so as we have a certain amount of entitlement that goes along with our PUD and our TIA with the PUD, we're trying to also look at the developable sites with regard to topography and working with staff to try to figure out how we make sure that we maximize the entitlement, as well as start in areas where we can afford to get started right now, like the station which is one of our flattest sites. So those blocks were just placeholders in that massing study, and now we have moved to another diagram that shows, I think, where we have larger blocks where we're now accommodating a whole lot more, you know, we're in here talking about parking. Now you see these blocks do not have all the internal

streets that will access the big L-shape block area you see, but these are laid out much better and more efficiently for the parking that we see going in sub-T under these buildings.

Keever: I might clarify, some of the drawings in your packet reflect an earlier version of the preliminary plat that now has been submitted to the city for review, and this drawing on the screen depicts the most current layout for the plat that we're asking approval for. And what happened was we were working on both projects at the same time and the parking lot was ahead, and that's why we ended up moving the access road to the parking lot to the ultimate signalized location, because the plat part evolved further in the process and it was just kind of an overlap during that.

Commissioner Uba: Okay. Well, that's very helpful. A big final dislocation. Thank you.

Eaton: We have engaged several architects to help with this master plan. So we should be able to communicate with staff here shortly about different options for what we're looking at on the station site.

Commissioner Nye: Commissioner Overhage.

Commissioner Overhage: Thanks for Commissioner Uba for asking most of my questions. So I'm going to follow up on one of my questions because you referred to it in your talk then Commissioner Uba asked a question. I'm trying to understand how the trash receptacles are going to work with respect to either waste management or whoever the company is that does the pickup. And so what I think you're saying you would like to have trash receptacles possibly throughout the parking lot, which is convenient to where people...they finish their latte, they put it in the trash, you know, people try to be neat, etc. And then they walk in and then your guard would come and pick up the trash. Where's guard going to put it if there isn't a master trash receptacle?

Keever: The back of his ten speed? I don't...

Commissioner Overhage: Does he have a pickup truck somewhere? I can't figure out how the flow of trash works and how it gets in the back of the trash truck.

Keever: What we anticipate is he will have a vehicle that he would transport that trash on a, you know, maybe twice a day, every day, whatever the demand really is, to Peterkort Center where they have, I believe, four different very large trash enclosures that can accommodate this minimal amount of trash.

Commissioner Overhage: Is there joint ownership of both properties?

Eaton: Yes.

Commissioner Overhage: Is there anything such thing as a trash agreement between the properties of one was to be sold and one wasn't?

Eaton: Lowest pays the bill?

Commissioner Overhage: Okay. Alright. It's unusual. Okay.

Keever: Let me give you a little background on that, please, because I live in the neighborhood, and as I stated earlier in my testimony, I was personally involved in all the residential development north of Johnson Creek, and we put in the lighting, we put in benches, and we put in trash receptacles, and they have been abused for the last 19 years. We get a ton of household garbage in those, and it's unsightly, it's filthy, it gets all over the street because it's hard to maintain, and what we want to do is provide an organized area where our guard can effectively change those out when they need to. Now, granted people aren't going to be living right here like they are in a residential neighborhood, but our experiences have told us that we need to be careful about what we provide and what we don't given that the parking lot technically isn't generating trash, so to speak.

Commissioner Overhage: Okay, alright. Thank you. I probably talked enough about that. I have a pretty good picture in my mind.

Keever: Okay.

Commissioner Overhage: Is there a parking full sign off Barns Road that handles the parking garage now?

Keever: That was removed.

Commissioner Overhage: Okay. So thank you. Then I don't have to ask what your new signage needs to be with adding a new parking lot. I assume it's not being added back in?

Keever: I don't know why it was taken down, but was on top of the signal head.

Commissioner Overhage: That's what I was thinking. Over the left turn arrow for example.

Keever: Yes, it's pretty effective and we don't know specifically the signage we're going to have, but the consultant we're working with and the gating and electronics, they have a myriad of ways for riders to check the availability of parking spaces, even a phone app. So we're not sure where we're headed with that, but we think it's important as well.

Commissioner Overhage: Okay. Let's see. TriMet had expressed some concern about the bus back up at the stop light hurting their cycle times. Have you resolved this with TriMet?

Keever: We have agreed to do a study to make sure that operationally their buses are not impeded by additional traffic. And in addition, what we've done is in our electronic design we are running conduits to the area on the property line between TriMet's property and Peterkort's property so that if we need to we can install an additional gate to help direct flow away from their driveway and on to Barns Road from Option A, if that makes sense.

Commissioner Overhage: Which would force people to make the right turn out on to Barns and prohibit traffic?

Keever: Correct. Correct.

Commissioner Overhage: Okay, so you will see some strange behaviors of left turns from that point if that is implemented. Humans want to go where humans want to go, legal or not, and I hate saying that.

Keever: I completely agree, yeah.

Commissioner Overhage: I have seen it at porkchops a lot. So okay. Alright, thanks. That's all I've got.

Commissioner Nye: Okay, so it looks like I am the only one left. So I'm going to ask my more technical questions first and then come back around to a broader question. Is the street for Option A, which as the porkchop being fully constructed or is it a half street improvement?

Keever: You mean coming on to the property?

Commissioner Nye: Yes.

Keever: It will be a full street improvement.

Commissioner Nye: Is it being built wide enough to accommodate a left-turn lane for future signal?

Keever: Correct. We have that specific area striped out with either a painted median on the south side of the porkchop or concrete median so we can remove that in the future.

Commissioner Nye: I have a question on traffic and it's a very basic question but I've always resisted getting into traffic reports. You have a 460 stall parking garage, yet you see your peak P.M. traffic trips is only 200.

Anderson: Yes.

Commissioner Nye: How does that math work?

Anderson: So trip generation comes from the Institute of Transportation Engineers, ITE. They have done trip generation studies at many, many different park-and-ride locations, and in this location, even with the transit center, the transit center has many, many stalls but not everyone leaves during that four to five or five to six hour. So a lot of it is saying we have 460 stalls but we're only expecting about 150 of those trips to be leaving during the peak hour. The rest of those trips, if it were at capacity, would be leaving through, over probably a six to eight hour window, and so the impact of the peak hour is only just under 200 trips.

Commissioner Nye: Okay. And if your peak impact had been higher, would it have caused issues or different improvements? Like if your peak impact had been 250 or 300, do you know that threshold?

Anderson: I don't know. We haven't studied that threshold. We figured out what we could fit in this site and we did the TIA at that level and came back and said if we were to do it in phases, working with Scott and his team to try to fine tune that cost per hour or however it ends up

being, came back to that first phase and both of the sizes, there were no offsite mitigations that were needed.

Commissioner Nye: Ok, so that's the end of my technical questions. Um, I have much broader concerns with the application, actually, in that **I'm having a hard time seeing how this project meets the chapter 3 goal of supporting pedestrian-oriented mixed-use areas and specifically the policies associated with that: A, B, and C. I honestly had a really hard time getting into the application because I couldn't get past that element- having a parking-only development does not seem to support the goals of this area.** So I'm hoping you can address that and help me over that barrier.

Eaton: Well, I didn't expect this, so bear with me here for just a second. But, I think what this is attempting to do is maximize the density and the pedestrian aspects of this development far greater than what would be standard protocol for a suburban area like this. So when we're talking about the effect- and I know that you know about this stuff very well - it's really a challenge for us to figure out how much parking we have to build, and we want this to be a pedestrian-dominated development. We want trails here that lead all the way to the west end of the properties. **There is almost no way for us to know and be able to talk to lenders about how much parking to build here with any kind of rough ideas about what is justifiable.** In reality, we'd like to build no parking. Because as far as we know, nobody pays for parking in this area. So you can imagine what a hit that is to our ability to produce a margin in our pro formas. **So we're testing this out to make it as much of a pedestrian environment as we possibly can.** And I know that building a parking lot doesn't seem intuitive for that, but we're not in downtown, and we're not in Hillsboro. So we're in this place that is the first stop outside of the city, and it seems like it's very attractive for urban development, but at this point we're looking to build three times more parking in our buildings because we think that people have a "suburban mentality," and we're hoping that they don't. So this is not a mixed use development. It's also why it was written into the zone as a conditional use. I mean, this was very specific to this station site because it was such an issue with demand. If you build a parking stall, it will be filled by people that are within a mile and a half of this station riding transit.

Commissioner Nye: Oh, I don't have any doubt that the parking lot would be used as a park and ride. I don't - that's not my issue. My issue is that what's being proposed is something that's incongruent with the goals of the district with no development associated with it. And I'm hearing that you have stuff coming, but there's nothing for us tonight of the current application that says this is supporting a bigger overall development that's, you know, happening. And I can understand the issue of not being able to have comps for "I need this much parking for this kind of development in this kind of neighborhood." If this parking lot as a primary use came in with an apartment building across the street, you're saying we're building the parking lot because we don't know how much parking we're going to need, so it's surplus parking for what we think we need at our building and we're going to be flexible with its use – **I can see that kind of application, but as a primary, standalone application, it doesn't seem to support the goals of a mixed-use development. And I guess, I'm still not getting there. Like I said, I understand your development predicament, but I think there are other ways to get there, and that this just isn't meeting our goals.**

Eaton: So will you feel differently when you see the applications coming in for the buildings on the easterly portion of the site?

Commissioner Nye: If this came in with a land use application, those - yes.

Eaton: Um, the reason we- I mean this - On the easterly end of the site, we have planned for an office building that got extremely ugly very quickly because of parking. So I guess to back up so you can be part of our process, we ended up with two fairly attractive timber buildings, and then a parking structure that, you know, because of us not knowing the parking, all of a sudden we had "well, let's tuck a little bit under here," and then "well, no we can't afford that," and now all of a sudden there's a parking structure next to the second attractive building that dominated the site. So if you back up in our life, as we're trying to start, and then you look at this monstrosity, we didn't want another parking structure on the station. We want it to be active uses, as much subterranean as possible, and we don't want, you know, we don't want to have to build too much of it. So we're a little bit behind the eight ball because that massing study, that office study actually happened prior to the massing study. We were chasing a tenant. We're chasing another tenant right now, and we literally don't want to have to build much, if any, above-grade parking. We don't want to see the cars. So, this really is necessary because we are "rippable" basalt down 30 feet. Um, we hope it's "rippable." But you can imagine if we were on the other side of the West Hills right now, we would only need about .3 stalls per unit. I know you know this market extremely well. Would you be able to build in your best wisdom only .3 stalls per unit here? No, and then when you ask yourself "how many do I really build?" I can't answer that question to save my life! I don't know. And with the influence of the transit ridership on this site, that could either save you or kill you. It's one of those things - this is such an anomaly to try to figure out for a dense suburban area that we're trying to make it urban, but we're also trying to develop it to a margin where we can attract investors, and that's really difficult where they can go and pay more for the land, but we end up paying as much for the parking, the additional parking that we're having to build as that land costs on the other side of the hills. So if that was - I was trying to give you the step-by-step that led us here, but if I would've shown you a picture of the office building parking garage, it probably would've been - actually, it would've been a great thing to bring to show you this. We don't actually plan to build that building any longer. Now we're looking at residential buildings on the east end of the site, and we're trying to, like I said, that might be the only place on the site where we have some above-grade parking because after the site is graded, it's a little higher, we'll tuck it in, and still probably do at least one level sub-T and have half of the building propped up against the easterly property boundary.

Commissioner Nye: Ok.

Eaton: Did I ramble too much?

Commissioner Nye: No. But I still don't know if I'm over the hurdle. But I'm also only one voice.

Eaton: In our mind - can I answer it a different way?

Commissioner Nye: Yeah

Eaton: This is no different than trying to find out the capacity to the sewer line to the site. It is just another utility, and we're trying to figure out a way to gauge- I mean, at least for the sewer lines we can count how many toilets we have. We can't count how many cars because the parking that's there is filled every day, and it's static and we can't count it. Even our guys can't count it because they don't know how many people might drive to the site if there was parking stalls there.

Commissioner Nye: Right. But your ultimate goal, I don't believe, is to provide - I mean I don't think the goals for this area is to provide more park and ride parking as an end result. Or maybe that is your goal.

Eaton: Well, it is to provide enough parking to the retail amenities and, you know, office and residents on the site. And if we're wrong in gauging that, all of a sudden it doesn't work like a hub like it's supposed to for the transit at the site either.

Commissioner Nye: But how is providing a new park and ride informing how much parking you need to support new housing onsite?

Eaton: If we build 3,000 apartments right there on this site and we don't have any other parking, and we just have TriMet - the garage filling up every day just like it does now, where do we park the parkers who are coming for, you know, to eat at the new restaurants that are there. And how do we do a big tray like we do in the diagram that was up there where we have some short-term parking on the first grade down, and then maybe office and residential on the floors lower. I mean, that- those are the questions we're trying to ask right now, but we're asking those questions at \$55,000 a stall. Now, I mean, I guess to really put a period on this, maybe we're not ready yet based on the density. Actually, here's another way to answer this. Our best proforma right now is a very tall building - I mean, still within the code, but a very tall building for this site. So it also magnifies the impact of, "Ok, exactly how many stalls do I need underneath this building and now what is my block dimension?" We're trying to figure out how to go three floors down and have it accommodate just what's going on in the building. And now all of a sudden it's becoming a challenge for, ok so how do we manage this in order for retail drivers to come to this site knowing that some of those stalls will be taken by transit riders as well? Does that help at all? Or not?

Commissioner Nye: I'm not sure it does. We'll see.

Eaton: 230 units in one building with only the ability to go three floors down?

Commissioner Nye: Yeah.

Eaton: Yeah. All of a sudden, I'm running out of parking in the footprint of the building even though I'm committed to going sub-T.

Commissioner Nye: Right. I think it just goes back to the discussion of what is this parking lot serving and how is it being used and the fact that it - it's serving as a park and ride with no other development associated with it.

Eaton: Well, so I'm not, um. Let me say this a different way then, too. If we were going with the minimum density, I think minimum density on the station is 32 units an acre. I would be able to do one above-grade parking garage to accommodate all of my retail parking, and the rest of the parking could be surface. Because we're pushing the density in a place where we don't have anything to look to for demand other than filled-up spaces everywhere within three-quarters of a mile of the station, we can't gauge it. So we're trying to do it in a place that, you know, when you put a pinpoint on a map, all of a sudden this place fills up with parking because, you know, it's all free. This place fills up more than almost any place downtown, where it's charged. We're not trying to do this, we're trying to solve for it. Because our density is growing immensely with regard to us underwriting the development, now we're challenged with "Ok, how do we even guess right?" So I may not have answered it again. I'm trying.

Commissioner Nye: Ok. I have other questions from commissioners, so maybe it'll help. Uh, Commissioner Overhage?

Commissioner Overhage: It's just a really simple one. When you keep talking about subterranean parking, and so I just wanted to verify there's no watershed under here that would prevent subterranean parking, is there?

Eaton: Not that we know of.

Commissioner Overhage: I only ask that because that's been a problem for Washington Park's development, for example, so there are some areas with a mountainous topography that that has precluded subterranean parking. So to the best of your ability, any studies you have done show that it's buildable down for your future?

Eaton: Yes. That's correct. Well, only to 30 feet.

Commissioner Overhage: Well, you can drill, but it's expensive.

Eaton: Yes.

Commissioner Nye: Commissioner Uba?

Commissioner Uba: (inaudible) I need all kinds of help tonight. I'm glad I'm in good company.

Eaton: Me too, Commissioner, me too.

Commissioner Uba: I'm in good company. Thank you guys. The chair is bringing up an interesting point. I'm sure you would agree to that. This is a station community, and as you rightfully said, it's supposed to be dense, and it's going to be dense. That's what we all expect of that area because that location, in my view, is an extension of downtown Portland. Period.

Eaton: I agree.

Commissioner Uba: So, to put a parking lot in an area that we're expecting high density doesn't look right. But we understand why you want to do it. **It's like an experiment. At the same time, I think, as you rightfully said, it's temporary. Maybe we need a COA**

somewhere here to clarify that this is only temporary. Because the way everything is written now, it looks like it's going to be permanent. That's something I would like us to consider, because I do agree with you. But initially when I read this, briefly, quickly, I assumed based on what I saw that it was temporary. I said, "Oh yeah, this is a great site." But you're going to be charging money. TriMet is not charging money. Although I think I read something in here that said they are interested in working with you to, in the future, to figure out how to charge money for their own - for their own building. Yeah, all of this is an experiment, but although it's a great location, it's an extension of downtown Portland. So we need to figure something out so this - so we're clear here that this is a temporary parking lot. What do you think about that proposal, and also my fellow commissioners, what do you think about that?

Eaton: I think that is - I think we completely agree. I mean, I think we completely agree because we know what we're writing the land value into the ultimate density and it's not economic for this to be a parking lot later anyway. **Um, we don't like to waste \$2.5 million on a parking lot, but um, I guess I ineffectively tried to explain what we're wrestling with, with parking in order to achieve the kind of urban environment that we want.** Maybe if I was more articulate I could've gotten that point across, but, you know, most downtown buildings have a parking ratio of about one per thousand. We feel like we need more than that here, and it's a challenge to get to anything that feels like it's, you know, probably accommodating the demand that we will have with our 30-foot ability to go subterranean. As far as the temporary, I don't-you know, the density that's allowable on this site -you know, I wish I had a massing plan done right now so that I could tell you how much GLA we could build up to this line. But I don't have that information available yet. I have to believe it's a pretty- we will all find it to be a very dramatic, very urban, bring Portland over the hills type number.

Commissioner Uba: So, with that said, is there a way staff can propose a condition, or a COA that this conditional use for this development would be recognized -

Staff: I suggest we get through the applicant presentation, and conduct the public hearing, and proceed according to the normal order of the meeting, and staff can certainly start putting something together that the commission can then consider and the applicant can consider.

Commissioner Nye: I guess, one follow-up question to that is **what is, in your mind, a temporary time period for this parking lot?**

Eaton: Hal just tapped me here and said, "what if we just did a review of it at 5 years?" And in my mind, I'm thinking, ok, if I'm starting at the east end of this site and I'm building - let's say I've built a dozen buildings on the east end. In five years, I don't think I can build that, but in five years, you'll all feel a lot better about what we're doing there and you'll see the density we're discussing right now. Is it an amenity to have it there for various reasons? You know, we will know what we can do there at that point, but then the other thing that might be nice is just that it's there for capacity for ridership. I don't know. And I'd hate to just wad it up just because we're concerned about density when, if we're proving out density and we're just going from east to west, is it still acceptable to have it there? Maybe we have a review that says, you know, with certain conditions that says, "Do we still like this here?"

Commissioner Nye: Ok, Commissioner Winter had some questions.

Commissioner Winter: So in my humble opinion, what we're running into are the nuances of a design review concept build-out plan, which Commissioner Overhage touched upon right out of the gate which kind of set the terms. There is no endgame. There is no end of the earth and then they fall off the table thing in a design review concept build-out plan. They have as long as they need. Staff is well aware of my concerns with this. But the point is it's legal and we do it all the time. So as far as putting in a condition of approval that says they have to have this done by X date, that's not in the game plan for a design review concept build-out plan. They can say "we're going to develop this site here, and we're going to develop five more plots, too. We don't know when." And that's perfectly - they have that right.

Commissioner Nye: Well, I think my issue is not with the design review, it is with the conditional use application, which is not the design build-out concept plan. And a time frame on the parking lot as a primary use could be tied to the conditional use application if the commission was inclined to approve it. So I think as we all - or most of us, or many of us have some issues with design build-out concept plan, to me that's not the issue tonight.

Commissioner Winter: And I don't agree.

Commissioner Nye: Did you have others?

Commissioner Winter: That's fine. It's something we've wrestled with for years.

Commissioner Nye: Yep.

Eaton: Chair Nye, what - I mean you've heard me wrestle with it. I'm trying to wrestle with it transparently for you so that you know what we're dealing with. **We don't want to be in the parking business.** We're trying to figure this out. I know that you deal with this kind of stuff all the time. We've been dealing with people who deal with it all the time, and the best guidance we could get on how many stalls we should use to test, well it's somewhere between 250 and 500, and that's from the expert in the region with regard to parking. Nobody seems to really put a range on this particular site with this kind of density in an area where you still look around and it's just all suburban. Everyone's terrified. Including me.

Commissioner Nye: You can't walk to the grocery store from here right now.

Eaton: Pardon me?

Commissioner Nye: You can't walk to the grocery store from here right now.

Eaton: No, no. We wish we had a grocery store here right now. We're working on that, too. But, um, case in point, people park in that parking lot at the grocery store, and walk to the station. Typically in downtown, they won't walk that far, or so they say, but this is really an anomaly here. **We're not trying to build parking here. We wish we actually didn't have to and we could just build the permanent stuff because that is not the Peterkort's family - the Peterkort family's idea of a good investment. Talking about spending this kind of money and then ripping it out?** It hasn't gone over very well. But we want the plan to look like a pedestrian-dominated urban environment, skinny streets, and if the cars are there, we'd like them not to be visible. And we'd really like to avoid what I call the "Bellevue Effect," which is the

heavy, heavy podium, you know total block [motions rectangle]. I hate that in the worst way. So we are trying to figure out how to afford almost all subterranean parking in a place where we're not supposed to be able to afford it yet. I mean, four dollars a day doesn't seem like much - that's what we're being told is probably the price. But it also might be creative enough if there's short-term use throughout the day that, even though it's not very expensive, it's providing flexibility for those day users that nobody really knows how many exist right now because there's no place for them to park. How many come and go because it's easier to park here than it is to drive downtown. That could be just creative enough that we could afford the right amount of parking. With 30 feet down, our total parking here ends up being about 3400 stalls total. When you look at the density on this site, someday nobody will be able to drive to this site and ride the transit station. It will all just be fed by people walking from this hub. So it's really a challenge because 3400 stalls doesn't put a dent in the ultimate density that's in walking distance of this site. And then here's the other issue. Financing parking today with things like autonomous cars and ride shares and all this stuff- it's - I hate the fact that we talk about parking all the time, but nobody knows how much of it to build, nobody knows if they want to lend on it, and 34 -I can't do the math- 3400 times \$50,000 - the land is worth negative \$200 per foot. So it's nice that we have a very patient longtime owner, but we wouldn't be able to be playing with these things if we didn't.

Commissioner Nye: Okay, so I think now we'll transition to public comment, unless you have...

Eaton: Did you want to talk any more about the five-year thing?

Commissioner Nye: I don't think so, I think I heard what I needed from you.

Eaton: Okay.

Commissioner Uba: I withdraw that

Eaton: Okay

Commissioner Uba: For good reasons. Yeah.

Commissioner Nye: So does anybody need a break or should we do public comment? We only have one card so far. Okay. Public comment then a break. So I have one card so far on public comment, and it's Virginia Bruce.

Virginia Bruce: Good evening. My name is Virginia Bruce, and I'm a resident of Cedar Mill, which is urban unincorporated Washington County. And I'm also the publisher of the Cedar Mill News and the chair of CPL-1, so I wear lots of hats. I have published the news since 2003, since the days when Beaverton just first began annexing some of our property and I have been aware of Peterkort's long-term plans but mostly I've been aware of people complaining about not being able to park at the transit center. For people who live north of 26, who don't live in Beaverton, I know it's not your problem, but it's our problem, and it's for whatever reason it was allowed to develop at a medium density on hills and with streets that have no grid and so it's a nightmare to provide public transit to these people. And I've been watching the time climb backwards that you from park there unless you get there at 8:00. You can't park there unless you get there at 7:30.

Now it's about 6:30. You have to get to the Sunset Transit Center by 6:30 to be able to park and to use public transit. It's a blockade for the use of public transit but who lives north of 26 in that area, Bethany, Cedar Mill, Rock Creek, so forth. You guys in Beaverton have a number of transit stations and a number of options to be able to live in that urban dream that you've envisioned, Jerry. But for the rest of us, we don't. We have almost no bus service and we don't have access to what we'd like to think of as our transit center. Because people flock from all over the valley to park at the Sunset Transit Center because it's that last stop before you got through the hills. So just on the surface of it, no pun intended, this is needed. That being said, I have a couple of questions. The City of Beaverton is investing \$200,000 along with Washington County, ODOT, and the Peterkort Company in improving the offramp from US-26 onto Cedar Hills Blvd. We're all suffering through that as we speak. I haven't had a chance to read the TIA and I don't know how that is going to be affected. Are we going to lose all the benefits that we're hoping for from that improvement by dumping more people in the road to get to this parking lot? And also how is the intersection of Cedar Hills Blvd and Barns going to be affected? I recall when the first big Peterkort application for the Walmart store was floated that I believe that Cedar Hills was going to be...I can't recall, seven or nine lanes wide at Barns Road. It's pretty wide now, but will this cause congestion there, additional congestion there. It is one of the two feasible entrances into Cedar Mill. Cedar Hills Blvd and Barns and then Murray and Cornell. And we've got to be concerned about congestion at the gates. So here are a couple of issues that may have been written out there on the TIA, but I haven't had a chance to look at. With that being said, I think it's interesting ODOT wants additional capacity coming off of 217, but what is it going to do to this already temporary fix at Cedar Hills Blvd and 26? Overall, I think we need it desperately. It may be the gateway to Portland, but for us it is the gateway into Portland. And most of our folks just give up on public transit and they add to the congestion on the freeways and the greenhouse gases and all the rest of it. And I know quite a few people who would take transit if they could. So any questions? Okay.

Commissioner Nye: Is there anybody else that would like to speak? Okay. So with that, I think we'll take a break, and you can come back and do rebuttal after the break if that's okay. We will be back...oh, geez, the clock's gone. 8:10. We'll come back at 8:20. A 10 minute break. Thank you.

Commissioner Nye: Okay, good evening. We are back, and it is time for the applicant rebuttal to the public testimony.

Keever: We've had the opportunity to discuss concerns with staff, and I'd like to ask that we have some time, either during a recess or during your work session to work out some language that we discussed with staff that might satisfy not only the applicant, but the planning commission as well. If that's doable for you, I think we have some brief language that would do that. And in addition, with regard to Virginia's testimony, we obviously agree with her that it's needed. But with regard to some concerns that she voiced about the westbound offramp off of the...or the eastbound offramp off of Highway 26 at Cedar Hills Blvd, a lot of that data has been taken into account, but our experts here can address any specific questions you have, if you desire.

Commissioner Nye: Is staff okay with us recess...taking a break?

Slatinsky: I think staff's recommendation would be to recess. Actually I think it probably...Peter is it officially a continuance if we let the work session go ahead and then come back to this agenda item after the work session?

Peter: Yes, it is. But just continue it in a sense.

Slatinsky: Okay.

Commissioner Nye: Okay. So, we will continue the public hearing for the parking lot until later tonight, after the work session. Alright, yeah? We will move on to our next agenda item.

Keever: Any questions on the traffic off the westbound, or eastbound offramp? Okay, very good. Thank you.

STOP [01:40:46]

START [02:18:40]

Commissioner Nye: With that, we will reopen the public hearing for the parking garage at Sunset Transit Center. Sunset Surface Parking Lot, to be specific. So, did we actually close public testimony at that point? No. We did do rebuttal, yes. We're at staff comments. Okay.

Fox: Good evening. Chairwoman Nye and Commissioners, Jana Fox again, City of Beaverton. So I have a couple things for you. One before I read the drafted condition of approval for your consideration and decision whether to include. I do want to note the question the applicant raise of striking condition of approval, or modifying condition of approval 28, about the trash enclosure. We would like to see that remain. It does not preclude individual trash receptacles from being provided throughout the parking lot. Our concern being that if the property were to sell, or the guard was sick, that there would be no good place to put the trash that may overflow from those trash bins. So staff's recommendation would be to include that, or keep the condition as is. Ultimately that is of course your decision. And then as we recessed, we worked on...staff worked on a draft condition of approval that the applicant has seen and says they are...it is amenable to. I would note that the numbers...staff put in some numbers for square footage and dwelling units as a placeholder so there may be further discussion or modifications to the condition, and that can be accommodated, should you decide that it is warranted.

So the condition would read, this would be for the conditional use, "CU2018-0023, Sunset Surface Parking, shall expire," and then there are three subparts. The first one being, "If CU2013-0003, Sunset Station and Barns Road PUD expires." Subset two, "five years after issuance of a certificate of occupancy, unless there is an active land-use entitlement for a minimum of 80,000 square feet of non-residential floor area, or 200 dwelling units on the station site." And then the third is "Ten years after issuance of a certificate of occupancy." The logic being here with the first one is that if the overall PUD expires, this approval expires. And then, the parking lot will expire after five years if there is no active land-use entitlement that meets the minimum requirement. So if we say, "Okay, if you can get to a certain threshold in that five years, you can have five additional years of the parking structure. And then at ten years, it goes away." Or it becomes accessory to other uses on the site. It's that required parking use. So that is

the logic behind that. I'm happy to answer questions. And obviously you guys are welcome to deliberate and do as you see fit. But that's kind of the logical behind how that condition is formed.

Commissioner Nye: Okay, Commissioner Matar.

Commissioner Matar: So say it expires, what do they do with it then?

Fox: They would not be able to use it. We could also put in a condition that it has to be removed within a certain amount of time, or that it has to be barricaded. That's a good question, I would ask for some direction on what you would like to see that be. From the commission. If you would like to see it removed, or just no longer in use, barricaded, or some form of in-between. Obviously our hope is that this is not needed, but that is a great thing to think about. I think we'd be open to suggestions on what that is. I think with the way this reads they would just have to abandon the use of it. It does not require them, as the way it's written, to actually remove the surface parking lot.

Commissioner Matar: Okay. And do we have a mechanism to perhaps renew it if it turns out to be useful to the transit riders?

Fox: They could come in a get a new conditional use approval. Essentially start the process over with the same thing they went through this evening.

Commissioner Matar: Would there be an easier process that we could bake into this?

Fox: We could. We could specify that they could modify it...actually no, they could go through the modification of a decision. Thank you. Sorry.

Commissioner Matar: Sorry, what was that?

Peter: We have in our code a way for them to come back to modify an existing decision. And it's lighter on process.

Commissioner Matar: Okay.

Fox: It looks specifically at the thing that they are asking to change. I apologize for not immediately thinking of that.

Commissioner Matar: Okay. So they could abandon it in place. They would not have to demolish any of their improvements...

Fox: As currently written.

Commission Matar: As currently written. But they would potentially have to maintain the security of that property? Or not even that? I mean, that would be to their discretion?

Fox: That would be to their discretion.

Commissioner Matar: Okay. Okay, thanks.

Commissioner Nye: I have a follow-up question to that. So the modification to the condition use, that still comes here?

Fox: Yes.

Commissioner Nye: Okay. Commissioner Uba.

Commissioner Uba: How does this jive with the design review III requirements, which Commissioner Winter brought up?

Fox: Yeah, so this is somewhat separate from the design review build out concept plan, although in some ways it actually ties in quite nicely with it. We don't have the ability through the design review...DRBCP, that giant mouthful, to require them to take certain actions. But because of the conditional use we can essentially, through "if you want to keep your parking lot," we can require them to take certain actions. So while it is not directly related to the design review build out concept plan, in a way it's actually helping to fulfill that.

Commissioner Uba: Okay. That's good.

Commissioner Nye: Commissioner Becker.

Commissioner Brecker: Thank you for putting this together. It gives good clarity to the intent and my understanding. Just as a general concept, I'm not opposed to the idea of the parking, I think there's a lot of communal benefit that comes from this. And I think it's an evolution in the site's development. What concerns me, I want to make sure I understand it correctly, is that if this parking lot is built and the physical structure that is referred to as the guard check is built, that then entitled the PUD and it's ratified.

Fox: Correct. So what it does...the PUD will otherwise expire, which means that if the applicant wants to develop on these properties, particularly those that are zoned Station Community Sunset, which is what we didn't get into earlier, a special zoning district that applies only to the properties within this area. It was created specifically for them as part of their annexation. If they wanted to develop any of those, they would come in and do a new PUD. So they would be updating their traffic study, taking into account all the background trips that have happened in the meantime, the list of transportation improvements, while likely to be similar, would probably be even more extensive. And it is...the most recent estimates we've heard from the applicant's team is that the cost of those improvements as a whole probably range as closer to \$50,000,000 mark to get some context to the scale of those improvements. So it would expire. It doesn't preclude development there in the future, but they would have to start the PUD process over.

Commissioner Brecker: And so from my perspective would be there are land-use conversations and activity uses, but that is the moment in this conversation that keeps coming back to me is, the construction of that guard structure solidifies a moment in time for them. And I don't know clearly enough, if that moment in time is positive for the Beaverton community, or positive for the developer, or is there a way to have a further clarity on that? And it's not just about cost for the developer, it's more about is this a long term benefit that we're seeing for this site.

Fox: I do believe it is, but let me give you a little more context. The PUD itself, beyond the transportation improvements, didn't vest any specific or identity any specific physical development, so everything that they want to build on these sites have to come back through a land-use process. Primarily given the scope they'll most likely be Type III's, there's the possibility they could be Type II's. Residential only development can fall under a Type II. So this is not the city's last bite at the apple on good design on getting what we want here. What it does do is give some certainty in the context of what can be developed and what the transportation costs are, because they are large for developments that occur on these sites.

Commissioner Brecker: Okay, thank you.

Commissioner Nye: Does anyone else have questions? Okay. Can I get your guys' thoughts on barricades versus tearing out of the parking lot at the end of the ten years if they are redeveloping it for their own reasons, or revising their conditional use? Commissioner Winter?

Commissioner Winter: Presuming we still have a Sunset Transit Center there, I don't want to be the one that stands out in front of the traffic and says, "No, you can't park here." So I think it would be in our best interest to try to keep whatever we can there. In the bigger picture, if this hasn't reached critical mass by then, I'm not sure that we're going to have any problem keeping it open, because somebody else will come in there and do what it takes to keep it open. But I don't know what that's going to be, and I'm not going to forecast what that's going to be. But I think tearing it out is...I can't imagine the trauma that would create.

Commissioner Nye: Okay. Commissioner Brecker.

Commissioner Brecker: For me, this is a lot about the market forces that will be in front of us in the years to come. And the idea of building this privately funded community benefit, because that's what I'm thinking of it as, it really does benefit the community, is not something that the development group wants to keep there long term. And I think that there's some built in flexibility that we're talking about that allows them to respond to the market forces. But if we continue to grow the way we think we're going to grow, it will not be a parking lot. And I have to agree with Commissioner Winter that suggesting that we physically remove that, mandate that it be removed, or that it be blockaded, seems to be really trying to predict the future.

Commissioner Nye: Well, don't you think that if we don't have something in, as minimal as they need to barricade it, until they come back to us, or take one of these other actions. Essentially, because if we don't have some way to stop them from using it, there's no...yeah. I think Commissioner Overhage, do you have a...?

Commissioner Brecker: So close, yes. But I'm not sure about barricade.

Commissioner Overhage: I've been struggling with this one, kind of going back and forth. But I kind of got down to a similar thought process where you said we're a country that goes through economic cycles, and we've had one in '08. Many of us remember that one in '08, and it wasn't very kind to the construction industry, and it took quite awhile to come back from that. And during those down economic cycles, it's very hard to build something, and public transportation use, the need for that usually goes way up. So if we simultaneously had a down economic cycle and we closed the extra parking that permitted people to use the public transportation to get to

where they went, it just seems like we might be putting ourselves up for...even though I'd like to see the design review build up concept plan built, or some equivalent that is fully designed to meet the needs, and I actually believe the economic value of this property will kick, and that will make that development happen just organically, when the economy is in the right place. It may not...there may not be a recession, it may kick in two years and you may just go, with the construction boom, they keep on going. But if it didn't, I'd think that causing a hardship on all the people who, myself included, would really like to use that garage at 7:30 in the morning, when the Sunset is particularly attractive to see the side parts of Port Arboretum, and all that, because you have a lot of viewing time. I just don't think would be doing the public service by putting that sunset clause in. And so, for me, I've looked at both sides, and I think that there is a potential to do a lot of damage, and I would hate to have to make them go through a modification of a decision just to keep what's in the public interest. Albeit, not the primary interest, not the interest we all want, but I think at some point the economic benefits of that will be there and make that development happen anyway.

Commissioner Nye: Okay. Commissioner Uba.

Commissioner Uba: Yeah, I agree with my fellow commissioners, Brecker and Overhage. I don't think there's any need for that. The worse case is in the end of five years, or ten years, there will be food carts there, you know? Yeah, so. Yeah, it's happening in downtown, it's happening everywhere. So leave it the way it is. That's my take.

Commissioner Nye: Okay. Commissioner Matar.

Commissioner Matar: I agree. Parking near mass transit doesn't reduce the use of cars, it just shifts it. Ultimately it is, I think, a great public benefit. As a number of commissioners had mentioned, particularly if you try to get there, because the alternative is if there's no parking you're going to drive to your destination in Portland at the end of the day, and that's going to be problematic. I think we should acknowledge though that once this is improved, with so much improved land near it, it will be one of the last sites to ultimately get built out over in that area. I reconcile that however, because of a recent ECONorthwest study that was conducted on behalf of Beaverton, where they found essentially no projects pencil, even in Beaverton's densest zones, largely due to parking. If we want to have development and we want a catalyst in this area, I would say the applicant's argument rhymes quite a bit the city's argument for the civic garage. So whether it's short-term or long-term, I think this can be a benefit to the area and to the city.

Commissioner Nye: Okay. So what I think I'm hearing is actually the third bullet of the proposed condition of approval should be struck.

Commissioner Brucker: Closing it and barricading it, I think, are two different things. I mean, if there's a way to bring them back to the table for conversation, that...

Commissioner Nye: Is good.

Commissioner Brucker: Yes, I think that is beneficial. But removing it altogether or taking it out of the market seems extreme.

Commissioner Nye: I would agree that I think having them come back to us in ten years, if they haven't been able to make something work on the site and having a conversation about it would help me to get over the fact that it's really challenged in meeting the goals of the Station Community Plan. So by striking the ten year sunset, I think we've lost...I don't think we're meeting the intent of the plan. I don't think we're meeting city goals at that point.

Commissioner Brecker: What if we converted it in ten years to free public parking? Would that motivate the group?

Commissioner Nye: It's still an auto-oriented development at that point. It's not a pedestrian-oriented mixed-use development. So the station goals, the goals of the district, are mixed-use pedestrian-oriented development. So if we don't have a mechanism to push for that, and just let this be a lifetime of surface parking, with nothing else developed around it, I think it serves one community benefit, but it doesn't serve the broader goals of the city's community plan. But I could be in the minority. I'm fine with that. Commissioner Matar.

Commissioner Matar: But there is development near it. And it is beyond capacity. It's difficult to ascertain how much more parking we're going to need until we have some level of surplus for the parking to that station. So this is not necessarily in an open field, it's sitting next to something that meets, in so many different ways, the core intent of multi-modal transportation right there.

Commissioner Nye: Well that's why I think giving it the ten years to see if it helps spur development is potentially acceptable.

Commissioner Matar: But even if it doesn't, the utilization of that garage will not go down. The lot will still help support shifting vehicles off of the use and into this area. Because it will necessarily increase the capacity.

Commissioner Nye: Maybe, yeah. Okay, so Commissioner Lawler hasn't spoken at all. I'm going to pick on her then.

Commissioner Lawler: Well, after listening to all of these great arguments, I think the primary goal of this site is to see the huge PUD, that we all envision ultimately. And it's a matter of trust about whether an interim use is truly an interim use. And we're grappling with, you know, I guess history is where maybe they haven't proven to be so interim. And so, I guess, after all I concur that I think after ten years, I think it's a fair period of time to see how things flesh out, and that after ten years if there's no redevelopment, or no final use of this other than a parking lot, then I think we need to come back in and have another conversation.

Commissioner Nye: Okay. So, I think we can...Yes, Commissioner Overhage.

Commissioner Overhage: The part that...I'm just trying to imagine the condition of approval that says we have another conversation. Is that the condition use needs to be renewed?

Commissioner Nye: It's the expires in ten years. They then have the option at that expiration to modify their condition and ask for another ten years.

Commissioner Overhage: Okay, so that's what you're looking for. That would be the action path. So it wouldn't have to close if they went for the modification condition. Okay, alright, thanks. I just want to make sure I was totally clear on what we were looking for and talking about.

Commissioner Nye: Staff has their hand up.

Fox: Jana Fox. I would just like to make a point of clarification. They could come back before the decision expires for a modification. If they miss that window, they would start over with a new conditional use.

Commissioner Nye: And I can tell you from experience in Beaverton that if we're in the depths of a recession at that ten year mark, there's generally been pretty good flexibility on the city's part to extend conditional uses and whatnot. So I think the economic argument is probably not as strong. So, with that, I think I'll pool you guys on keeping the third bullet of the proposed condition of approval. Which is the ten year sunset of the CU to help Commissioner Lawler write her motion.

Peter: Excuse me, just a minute. Did you close the public hearing?

Commissioner Nye: That's what I asked when we brought staff back.

Peter: I think maybe you didn't formally close it. Maybe you should do that.

Commissioner Nye: Okay. So I guess we will close this portion of the public hearing. With that, I will pool the commission on their thoughts on keeping the third bullet of the proposed condition of approval.

Commissioner Winter: Could I have the three options repeated please?

Commissioner Nye: Could you reread your condition of approval?

Commissioner Winter: Yeah, could you read the three options please?

Fox: Of course. "CU2018-0023, Sunset Surface Parking, shall expire, 1) If CU2013-0003, Sunset Station and Barns Road PUD expires." Clause two, "five years after issuance of a certificate of occupancy, unless there is an active land-use entitlement for a minimum of 80,000 square feet of non-residential floor area, or 200 dwelling units on the station site." And then the third clause, "Ten years after issuance of a certificate of occupancy."

Commissioner Nye: So if you support the conditions as proposed raise your hand.

Commissioner Uba: I think I need to hear it again. Are we talking of the three of them? Or are there options?

Fox: Yeah, so these would be, this is Jana Fox, I apologize, these would be three scenarios in which if any of them are met the condition would expire. So if the original Peterkort Sunset Station Barns Road PUD expires, this expires. It expires at five years unless, and if it's made it

through the five years and it hits the ten year period, then it will expire automatically unless they modify through you.

Commissioner Uba: Okay, yeah. That's fine. So far as we don't add any scrapping of the lot as you have suggested.

Fox: Nope.

Commissioner Nye: I think currently I was just asking if you guys supported the conditions as proposed. With no modifications. No required barriers, no required tear-out, just come back and have a conversation essentially. Okay I'm hearing enough yeses to move forward with a request for a motion.

Commissioner Lawler: Could I have that?

Commissioner Nye: Oh no, you can just say "as proposed by staff." You don't have to...

Commissioner Lawler: Are we going to talk about the trash enclosure as well?

Commissioner Nye: Oh yes, we do. Is there any discussion on the trash enclosures?
Commissioner Overhage.

Commissioner Overhage: Short of a shared trash agreement, I actually agree with staff. And so I would keep the condition as it was.

Commissioner Nye: Commissioner Brecker.

Commissioner Brecker: If we agree that a trash enclosure instead of a trash receptacle, like a dumpster, is the right way to go, where we require a trash enclosure, correct? Then does that need to be brought back as part of design review? Or is that something...?

Commissioner Nye: No, staff is saying no, it does not.

Commissioner Brecker: Okay, great. Thank you. Wanted to make sure.

Commissioner Nye: And if they found room in their guard shack to put a dumpster, a wheelbarrow...you know, a rolling dumpster, would that qualify?

Fox: Yes, the guard station would meet the minimum screening requirements for a trash enclosure.

Commissioner Nye: So they have some flexibility. So I'm hearing...is there any other discussion items before we move to a motion?

Commissioner Matar: I just have a question. So the...what we're going to be voting upon right now will be with the three criteria...

Commissioner Nye: Let her make a motion and we'll find out, right?

Commissioner Matar: Okay, fair enough.

Commissioner Lawler: Unless you'd like to.

Commissioner Matar: No, no, no. You're good. Maybe I should wait until afterwards. I just want to make sure that we're not going to go down the other option of then voting for the condition without that. It's either going to be with this, we approve it with it, or we don't approve it at all.

Commissioner Nye: We'll see how the motions go, I think we're at that point.

Commissioner Matar: Okay, alright. Sounds good, thanks.

Commissioner Lawler: Let me get all my paperwork together here. I move that we approve Conditional Use 2018-0023, the Sunset Surface Parking Area, based on the facts and findings found in the staff report, dated March 6. The additional...this is where I'm going to mess up...exhibits 3, 4, the staff memo - dated March 12, and the additional memorandum dated March 13, and the facts and findings found in the staff report, with the addition of the condition of approval as read by staff this evening regarding the expiration of the parking lot use at the site.

Commissioner Nye: Okay, do we have a second?

Commissioner Uba: Second.

Commissioner Nye: Okay, seconded by Commissioner Uba. So, any discussion on the motion? Commissioner Overhage.

Commissioner Overhage: I just need a point of clarification. So, we're talking about having the new condition exactly as proposed by staff in the motion with all three elements in there?

Commissioner Nye: Yes.

Commissioner Overhage: Okay.

Commissioner Nye: Okay, all those in favor, say 'Aye'.

Commissioner Matar: I thought we were still discussing, I'm sorry. Before we go to a...

Commissioner Nye: Sorry. Yes, Sir.

Commissioner Matar: My Robert Rules is rusty here, but if I want to make an amendment to the motion do I have to say, "I would like to make a friendly amendment"?

Commissioner Nye: You can do that. Sure.

Commissioner Matar: Okay, I'd like to make a friendly amendment and remove the three criteria options.

Commissioner Nye: Commissioner Lawler, would you like to accept that amendment or decline it?

Commissioner Lawler: I'm going to decline it.

Commissioner Nye: Is that right? How does that work?

Peter: Another, simpler, method might be to vote on this one and if that doesn't pass, go to the next option. But see if this works.

Commissioner Nye: Okay.

Commissioner Matar: Except for that could potentially put the entire project at risk if we're otherwise okay with it.

Peter: We're not at an impasse. If you don't accept the friendly amendment, then just go ahead and vote on it as it is.

Commissioner Nye: Okay. All those in favor, say 'Aye.' The motion as proposed with staff conditions of approval.

Commissioner Brecker: Aye.

Commissioner Lawler: Aye.

Commissioner Nye: Aye.

Commissioner Uba: Aye.

Commissioner Winter: Aye.

Commissioner Nye: All those opposed say nay.

Commissioner Matar: Nay.

Commissioner Nye: And all those abstaining? None. So motion passes. We are missing a vote.

Commissioner Overhage: I've been having technical, internet difficulties. I am a nay.

Commissioner Nye: There it goes. So motion passes 5-2.

Commissioner Lawler: I move that we...

Commissioner Nye: Oh, wait. We have to make another motion on the floor.

Commissioner Lawler: I move that we approve DR2018-0167, Sunset Surface Parking Area, based on the facts and findings found in the staff report dated March 6, exhibit 3.4 – the memorandum from staff dated March 12, 2019, and the memorandum from staff dated March 13, 2019, including condition of approval number 28, which was discussed this evening.

Commissioner Nye: Okay. Do we have a second?

Commissioner Uba: Second.

Commissioner Nye: Okay. Commissioner Uba seconds. And discussion on the motion?

Commissioner Overhage: Friendly amendment to amend condition number 20b to \$10,000, instead of \$1,000.

Commissioner Lawler: Thank you, I accept that amendment.

Commissioner Nye: Any other discussion on the motion? Okay, all those in favor, say “aye”. Oh, wait. We don’t have the voting screen. Okay, all those in favor, say “aye”.

Commissioner Brecker: Aye.

Commissioner Lawler: Aye.

Commissioner Matar: Aye.

Commissioner Nye: Aye.

Commissioner Overhage: Aye.

Commissioner Uba: Aye.

Commissioner Winter: Aye.

Commissioner Nye: All those opposed, nay. Okay, motion passes unanimously. With that, the planning commission’s decision for Sunset Surface Parking Lot will be memorialized in a land-use order that will be provided to all parties that provided oral and written testimony. I will say, I think we are all excited and hope that you can have a successful development. We don’t want to throw up road blocks, we just want everybody to succeed. So thank you for bearing with us tonight. And with that, we have no minutes, so we will adjourn the hearing.

STOP [02:52:33]