

REGULAR MEETING

September 21, 1998

CALL TO ORDER:

A regular meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Council Chambers, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday September 21, 1998 at 6:38 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Wes Yuen, Evelyn Brzezinski, Dennis Doyle, Forrest Soth, and Cathy Stanton. (Coun. Yuen arrived later in the meeting as noted in these minutes.) Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, Community Development Director Joe Grillo, Administrative Chief Gary Nees, Senior Planner John Osterberg, Support Specialist II Deborah Baidenmann, and City Recorder Darleen Cogburn.

CITIZEN COMMUNICATION:

There was no one present who wished to testify.

COUNCIL ITEMS:

Coun. Soth reported that he attended the meeting of the FAIR Committee for the National League of Cities, the past week. He noted it was a very productive meeting and said there were some things coming along that they did not think would be settled this session of Congress but would have some significant effects on cities across the country. He said the preemptions and 'takings' issues were still alive and a couple of other matters that would be significant in terms of financial impact.

Coun. Doyle announced that the coming weekend, the cities of Tigard and Beaverton would be hosting the S&P&S #700 Steam Engine, and there would be rides available. He said a two-hour ride cost \$30, and they could call 649-6602 for details. He noted it was a 'once in a lifetime' event.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Coun. Brzezinski MOVED, SECONDED by Coun. Doyle that the consent agenda be approved as follows:

Minutes of the regular meetings of June 15, and June 29, 1998

98-261 A Resolution Declaring a Nuisance of Accumulation of Household Garbage, on Property at 17557 NW Bernard Place, Beaverton, OR 97007 (Tax Lot # 1N1 31 CD 800) and Ordering its Abatement

Contract Review Board:

98-262 Contract Amendment for the Lombard Gardens Street and Drainage Improvements

98-263 Purchase of Eight (8) Police Cars From the State of Oregon Price Agreement

98-264 Specify Brand Name for Sealed Bid of MP5 Carbine Rifles

Coun. Brzezinski gave corrections to the June 15 minutes to City Recorder Darleen Cogburn.

There being no further discussion, the vote was taken on the motion. Couns. Brzezinski, Doyle, Stanton and Soth voting AYE, the motion CARRIED unanimously. (4:0)

PUBLIC HEARING:

98-265 ECP 97002, ECP 97003; Sexton Mountain Village Expedited Comprehensive Plan Amendments

Mayor Drake read through the procedures for the hearing and noted they would end testimony at 11:00 p.m. that evening. He pointed out that they would continue the hearing the following week, September 28, and that meeting would also end at 11:00 p.m.

Mayor Drake said as a matter of procedure, he would ask questions of Council and move through the procedures as quickly as possible. He asked if any member of Council had determined they could not participate because they were partial or biased.

No Councilors responded in the affirmative.

Mayor Drake asked if there had been any pre-hearing or ex parte contact regarding this matter.

Coun. Stanton said she had no such contact other than process questions, nothing that would affect her vote.

Mayor Drake noted that he would not be voting unless there was a tie for some reason. He said in that case, he wanted to clarify that as Mayor he also served as the CEO and in that capacity he had talked to the attorneys and applicants. He stated that they had not asked him to take a position, the discussions had been procedural, and informational only. He reported that he about two years earlier, he had talked with Bob Beard, head of Neighbors for Livability (NFL), (the Mayor sought him out) regarding information which was coming to the City but not getting to the people the Mayor wanted to receive it. He said also spoke once with Sam Allen, who owned the underlying property, after the Planning Commission (PC) hearing. He related that Allen was concerned about the procedures and he had explained them to Allen. He said he had talked to various people throughout he community, but none that affected his ability to be impartial.

Mayor Drake asked if there were any in the audience who objected to the information provided by the Councilors regarding their ex parte contacts.

There were no objections.

Mayor Drake asked if there was any objection to the City having jurisdiction in this issue.

There were no objections.

Mayor Drake reported that after the close of the PC hearings, Council and he received letters, e-mails and faxes from interested persons, and unless the information in that correspondence contained new information, it had been forwarded to the Council and would be considered as part of the record. He outlined the order of those who would speak. He said the staff would give a summary of the nature of the application and the findings and decision of the PC; the proponent/applicant would follow staff; the Rezone Committee, the NAC, and then individuals who wished to speak in favor of the application. He explained that from there they would go to the opponent's case, which was the NFL, and then individuals who wished to speak against the application. He said they would next go to rebuttal evidence from the proponent/applicant, meaning they can rebut or respond to anything that was said.

Mayor Drake noted that the burden of proof was on the proponent/ applicant, and due to that, they would have 30 minutes for their presentation. He said there were two different groups, the NFL and the Rezone Committee who would each be given 20 minutes for presentations, and all individuals and the spokesperson for the NAC would be given three (3) minutes each. He explained they were going to use three rather than the usual five minutes because it was an 'on the record' hearing and no new information could be given. He noted that he and the Council had seen all the testimony that was in the record.

Mayor Drake reiterated that this was an 'on the record' hearing, so no new information would be allowed. He commented that he could not recall

ever getting that many testimony cards for one side of an issue, and noted that the stack he had represented over two (2) hours of testimony, if they were able to "go like greased lightning," which he doubted they would. He asked that Council refrain from asking questions of anyone testifying until they were done, so they would be able to complete their comments.

Mayor Drake reviewed the process for the meeting, and indicated that the Council had received a great deal of record information in advance of the meeting. He said it was not necessary for people to speak directly to the Council if their written comments had been submitted previously to the PC, noting those comments would be part of the Council record. He encouraged people to consolidate their comments with others who wanted to be heard.

Mayor Drake noted that prior to inviting people to speak, he would recite the names of people who had sent in letters after the PC made their decision. He said those who wrote in favor would be listed first and those opposed would be listed after the opponent spoke.

Mark Pilliod, City Attorney, said the procedures were outlined in the Beaverton Code, and unfortunately the Code did not address all procedural issues, and likewise the Comprehensive Plan (Plan) contained criteria for judging amendments, but did not contain specific procedures. He explained that neither the Plan nor the Code described the manner of allowing or refusing to admit evidence when the appeal was 'on the record.' He noted that this was less of a problem when it was de novo, since witnesses were free to offer any relevant evidence to the Council. He explained that when it was 'on the record' the opportunity to present new evidence was largely prohibited. He stated that he assumed the Council expected the record to consist of the PC decision, necessary staff reports, application and any supplemental reports, and other documents in favor of the application, materials submitted against the application and received by the PC, the minutes of the PC meetings, a transcript of the 6/17 meeting, and any letters submitted as part of the PC proceedings, both in favor and against. He reported that he had offered letters addressed to the Council and submitted after the date of the PC decision, since neither the applicant nor NFL objected. He noted they received a stack of 100 or more letters submitted that night.

Pilliod said Council might be asked to decide whether a person could testify on facts already contained in the record, if that person was not the same person who presented that information during the PC proceedings. He explained that even though a witness said they agreed with something already mentioned in the record, it might be considered new evidence simply because that witness had not previously testified to that fact. He said he assumed that based on discussion from the Council when it decided to take this matter up, was that such a witness might still testify, because the facts were already in the record.

Pilliod pointed out that during the course of the hearing there might be a time when there was an objection to new material/evidence being offered. He explained that since that would be improper, the person should stop speaking, and the Mayor would consult with either him or other City staff, and clarified that objections could be made by either the applicant or the opponents. He said if necessary the Council could take a break or hold the matter over for further consideration since September 28 was also scheduled for these proceedings, if necessary. He asked that those who were testifying, if there was an objection, to please be patient until they could proceed. He asked if the approach was agreeable.

Coun. Brzezinski asked whose responsibility it was to make a decision of if information was material.

Pilliod said it was ultimately the Mayor's, but they were going to stop the person and try to determine that decision with input from staff who were more familiar with the record.

Pilliod said if the Council let new evidence in, then they would have to allow rebuttal. He asked if this process was acceptable to both sides.

All agreed.

STAFF REPORT:

Joe Grillo, Community Development Director, and John Spencer, Consultant with Spencer and Cupper, introduced themselves. Grillo noted that John Osterberg, Senior Planner on the project was also present.

Grillo said Spencer would give a brief overview of the application and the PC recommendation.

Spencer said the application, in its simplest form was to relocate a existing Commercial node from the northeast corner of 155th and Beard to the northwest corner of Murray and Beard, a distance of about one-half mile. He explained that the concept was to move that Commercial node one-half mile to Beard and Murray. He noted that the properties at Beard and 155th were four properties, totaling about 10.33 acres, and the existing Plan designation was Commercial, and the proposal was to change it to Standard Density Residential. He explained that at Beard and Murray there were several tax lots totaling 17.5 acres, and the proposal there was to change the existing Residential designation, to a combination of Commercial and Urban Medium Density Residential.

Spencer said the applicant had proposed four options for how the planning for the property at Beard and Murray could be accomplished. He reported that those options ranged from having about 10 acres Commercial, and about 7.5 acres Residential, to having all of it be Commercial. He explained that part of the decision was to choose one of those options, or suggest modified options for the ultimate land uses. He reported that the

staff in its review recommended to PC, approval of the proposed Comprehensive Plan Amendments (CPAs) and the findings contained in the June staff report. He said the report included findings against the nine Plan criteria; they felt the application did meet those requirements. He said PC disagreed with staff and concluded that the application did not meet all of the CPA criteria, specifically criteria 1, 2, 3, 8, and 9. He said the minutes of the PC meetings were in their packets (in the record), where each of the PC members indicated why they felt the criteria weren't met. He noted that they also provided a summary of the agenda bill, where they tried to characterize staffs' positions and the positions the majority of the PC members took in denying the proposal.

Grillo said that was a brief overview, and reported that the staff was recommending they hold the public hearing 'on the record' and that they approve both of the Expedited Comprehensive Plan Amendments, (ECPAs) specifically at 155th and Beard. He clarified that staff was recommending that be Medium Density Residential, and at the Murray and Beard site they were recommending Alternative A. He explained that Alternative A consisted of 10.07 acres of Commercial, and 7.5 acres of Medium Residential.

Coun. Stanton noted that both Grillo and Spencer had mentioned alternatives, but said she thought they were going to just change the Plan but not give designations.

Grillo said that was correct, staffs' recommendation was Plan designations, not zoning designations. He said the applicant proposed in their amended application, four alternatives at Murray and Beard, for the PC consideration. He explained that they had those four alternatives, if they chose to consider those for Murray and Beard.

Spencer explained that it was 'how you color the map,' what was being proposed was changing the color on the map at both locations. He explained that they would be changing it to brown or yellow Residential at 155th, and a combination of red and brown – Commercial and Residential at Beard, but not picking the zoning.

Coun. Stanton asked if she was correct that they were not picking the zoning, not picking where the red and brown would go at 155th and Murray.

Spencer clarified that it was choosing what the map would look like for those locations.

Grillo stated that the staff was not making any recommendations to the Council that night on any zoning, only on the Plan designations.

APPLICANT:

Joel Gordon, Director of Development for Briar Development, which was the development arm of the Haggen Company, introduced himself, and Don Haggen, Chairman of the Board of Haggen's.

Gordon said they would stay within the time limit and Haggen would give brief introductory remarks and then he would cover the bulk of the material. He noted that Dave Leland, their economic consultant would address some issues at the end.

Haggen said he was co-chairman of Haggen, Inc., a family business from Bellingham, WA, and they would be opening their twenty-first supermarket that week. He noted that they owned Briar Development Co., the partnership that owned the grocery stores. He said they bought the company from their parents in 1972, and were celebrating their 65th Anniversary this year. He pointed out that they had stores at both Tanasbourne and Tualatin, and were anxious to be in Beaverton. He said they would build a store the City could be proud of and detailed the various sections of their stores, noting that it was a different operation than the usual supermarket. He noted there would also be a small Bank of America located inside, similar to a neighborhood center.

Gordon clarified that the reason they were present was not about a grocery store, but it was an applicant that was an end user. He said staff had indicated they were there to relocate an existing Commercial node, which currently existed at 155th and Beard, and noted on a map on an overhead, the location of both parcels. He explained that they were there to discuss a Comprehensive Plan Designation. He noted that they proposed four (4) different alternates, because they realized there were some policy choices for the City to make, in terms of how much each of Commercial and Residential they wanted, and there were a range of possibilities that would work, from their standpoint. He reviewed the four options (in record). He said the staff had recommended doing the designation on Alternate A, which was essentially the straight across swap, of not increasing, (it would be slightly less, .25 acres less of Commercial) than currently existed.

Gordon said, if they looked at Alternative A, (which was what he would use for the purpose of their discussion that night), they were not adding any new Commercial land. He clarified that they were simply moving it out to the five-lane arterial, rather than leaving it at the intersection of two, two-lane residential streets, which was what 155th and Beard represented. He stated that they understood they had the burden to demonstrate that, based upon the record made before the PC, the nine Plan amendment criteria had been met, and they believed they had met that burden. He noted the 85 detailed pages of the staff report, which evaluated over 100 different criteria. He commented that the criteria operated like Chinese boxes, when you open up one, there is another box and pretty soon there are over 100 criteria. He pointed out that the staff went through and evaluated all those 100 different criteria and found that the proposal satisfied the criteria, and that the applicable Plan criteria were better

addressed by moving the Commercial out to Murray rather than leaving it at 155th and Beard. He reported that there was no dispute with the vast majority of the criteria, so he would focus on the handful of criteria that had been at issue.

Gordon said the first was criteria 1. A demonstrated public need to be satisfied by this amendment. He clarified that they were proposing no net change of the amount of Commercial land in the planning area, so there was no need for additional Commercial land and the need for Commercial land had been answered 16 years earlier when that Commercial node was located at 155th and Beard. He said studies had been done (not just for this project), that indicated that the City did have a critical shortage of Commercial land in that market area. He noted that since that Plan designation was placed on this property 16 years earlier, the market area (population) had doubled; there had been no new Commercial properties to serve that area for a decade.

Gordon reported that there was almost no vacant Commercial land available, and there was no testimony before the PC to dispute the overall need for Commercial in that market area. He said the other element of the need that they had, was the adoption of the Region 2040 Functional Plan, and Beaverton had to conform to that 2040 Plan. He explained that under 2040, Beaverton must increase densities and create commercial and employment opportunities, which would minimize vehicle miles traveled. He said higher intensity uses had to be located in proximity to designated arterials and corridors such as Murray, to take advantage of those functions. He stated that the proposed CPA was consistent with the 2040 objectives, they believed the record showed ample demonstration of public need, and staff as well as four members of the PC agreed.

Gordon said next was Criteria 2. The impact of the proposed Amendment on public facilities and services in surrounding areas. He reported that Hagen was excited about this site because it represented an infill site where all the necessary infrastructure was in place to accommodate the use, and it was also a site that allowed them to do the full mitigation necessary to mitigate the impact of commercial use. He said there had only been two areas of impact that had been raised as concern: traffic and the adjacent residents.

Gordon reported that with respect to traffic, the traffic analysis was reviewed and approved by the Beaverton technical staff and Washington County who had jurisdiction over Murray Blvd. He noted that the County had specifically approved the access plan, including the proposed signal at Murray and Maverick. He reported that the traffic impact analysis found that with mitigation, an acceptable level of service (LOS) as set by the County and City would be maintained at all intersections, and there was no analysis in the record that showed that was not the case. He said a supplemental traffic analysis was also done, to address the question of the arterial capacity of Murray, and it found that average travel speed and arterial LOS would be maintained with the proposal at levels A in the

southbound direction and B in northbound. He clarified that the proposed commercial shift would not impair Murray's function as a regional traffic arterial.

Gordon said the issue was raised as to whether or not the traffic analysis was a worst case traffic analysis. He explained that it evaluated the range of alternatives including all 17 acres being commercial, which represented a 30% higher traffic level than Alternative A. He stated that the impact analysis found that acceptable LOS could be maintained even if the alternative of all 17 acres at Murray and Beard were developed as commercial. He reported that the City and County staffs found this to constitute a reasonable worst case analysis. He said most important in relation to traffic, it was also undisputed in the record that the traffic impacts of 10 acres of Commercial development would be less on Murray than on 155th. He summarized that the impact analysis showed that all LOS will be maintained, and it would be better to have the traffic impact on Murray.

Gordon said the other concern was the impact on the adjacent residents on 149th. He reported that they did extensive community meetings and outreach, they surveyed all houses on 149th Street, and did detailed cross-sections of view, light, noise profiles, on almost every one of those lots. He said they designed an extensive mitigation program to address those issues, and those materials were included in their application, with some examples given to the Council. He noted that after they were in the process for awhile the City decided they had to do a CPA first, so some of the materials they had submitted were not necessary. He said they did the detailed work up front to analyze the needs and concerns. He explained that the specific details about the building would not be available at this time, but there would be adequate time in the future, during the remaining processes for all of that. He stated that they were confident they could come up with mitigation for all of the issues. He said they found, and the staff agreed, that the 155th site did not allow them the same opportunities to mitigate the issues as the Murray site did, mainly because of the topography. He explained that with the Murray site they could grade into the hill and create an effective barrier between commercial and residential. He said it was important for the Council to remember that any development of the Murray site would impact the residents on 149th, given the fact that it is higher than those residences. He noted that from a visual and privacy standpoint, Residential use would likely have a greater impact than Commercial use. He called attention to an exhibit on the overhead showing the changes in zoning. He noted that the illustration showed how the proposed location of the grocery store and its elevation contrasted to the profiles of what was exhibited in blue, the typical R-2 apartments. He continued that what was indicated in yellow would be a typical single-family house. He pointed out that they had illustrated how those would sit on the topography, noting that there would most likely be much more re-grading on the site for Commercial than Residential so the residential development would be much higher. He said the illustration showed the 45-foot setback for residential where the Code only required 20 feet. He

explained that the purpose of the illustration was to demonstrate that anything that happened out there would cause some impacts, but they thought the Commercial could be developed in such a way as to minimize the impacts.

Gordon reported that the opponents had argued that you should never put Commercial next to single-family Residential, but the Plan anticipated that there were times when you should do that. He noted that Commercial Policy #10, said, "Commercial development abutting residential zones or residential uses, should be subject to special setback and screening requirements." He said that clearly showed there would be times when they wanted to do that, but special measures should be imposed so it would fit the criteria. He noted that there were many places in Beaverton where Residential abutted Commercial uses, and reported there were virtually four (4) miles of property lines where there was Commercial immediately adjacent to single-family Residential.

Gordon said another issue raised by the opposition was that they should not change the Plan designation because residents claimed they relied on the Residential Plan designation when they bought their homes. He stated that was simply not what the Plan said, or what the City policy had been. He pointed out that the Plan contemplated that there would be amendments, as was indicated in the introductory language in the Plan where it said this would not be the last nor first work. He said the Plan said that the Plan was in and of itself a means of constantly evaluating things. He noted that the designation on the site was 16 years old, and in that time period, the City had approved 45 different CPAs or rezones, which were illustrated on an exhibit in the summary (in the record). He reported that in addition, there had been significant changes that had occurred in the area since that designation was placed at 155th and Beard. He noted that the population had doubled, Murray had changed to five lanes, and in contrast on 155th, there were changes made to reinforce its residential character, such as traffic calming measures.

Gordon said Beard was never extended to the west, which had been contemplated when the designation was imposed; no transit service had ever materialized on 155th; and the former un-reclaimed rock quarry (the Murray site's earlier use) was now available for development. He said another significant change was the 2040 Plan, and the designation of Murray as a Regional Corridor. He claimed this would cause the City to reevaluate every undeveloped piece of property and consider more intensive uses. He stated that to comply with 2040, the City would have to make some changes in the Plan, even though some residents would say they never dreamed they would live next to a Town Center when they bought their house.

Pilliod asked if the graphic he had displayed which had circles on it indicating CPAs was in the record.

Gordon said it was used in the exhibit before the PC at two different hearings.

Grillo clarified that it was in the record.

Gordon said the circumstances presented there were the exact situation where a CPA should be granted. He reiterated they had a 16-year-old Plan designation; they had an area that had changed dramatically; and they had new policy direction represented by 2040 that needed to be implemented by the City.

Gordon said the next criteria he wanted to address was # 9, Why the public interest was served by the approval of the proposed Plan amendment, at this time. He said the opponent suggested they should wait for Periodic Review of the Town Center Plan, but they believed there was nothing to be gained and much to be lost by waiting. He pointed out that they had worked for three years to obtain the participation and cooperation of all five property owners whose designation would be affected by this proposed shift. He said the participation could not be maintained by a long City process, and reported that the degree of community participation had far exceeded what normally occurred in any legislative process. He said they thought all the issues had been thoroughly evaluated and debated as evidenced in the staff report. He pointed out that there was strong community support for the shift of the Commercial out to Murray. He noted that it had been suggested that the community support for this shift was basically just 155th residents trying to move the Commercial zoning out of their backyards into someone else's, but the record demonstrated that was not the case. He noted that the exhibit now on the overhead, was not submitted to PC, but was derived from information from the record, and said the dots on the map represented people who either submitted--

Mayor Drake stopped Gordon and deferred to Grillo.

Grillo said he would need to caucus with Pilliod because the information might be part of the record, it was arguable if you could take a part of the record and make it visual. He pointed out that the other overhead was a visual in the record, and had been reproduced as a larger visual as an overhead. He asked to talk with the City Attorney for a moment.

Gordon explained that they had gone through the record, took the addresses of all those who had written letters of support and those who had signed up to testify in support and put them on the map. He said it was an illustration derived from materials in the record.

Grillo stated that he preferred that they not accept that visual into the record, irrespective of the applicant's description. He explained that there was no way for him, the Attorney, or staff to verify it, so it could be a point of objection. He encouraged the Council to disregard it.

Mayor Drake agreed, and said while he believed Gordon was being truthful, there was no opportunity that evening to corroborate it. He requested that the City Recorder not admit that into the record.

Gordon asked the Council to look at the addresses of those on the record and see that there was broad-based support.

David Leland, President of Leland Consulting Group, introduced himself and explained that their responsibility was to conduct a public needs analysis. He pointed out that his company was also the consultants to the City on the Downtown Plan, *The Round*, and on the Murray Scholls Town Center. He said he would touch briefly on the trade area public need analysis, the impact on the Murray Scholls Town Center, and some site considerations. He noted that the Council had received extensive data, so he would summarize briefly and hit the key points of the material.

Leland stated that there was not a public need issue, because it was really a one-to-one swap of Commercial zoned land from one location to another location. He noted that the date on the overhead was September 21, 1998, and everything he would say was presented to the PC.

An objection was raised.

Pilliod asked if the overhead just had a new date on it.

Leland said it was prepared as of that day, but it was old information that was presented, so the only thing that was not presented was the date.

Coun. Stanton declared she did not recall ever seeing anything similar to that, and asked where it was in the staff report.

Mayor Drake said he understood Leland to be saying it was a conglomeration of what he said at the PC.

Leland said that was correct.

Coun. Stanton asked if it was old information in a new format.

Grillo said he would make the same observation as with the earlier overhead, since staff and Pilliod had not seen it, and there was no way they could verify it, they should not admit it into the record.

Mayor Drake suggested they hold it and look at between then and the following week, and see if it could be admitted.

Gordon stated that was fine, and said it was a summary of what Leland had said at the PC, but this would not change their presentation.

Mayor Drake explained that as part of their agreement with Mr. Kleinman and Mr. Orchard, they said they would set things aside if they were not

sure. He noted that he could not recall in his time on the Council or as Mayor, when they had a hearing 'on the record.' He clarified that if the information had been discussed in the past, Leland could talk about it.

Leland said the Murray/Beard trade area was currently under-served by over 600,000 square feet of Commercial space. He explained that was based on the needs of the existing population, and this condition of extensive retail-leakage as it was called, was caused by several things. He said those included unprecedented population growth over the past decade, significant increases in household income and consumer spending, a lack of commercially zoned sites throughout the City of Beaverton, and a lack of new commercial centers in the trade area since 1988, with the one exception of Albertson's in Tigard.

Leland said in regard to the Murray Scholls Town Center, the proposed commercial project at the Murray/Beard site would have neither short- nor long-term impact on the Town Center. He explained that the Town Center did not have enough vacant land to accommodate the housing development that would occur there and all the current retail-leakage that was going from the trade area. He said that was based on existing population today, and noted that the Town Center was a 40-year plan. He noted that future population growth would also increase retail demand, so the current leakage would not fit in the Town Center area today. He reported that the Town Center market research confirmed the shortage of commercial space, and their competitors confirmed the same thing.

Leland said the last issue was the discussion of site considerations. He said the 155/Beard site was a weak location, which was evidenced by a lack of retail development over the past 17 years, in one of Oregon's fastest growing communities that had a shortage of commercial space. He noted that the simple fundamentals of commercial location included visibility, access, proximity to neighborhoods, and traffic patterns. He reported that retailers typically seek locations on major arterials with heavy traffic patterns, about 20,000 cars per day. He said research had shown that customers would only walk about one-quarter of a mile, so they were trying to get people out of their autos, but that would take many years.

(Coun. Yuen arrived at this time.)

Leland continued that the 155th/Beard site lacked exposure and visibility to an adequate number of prospective shoppers, and in their opinion it was likely that any retail developed at that site would be a lower quality structure that would not contribute to the quality of life of the neighborhood. He explained that the ability to build quality retail facilities depended on good sales, which depended on good customers and their ability to pay for costly construction debt.

Gordon said they believed the proposal represented a good plan and the record showed that a commercial center for Sexton Mtn. neighborhood was needed. He stated that the Comprehensive Plan had recognized the

need for more Commercial zoned land in that area since the early 1980's. He declared that it did not make sense that the entire area should have to drive down to a Town Center on Scholls Ferry, or up to Allen for its everyday commercial needs. He stated that the Commercial node belonged at Murray not at 155th, for the reasons that Leland had listed. He said 10 acres of Commercial development at 155th would not be high quality and would have greater impact on the neighborhood.

Gordon reported that staff and four Planning Commissioners agreed there was a need for this proposal, and the Murray site was more suitable. He asked them to seize this opportunity, and stated that this site exhibited a rare opportunity to locate in-fill commercial development which was convenient to the neighborhood, where the necessary infrastructure, in terms of street systems, were there and all impacts could be mitigated. He stated that they represented a real proposal, supported by all five (5) affected property owners to move the existing Commercial node, to a more appropriate location and provide an asset that the testimony before the PC demonstrated was wanted by most of the community.

Gordon said the hearings represented the culmination of three years of hard work by Hagen in the community, addressing the issues and trying to address all the concerns about the proposal. He stated that if the Council did not act to approve this, it would not solve the problems that were out there. He explained they would still have 10 acres of Commercial land in the wrong place, and an unfinished re-claimed quarry site on the regional corridor where some type of more intensive development was inevitable under 2040. He pointed out that in the future they would not necessarily have the same tools to work with in terms of property owners who were willing, or had the rights to acquire the property at 155th, to take the economic consequences of the loss of a Commercial designation over there, in order to move it to the location on Murray. He said for all those reasons, they were asking the Council to accept the staff recommendations.

Mayor Drake stated that before they got into questions, he needed to ask Coun. Yuen to reveal if he had any significant pre-hearing or ex parte contacts with regard to this CPA.

Coun. Yuen apologized for being late and said he did have a conversation with some Planning Commissioners who were concerned about process and keeping it 'on the record.' He stated that he was not partial or biased in any way.

Coun. Soth asked Leland in regard to his last statements, in the case of the Murray site, if it would have more pass-by traffic than on the 155th site.

Leland said that was correct.

Coun. Stanton asked Gordon about the LOS A or B, and wondered if that was LOS A one way and B the other or at peak hours.

Gordon said that was correct and said it was the average travel and it was A in south and B in the north, in the PM peak hours.

Coun. Stanton asked who's LOS they were talking about, meaning what acceptable LOS they were talking about, because the Metro Functional Plan said that arterials could function at LOS C and D, and it was OK. She noted that she did not consider those acceptable at all.

Gordon said this was with respect to the arterial and intersection LOS. He reported that the impact analysis evaluated all the affected intersections and they were at acceptable LOS, both under City of Beaverton and Washington County standards.

Coun. Stanton asked what that LOS standard was.

Gordon replied that it was LOS D.

Coun. Stanton commented that it was just as in a (school) grading system, A was really good and D was pretty bad; F was gridlock.

Gordon clarified that the LOS at the turning movements of the intersections was D, but the arterial LOS was A and B, at the same time because they were measuring different things.

REZONE COMMITTEE:

Jim Anderson, 9196 SW 149th Ave. Beaverton, said he was a member of the Rezone Committee and member of the Sexton Mtn. NAC. He stated that he represented himself and the Rezone Committee. He reported that they had several objectives as follows: 1) serve as an advocate for approval of the Haggen application, and for rezone and development of the Beard/155th and Murray/Beard property; 2) to inform the neighborhood and alleviate confusion regarding the application; 3) to encourage strong neighborhood participation in the process; 4) work with Haggen, the neighborhood and the City to ensure that the development at Beard/Murray met the needs of the neighborhood and mitigated the issues for the homes on 149th. He said the Rezone Committee developed out of the NAC in early 1997 when it became evident that the neighbors need to be informed. He noted that the skepticism evolved into support as they began working with Haggen. He pointed out that there were 13 members on the Committee and 11 of them also served on the Sexton Mtn. NAC Board. He said they all were active in the community and came from various parts of the neighborhood. He reported that Haggens had been involved in the neighborhood for three years and over 60 meetings had been held to allow for discussion and input.

Steve Sanders, 15220 SW Emerald Ct. Beaverton, said there were three important messages. 1) Haggen's presented an unique opportunity that would not be present again. He said Murray had become a highly traveled

street and it called for high-end development. 2) This application was the best of all so far, and it was more beneficial than the likely result of doing nothing. 3) There was strong neighborhood support for this application. He reported that they had received many letters from the neighborhood, and 90% of the Sexton Mtn. NAC board had individually expressed support. He asked those who supported the application to please stand. He said they would speak to several Plan points, which he believed to be key, and they would specifically address the criteria which were of concern.

Anderson, said Criterion #1-- Public need – he reported that Commissioner Eric Johansen read the fundamental question about the balance between addressing the public need and changing the Plan. He quoted Johansen's comments (in the record) regarding the balance between addressing the public need and the effects on livability. He said they would demonstrate that the current and future need demanded change, and noted that this would move Commercial out of the neighborhood to Murray, which would take advantage of the pass-by traffic on Murray and keep it off of 155th. He reported that a survey of the neighborhood showed they wanted single family zoning at Beard and 155th. He expressed their belief that they would not find another developer who would take the financial hit of buying the Beard and 155th property at Commercial prices and selling them to a residential developer. He reported that Haggen's long-term view and ownership of a major development at Murray and Beard would allow them to accept that cost. He said if Commercial zoning was not moved from 155th and Beard it would be a strip mall type development like that at Hart near 168th, but commercial development at Murray and Beard would employ a significant number of people.

Anderson stated that Haggen's would prove to be a sharp contrast to other stores in the area. He clarified that a Town Center was years away and Town Centers were not designed to have large destination grocery stores. He noted that it was unusual to have a neighborhood work so hard to support an application, and declared that the neighborhood wanted the zone swap and commercial development proposed by Haggen, and wanted residential development in the interior of their neighborhood.

Sanders said, regarding Criterion #2 – Impact, by providing commercial retail on a heavily traveled arterial, the Haggen application would have positive impact on the Beaverton economy, by addressing the shortage of such property in the trade area. He noted that the Leland study described the shortage in detail. He reported that the traffic impacts on Murray would be significantly less than at the current site. He pointed out that the Kittelson and Assoc. study described the impacts in detail and that Haggen had agreed to a comprehensive mitigation program for the proposed retail area.

Sanders continued and moved on to discuss the neighborhood interior and the type of commercial development that would occur there. He

asked if Commercial zoning was inappropriate at 155th and Beard, and was that location the best for Commercial, given the zone swap opportunity, and said the answers were, "No." He said the neighborhood did not want Commercial development at 155th and Beard. He reported that commercial exposure at 155th/Beard would be less than at Murray/Beard, and as a result the Vehicular Miles Traveled (VMTs) would not be reduced as one might think.

Sanders reported that during the PC hearing, Commissioner Dan Maks said he saw vacancy signs at the commercial center along Hart and 160th, and noted that VMTs would not be reduced if there was no place to go. He noted that there would not be comprehensive mitigation at 155th/Beard, as they would have with Haggen. He pointed out that with Sexton Mtn. School nearby many children would incur additional risk as they traverse to and from school, if commercial development occurred at 155th/Beard. He suggested they contrast the situation with high-end commercial on a major arterial, implementing comprehensive mitigation, and an organization – Haggen, which had spent nearly three years working with the neighborhood for a win-win alternative. He restated that they were talking about a grocery store, not a strip mall, and noted that Haggen currently controlled or had access to all 10 acres of vacant land at 155th/Beard. He stated that if the application failed, they should expect that Haggen would attempt to sell all four parcels of the 10-acre block, and it would likely be developed as a strip mall. He reported that at the PC hearing, the owners of the Coen and Magel properties both said they would sell their properties to a commercial development if the Haggen proposal did not go forward. He suggested they step back and ask which type of commercial development would provide significantly more positive impact to the greater neighborhood. He said there was some concern about the proposed signalization at Maverick and Murray, and noted that the City staff report said the signalization would occur, not because of the Haggen application, but as a response to safety and traffic needs resulting from increased development in the area. He summarized that in terms of impact, the Haggen application proved the best alternative for the greater neighborhood, and there was strong neighborhood support for the swap.

Anderson said Criterion #3 was Consistency with the Comprehensive Plan, and said the Haggen application had a recommendation for approval from the City Planning staff. He stated that the PC cited two issues under that criterion when they denied the application; one was the proposed Town Center and the second was whether the proper zoning tools existed to implement the Comprehensive Plan Amendment. He reported that in the last report staff concluded that a Commercial node on Beard, in either location, would not have a negative impact on future Town Center development. He said they also clearly indicated that there were tools to affect the zone swap. He noted that the latest report staff stated that the Assistant City Attorney advised them that amendments to the Comprehensive Plan Map did not require a finding that one or another existing zoning designation was appropriate or available to implement the

amended Plan Map. He said the Plan had been amended many times and should be amended for this swap.

Sanders said Criterion #6 was Coordination and Consistency. He stated that Beaverton had experienced tremendous growth and would continue to do so, and this growth had put pressure to increase density particularly along the corridor. He explained that Metro had designated Murray as a corridor and had specific density requirements of 25 persons per acre. He noted that Standard Density Residential (SDR), as at Murray/Beard would not remain due to future density requirements. He stated that times had changed, and quoted Commissioner Maks, "The Commercial zoning node had been located at 155th Ave. for many years and now the City had the opportunity of being consistent with Region 2040 Corridor Concepts. He noted that like it or not, they had Metro, the 2040 Plan; they must meet their requirements, and this application met the requirements.

Sanders said the Hagen store would be preferable to three-story apartments on Murray. He explained that the zone swap would bring higher density Commercial to Murray and lower density Residential to the neighborhood interior, the most appropriate locations for both. He said he wanted to make the neighbor's case for SDR at Beard/155th, where there was a plan for an example of what could be built with SDR, incorporating higher density than adjacent detached structures. He noted the proposal utilized the full 10-acre land block that would be available due to the recent acquisition of the Brandon parcel. He reported that the Plan provided for a density of 17 persons per acre given the total acreage, number of dwellings and average person per dwelling at Beard/155th. He noted that the density was well within Metro's density guidelines for a neighborhood interior. He stated that the population density shortfall was small compared with the medium density currently located at Beard/155th. He noted that John Spencer took issue with his assumptions in his analysis, the point was that standard or medium density population differences on this 10 acres were small. He said this application for a zone swap would provide the unique opportunity to conform to Metro's density requirements and address the neighborhoods needs.

Anderson said Criterion #8 was Quality of Life, and this application was submitted to the PC as a bundled Plan Amendment, Rezone and Land Use Permit application, and was "unbundled" on the advice of the City Attorney. He stated that the Rezone Committee was disappointed that it had been 'unbundled,' which restricted their ability to discuss a detailed comprehensive mitigation proposal committed to by Hagen for the neighbors along 149th. He reported that Hagen and the neighbors had spent months discussing, reviewing and finalizing alternatives that would provide benefits to both parties, and noted that the mitigation programs would cost Hagen over \$500,000. He said this application was the best of the prospects and he was convinced that the Murray and Beard Road properties would not be developed as single-family residential properties, even though that was the current zoning. He declared that he was also convinced that compliance with Metro 2040 would force the rezoning of

those parcels during Periodic Review (PR) to either multi-family R-2 or Commercial. He stated that he would prefer the Haggen development rather than apartments abutting his property. He said the Haggen development would have a 50-foot setback rather than a 20-foot setback for apartments, it would be dug into the hill, and he did not want a three-story apartment building 20 feet from his property. He declared that the neighborhood would be positively impacted by this swap and the Haggen development.

Sanders said Criterion #9 was Public Interest. He said the City and the neighborhood had the opportunity to approve and implement a solution that addressed the needs of the greater Sexton Mtn. neighborhood, Metro and the City. He reported that one City official said they had never seen a more complete application. He said someone suggested they wait for PR, but during the PC vote, Commissioner Ainsworth made the following statement, "to look at this and say 'let's just not take any action,' concerns me. I think this application has been looked at very extensively just from the four nights we have been here. We have basically beaten it to death and what more could we do with a PR, I'm not sure."

Sanders said in assessing the proposed CPA vs. the existing zoning alternative, the buyers of the property in Sexton Mtn., did have original expectations as far as zoning. He noted that included Anderson and the residents on 149th, and him and the residents near Beard/155th. He remarked that Beaverton was different now than it was in the early 1980's when the present zoning designations for these locations were established, and the Plan should reflect those changes in livability. He quoted Commissioner Kirby in his statement to deny, "but at this point, like I said, I'm deeply troubled and deeply concerned that this project has tended to tear a neighborhood in two and I hate to see that." He said he was personally deeply troubled when he heard that assessment of the neighborhood; Haggen had shown that evening, the geographic diversity of those in support, who have attended public hearings and written in support. He stated that the Sexton Mtn. neighborhood was not strongly divided on this issue; it was not about the east side at 149th vs. the west side at Beard/155th. He declared that NFL with its petitions and post cards was trying to play a numbers game, particularly with people outside the neighborhood who had little knowledge of Haggen or the application. He asked the Council to again read the individually prepared letters, both for and against, and draw their own conclusions. He noted that it was not reasonable to expect that whenever there was change, everyone would be happy; the vast majority of the Sexton Mtn. neighborhood supported the application. He said the Sexton Mtn. NAC was a credible group, with a reputation of having some of the highest participation of any NAC, and was indeed representative of the neighborhood, and many members would speak in support.

Anderson said he lived on 149th, 130 feet of his property abutted the Murray property, his home was the largest single lot along 149th, and was twice as close to the property line as any of his neighbors. He noted that

he had lived there for 25 years and during that time had had seen extraordinary changes in the area around his home. He reported that he moved there to get out into the country and at that time it was mostly fields; Beard Road was gravel; they only had a few neighbors; now they had regional corridors and thousands of neighbors. He said he had been involved in the Sexton Mtn. NAC working on this for more than two years and had attended nearly every meeting with Haggan in order to inform himself about the application and to influence its final development. He stated that he was convinced they would be pleasantly surprised how little impact the development would have when it was completed and operating.

Sanders pointed out that Anderson's closing was a testimony of someone who had lived there for a long time and witnessed tremendous change in the neighborhood's livability due to population growth and increased development. He noted they had covered how this application addressed Comprehensive Plan criteria 1, 2, 3, 6, 8, and 9, and in their viewpoint it covered all nine of the criteria. He summarized their three key messages as follows: The application provided the unique opportunity to address the changes which had occurred in the neighborhood; it was the best alternative, being far superior to doing nothing with the Plan; and, as they had witnessed, there was strong neighborhood support for the application. He said they envisioned high-end Commercial on Murray, which would address the neighborhood's needs and protecting the livability of the adjacent neighborhoods. He noted that they envisioned Standard Density Detached Residential at Beard/155th, which conformed to Metro's guidelines. He declared that this was the Council's call to action, and the neighbors were looking to them, the elected officials, to move this process forward by voting "Yes" to the application. He asked the Council to turn around the PC decision, and reiterated that the neighborhood had worked with Haggans for three years and were closer to the issues than anyone.

Mayor Drake asked that 90 seconds of time be added to the time allotment for NFL.

Coun. Stanton asked how many people on 149th were part of the Rezone Committee.

Anderson said he was the only one.

Coun. Soth said Sanders had indicated that if the application was not approved, the Beard/155th location would be a strip mall, and wondered if that was a taken as a threat.

Sanders said he did not take it as a threat, but felt the owners would sell the property as Commercial.

Mayor Drake noted that they had 45 cards in support.

TESTIMONY IN SUPPORT:

Mark Kaletta, 8140 SW Barnard Dr., reiterated what had been said previously. He said the Sexton Mtn. NAC was the most active of the Beaverton NACs, and that all issues were worthy of public involvement. He stated for the record that he responded to the concerns of the residents of 149th streets, and reported that everyone who attended the NAC meetings had the right to speak. He expressed his opinion that a difference of opinion was good, it was part of the process. He said the NAC was just neighbors and they were all concerned about their neighborhood. He reported that to protect their process they had an executive board who attended the meetings regardless of the issues. He declared they were not puppets of the applicants. He reported that Haggens had surpassed the requirements for involvement, and whether or not it was in the best interest of the City, was for the Council to decide. He said the Sexton Mtn. NAC Board was present and all were well versed in this proposal. He said they were all nominated and elected within the bylaws, and reflected the majority. He said he had been involved as long as others in the room.

Catherine Anderson, current NAC Chair, reported that they had a polling of the Board where there were 20 members, 15 from last year, (noted that they had an 82% attendance rate). She stated that on the evening of Feb. 18, they took a poll, and presented it to the Board at the end of the meeting. She said it was a unanimous vote, with 17 members present. She noted that one concern had been about the Brandon property but that was no longer a concern.

Floyd Harrington, 15607 SW Hearth Ct., current Co-chair of the NAC, said there were some misconceptions of the NAC; there had been allegations that they had been working with Haggens in the background. He stated emphatically that the only times they had worked together was in full view of the public at meetings. He said he and Anderson had resisted such actions, and they were all encouraged to participate. He stated they would not stand for this or any other issue, unless it was 100% fair. He said the Board did support the neighborhood because there were supporters on both sides of the issue on the Board. He said the NAC would be neutral, but members could support or oppose it as individuals. He clarified that the NAC and the Rezone Committee were separate, but it was true that some attended both meetings. He noted that it should not be a surprise that people who were active in the NAC would be also active in the Rezone Committee or the NFL.

Jane Athanasakos, 8845 SW 155th, said she was speaking for herself, but was on the NAC Board and Rezone Committee and also was a stay-at-home mom. She said she realized the past week at the Sexton Mtn. School 10th Anniversary that there were several established bus stops where children were waiting or being dropped off five (5) times a day. She pointed out that if the Council approved this these stops would not be on a commercial street. She stated that this was a rare opportunity to improve the safety of the children. She explained that what kept her devoted to the

effort was the belief that if they did not do this, there would be a variety of (unknown at this time) businesses located at Beard/155th, and there would be 17 acres of apartments at the gateway to their area.

Mayor Drake read the names of those who had submitted written testimony, after the PC hearing on June 17. (In the record)

Janet Ronacher, 84450 SW 154th Ave., said she was a member of the Sexton Mtn. NAC Board and was in support of the Haggen proposal. She expressed her surprise that PC had denied the application, and stated that she supported it because of safety issues. She noted that the current traffic on Murray was heavy and with the swap the traffic would not increase in the neighborhood. She remarked that Haggen had demonstrated good customer service in their neighborhood meetings, and said she felt their proposal would play a major role in support of the neighborhood.

Lisa Sanders, 15220 SW Emerald St., declared that she was 100 percent behind the plan because it was the right thing to do for the neighborhood. She said it would address the retail needs of the neighborhood, and allow for Standard Residential at 155th/Beard. She noted there was a great sense of community in the neighborhood, which was what made it special. She reiterated that she wanted the swap to happen, it was the best option, and people had worked hard to bring it forward.

Fred Gast, 8917 NW Ryan, Portland, of Polygon Northwest, said they were builders in the northwest, of attached and detached homes and apartments. He clarified that they were a neighbor of Beard/Murray, and in the process of developing 120 apartments, noting the residential component to this application. He pointed out that the arrangement of uses on the Murray site was well suited for medium density development and reported that he saw consumers enjoying resources on Burrows where Albertson's is located, near one of their developments. He noted that the Beard/155th site was an exceptional site for blended family dwellings.

Tim Estes, of the Beaverton Chamber of Commerce, said he was representing the business community. He reported that the Chamber supported the CPA because of the need for more commercial space in Beaverton. He said from an economic standpoint, good quality employers need to locate near neighborhoods. He pointed out that Haggen would bring over \$1 million to the neighborhood per year, and noted they had been an extremely good corporate citizen. He reiterated that the Chamber felt strongly about the Murray site being safer and more logical for commercial development, and supported the Plan amendment.

Sam Allen, 7209 SE Topper Dr., Vancouver, WA., said he was president of a corporation that owned 17 acres on Murray and Beard, and the land had been approved for a mobile home park, but he did not think that was the proper use of the property. He thought something else should be built

there, and had chosen not to develop the property. He presented a letter to Pilliod and Grillo. He did not read the letter, but read a separate quote: "railways turn to highway." He asked the Council if they know where the quote came from; they did not, and he said it came from the front walk of City Hall.

Pilliod said Allen's was a new letter and ruled not to read the letter or include it in the record.

Duane Hall, 320 SW Buckingham Pl. said he had a selfish rational for wanting Haggen's to move in, he lived right across the street from the Beard/155th site where there would be a service strip mall. He stated that Haggen's being on Murray would keep a lot of cars out of the residential area. He said he liked shopping at Safeway except for the congestion, and thought Haggen's would be convenient. He encouraged the Council to support the swap.

Margaret Barrett, 8760 SW Turquoise Lp., said she was a Board member of Sexton Mtn. NAC, and she believed the Council must approve the zone swap. She also expressed her belief that the opportunity would not present itself again and it was more homogeneous for the neighborhood. She stated that it would be safer for children walking to school; safer for people walking their dogs; and would keep traffic out on the main arterial that was designed for that purpose. She said she thought the present zoning was done in the 1980's when the whole neighborhood was different. She said Haggen's would build a quality structure that would enhance the neighborhood, with good lighting, wide aisles, several specialty shops, etc. She noted that Haggen's would increase employment opportunities as well, and said they had worked very diligently to get neighborhood cooperation.

Allison Burgett, 15235 SW Emerald, said she was there to express support for Haggen's and the zone swap, and reported that they had worked with Haggen's for over two years. She said Criterion #1 was Public Need, and she felt the neighborhood needed more personal services that Haggen's could provide, and she wanted to have a more updated store to shop in. She stated that Criterion #8 was Quality of Life, and it was important to have services within walking distance. She said they wanted Haggen's for quality and convenience. She pointed out that zoning from 1982 did not seem appropriate today, and this was the opportunity to move the Commercial zoning out of the interior of the neighborhood. She declared that she thought the neighborhood had already absorbed its fair share of density zoning.

RECESS: Mayor Drake called for a recess at 8:45 p.m.

RECONVENED:

The regular meeting was reconvened at 9:03 p.m.

Georgia Randle, 15880 SW Nora Rd., said she was the Recorder for the Sexton Mtn. NAC, and had lived in her home on Nora Rd. (an extension of Beard Rd.) since 1951. She noted that when she moved there it was semi-rural, with gravel roads and a u-pick orchard at the corner of Allen where Safeway now stands. She pointed out that obviously the Comprehensive Plan had been changed since 1951; times do change and those changes call for new strategies. She stated that if Beaverton was to continue growing, it was time for a Plan change to allow for growth and to change the zoning to a Residential designation at Beard/155th. She stated her support for the zone swap.

Marie Barzen, Ironstone Ct. said she was speaking for herself and Dave and Sally Sullivan, and Mike and Eileen Kravitz. She noted that she lived on same cul de sac with the Sullivans and Kravitz and they all supported the rezone application. She said she was an involved citizen and consumer, and stressed one reason this development was vital for the community was to provide safe shopping options. She explained that she had lived in Munich, Germany, and bicycled to shopping and saw the same potential here. She pointed out that it would help meet the requirements of Metro 2040. She stated that the approval of the rezone application would allow for a tight and cohesive community with charm.

Janet Ferguson, 16120 SW Granite Ct., said she had been an active NAC member for six years, a Board member for two years and on the Rezone Committee for three years. She explained that when she initially volunteered for the Rezone Committee, she was concerned about the impact on schools if Hagggen's was not built, because of high-density housing. She stated that she was overwhelmed by the interest this had generated, and said the majority supported the application. She noted that many had written in support and she had spoken with many who supported the CPA. She said she was sad when she heard statements that it had divided the neighborhood, and declared that it had drawn neighborhood approval from its farthest boundaries. She said the CPA would mitigate some issues such as the concern that an apartment structure would sit three-stories above ground, with a totally unobstructed view of neighbors. She declared that this was it; this was a significant opportunity to update the neighborhood; they had the necessary tools to have appropriate development.

Sidney Marshall, 13775 SW Scholls Ferry, said she was an area taxpayer, a member of South Beaverton NAC, and was speaking for herself. She noted that they already had her letter in the record. She said she believed it was in the best interest of the taxpayers that the CPA be approved. She expressed her concern that if they did not allow Hagggen's to do this, she wondered who they would find with a good proposal and the money to back it.

Kevin Teller, 15170 SW Emerald, a Rezone Committee member, said he lived in the area and had been active in the process for the past two years, and attended all the meetings. He pointed out that he thought they had a

good application, a great applicant with a willingness to work with neighbors and the City, and there had been a big turnout on both sides. He reiterated what others said about it not being a divided neighborhood, and noted that some had disagreed and they should expect that. He said that kind of discussion should be healthy for the greater community.

Lisa Michaels, 15410 SW Gull Ct., said she had two sons who attended Sexton Mtn. School, and noted that she was also speaking for Martin and Angie Quant. She said it was important to make sure they did not increase traffic around the School, and a strip mall at Beard/155th would certainly do that. She stated that she supported the zone change request.

Patty Hyatt, 10223 NW Dick Rd., noted that she grew up here and it was an honor to speak to the Council. She explained that she grew up on the property on 155th, and was there to talk about the trees on that property. She noted that if they supported the CPA they would get to save the trees, but if they did not, they would sell the property and would lose the trees. She pointed out that the trees provided a break from the "sea of roofs." She said they should save these trees for future generations because it was such a great deal; the property owner was willing to save them and this was the Council's chance.

Bryce Adkins, 15395 SW Gleneden Dr., stated that most of what he had intended to say had already been said. He explained that the idea of the zone swap did not originate with the Haggen's influence, but nearly four years ago when he was co-chair of the Sexton Mtn. NAC, it came out of discussions then. He reported that neighbors became concerned about commercial development on 155th/Beard, and this was about the time Murray was closed and by-pass traffic was on 155th and other streets. He said he was concerned about the other types of development that could be happen in the area. He said this zone swap would enhance the neighborhood, and he supported it.

Ramona Crocker, 11765 SW Wilkens Ln., said that with the mandate to do more infill by Metro's land use laws, residents must accept change. She stated that based upon what she saw, the best development they could hope for was a retail establishment such as was being discussed. She said the location on Murray/Beard was the only logical, sane choice with the least amount of negative impact.

David Hyatt, 10223 NW Dick Rd., pointed out that his family owns (part of) the corner 10 acres at 155th/Beard. He said the parcel represented a long-term investment, and it had been posted for the past 16 years as being for sale. He clarified that the road had been gravel, so 11 years ago they instituted an LID to accommodate the Neighborhood Services part of the parcel. He said he was very glad to have the proposal from Haggen's that would allow them to sell the property. He noted that it belonged to his mother-in-law, was an inappropriate investment, and represented her only source of investment. He said that put them in the position of having to sell the property and pointed out that they could not choose the type of

development. He explained that if Haggen's was not there, they would have to sell it as it was zoned, and a strip mall was not desired by most. He said they strongly supported the Haggen's proposal, and reported that Haggen's had been fantastic to deal with, and honored their promises over the three years they had dealt with them.

Joella Schroeder, 8400 SW 154th Ave., reported that when she moved to the area, Murray was a two lane road and there was a rock quarry at that location. She said the lot they bought was obtained by lottery, and if the property at Murray and Beard was a viable piece of land for single-family development it would have been developed. She pointed out that about a mile from the area was a strip mall that was under used. She asked Council to please approve the zoning swap.

Judson Clifton, 11330 SW Cardinal Ter., said he and his wife wanted to support the Haggen's proposal, and the relocation of the zoning to allow them to construct one of their fine stores.

Coun. Soth announced that Mr. Schroeder and he served on PC from 1977 to 1980, which was when Ord. 2050 was written and implemented, but that would not influence his decision.

Allen Schroeder, 8400 SW 154th Ave., noted that he had served on PC for several years, and knew they tried to be fair. He stated that overturning one of their decisions should not be taken lightly; none the less, he believed this was one of those instances where it was appropriate. He explained that the procedural rules prevented the PC from making a decision based on consideration of the Haggen's development, which was unfortunate because it was a first class plan. He pointed out that the PC vote was extremely close, and any small change of the dynamics of the meeting, could have changed the vote. He noted that the PC did not challenge or change any of the staff points. He said several of the Commissioners were reluctant to change their positions because of the peculiarity of the site. He stated that this property would never be developed as single-family residential, and there was no doubt that was correct. He declared that the Haggen's proposal represented the best possible development.

Paul Hagadorn, 3745 SW 114th, #16, said he wanted to address public interest and public need. He noted that one PC Commissioner took exception to what he said at PC, but many others gave similar testimony. He explained that he understood that they were trying to protect the interest of the Town Center. He stated that in the public interest, it was correct to foster competition and provide choices, and he thought there was a public need for more stores in the area. He reported that he and his wife traveled to Haggen's in Tanasbourne at least three times per month. He said the marketplace would determine what happened, and it would be a benefit to the area. He said he supported the CPA change.

Tim Brandon, Box 571, Beaverton said he lived on the NE corner of 155th/Beard and favored the proposal. He stated that they had made a fair deal with Haggen's and felt it was clear that the zoning should change.

James Thompson, 9605 SW 130th, said he lived with his wife and three children in the Hiteon area, and they were strongly in favor of the zone change. He expressed his belief that it was in the public, City, and citizens' best interest. He reported that they currently shop in the Tanasbourne area, and that was 32 miles round trip, twice a week. He said the stores around him were so crowded that it took 35 minutes to get a gallon of milk. He strongly encouraged the Council to approve the CPA.

Lora Bennett, 14920 SW Carolwood, said she was speaking on behalf of herself as well as Carol and John Owens. She stated that the problem she had lately was the congestion in the area, and the crowded stores. She explained that since they could not have a grocery store on Beard/155th, they could only hope for it on Murray. She noted that if able-bodied people had problems because of crowding in the stores, her neighbor Carol was in a wheel chair (as were some others), and that made it even worse. She noted that Haggen's had wide aisles in their stores, and provided various other services, which made it easier for such citizens to shop.

Valerie Adams, 15655 SW Breccia Dr., said she knew how difficult it was for many of them to come up and testify, both emotionally and time-wise. She commented that it was difficult to reduce years of work into a few minutes of speech, but they were there to support what was in the best interest of the neighborhood. She stated that this change was in the best interest, and noted that Commissioner Maks said that most would want a park, but that would never happen. She said if this was not approved something else would be, that was not as well thought out and not in the best interest of the area. She stated that if the CPA was not approved, the chance of the property at Murray/ Beard being developed as single-family residential was non-existent. She pointed out that whatever the development, it would produce more traffic, and would be better to have it on Murray, than to have 155th/Beard remain Commercial. She said she firmly believed this was in the best interest of the City and the neighborhood.

Anne Fahlbusch, 14960 SW Mockingbird Ct., stated that she supported most of the arguments she had heard.

Dorothy Lockhard, Stephen Baybaruer and Cathy Petersen submitted cards in support of Haggen's but did not speak.

Pilliod said there were some letters that were acceptable which were received earlier and could be admitted.

Bryce Adkins asked if letters sent in the next week would be considered.

Mayor Drake said they probably would be, but the Attorney would have to review them to make sure they did not contain new information.

Pilliod noted that it was possible that the hearing would conclude that night, so there would be no further testimony received.

Mayor Drake clarified that the intention was that they would hold two nights of hearings and noted that one gentleman did have to leave because of an emergency.

OPPOSED:

Bob Beard, 14900 SW Ruby St., Chair of Neighbors for Livability (NFL) stated that he was opposed to the CPA, didn't believe the application met the requirements, and supported the PC decision to deny the application. He encouraged them to remember that there were 100 citizens who had submitted petitions against it.

Jeff Kleinman, Attorney for NFL, pointed out that it was important to remember that they were talking about the Comprehensive Plan, not a popularity contest; not about how much someone wanted a particular brand of supermarket. He noted that staff had stated, there was no guarantee that there would be any supermarket if the Plan was amended. He explained there was no way to condition a CPA to guarantee that if there were a market, it would be a Haggen's rather than what previous witnesses would have deemed inferior. He said once the Plan was amended, they had essentially opened the floodgates at Murray/Beard. He asked, "What on earth was a zone swap?" He stated that he had never heard of such a thing; each proposed CPA had to be heard on its own merits; and the applicant had to meet the criteria for a change at each of the two sites. He noted that had not happened in that case, as the PC found at either site. He pointed out that there was still an acre of Commercial land at 155th/Beard, so that was not a swap. He said PC held four full nights of hearings on this matter and determined that the applicant had not met the burden of proof. He noted that the evidence was in the record and commended to them the transcript of the PC hearing from page 59, where the deliberations commenced. He read from this document (in the record). He noted that a component of the Plan was to preserve continuity in the policies. He continued to read from the document. He noted that on page 69 there was an analysis of the criteria issues. He asked Council to bear in mind that the applicant had the burden of proof for the criteria, and noted that criteria 8 and 9 were on the bearing of the quality of life. He said where the effect of the application by a single proposed developer was to create a new fault line within the City; he wondered how they could have shown compliance with Nos.8 and 9.

Kleinman pointed out that there were three issues that he wanted to touch on. He said first, there was a comment that there had been more public input in this proceeding than there would be in Periodic Review, so why wait for Periodic Review. He noted that the reason was that Periodic Review looked at the City as a whole, and this was an application driven

process for one site. He said there also was a question of whether they could, or should have a conditioned CPA. He declared that there were not enough crayon colors in the world to color the Comprehensive Plan Map if they were going to start having something other than ordinary Plan designations. He said, finally, there was the issue or whether you could approve the Plan amendments when there was not a suitable zone to place the property into later. He noted that Greg Winterowd would explain why it would not qualify for Community Service (CS) or Neighborhood Services (NS) zoning because of the locational criteria. He said Statewide Planning Goal 2, said that if you do not have the implementing ordinances in place you could not do it.

Greg Winterowd, land use planner, 310 SW 4th, Portland, said he had been working with the NFL committee for the past six to eight months on this process. He reported that he had consistently argued that what was being proposed was contrary to the description and the basic thrust of the Commercial element of the Plan. He explained that the Commercial element stated there should be no new strip commercial development on major arterials outside TV Hwy., and other arterial strips, which were already characterized by commercial development. He noted that this was underscored by the planning history of why commercial zoning was not put there in 1982; there was explicit discussion of keeping the commercial in the interior of the neighborhood for pedestrian access. He said people had testified that they did not want strip development at the corner of 155th/Beard. He pointed out that the only strip commercial zone in the Plan, was the CS zone, which was designed to serve the immediate needs of local residents. He stated that this was no "swap." He noted there had been some discussion of what he was calling a threshold issue, in a four-page document that he had provided to the Council.

Several Councilors interrupted to say they had not seen that document.

Grillo explained that Winterowd wanted to distribute a document which he (Grillo) had just received and staff had reviewed (called the Threshold Question), which appeared to him to be an argument that had been raised previously. He suggested that both the City and applicant's attorney review it and decide about giving it to Council. He noted that he had told Winterowd that the question was if the issue was germane.

Mayor Drake suggested it not be distributed it at this point, and they should speak from the record. He noted that they did not hand out Leland's material, and he thought they should handle this the same.

Pilliod explained that while both Winterowd and Leland were consultants; the purpose behind Leland's report was to show the need for Commercial zoned property and it was more of a market analysis. He said Winterowd's comments/ arguments were different in a significant respect. He explained that first of all they were arguments based upon the legal decision or recommendation that the City Attorney's office made to PC relative to what was necessary to determine whether a particular zone

needed to be identified as part of that decision. He said he concurred with the opinion expressed previously, but Winterowd only bolstered the argument that certain State laws, particularly Statewide Planning Goal 2 (Goal 2), returned to the argument that it was necessary for the decision-maker to arrive at a particular/appropriate zone as part of this decision. He stated that for that reason, in his view, it was argument based upon material which had already been argued unsuccessfully to the PC, and he thought it was distinguishable from material that was presented by Leland (which he viewed as factual-oriented). He said he would not so cavalierly lump the material, just because consultants compiled both pieces.

Mayor Drake asked if, in Pilliod's opinion, it was acceptable material.

Pilliod said it was, and it deserved the opportunity for the applicant to offer rebuttal.

The material was distributed (in record).

Winterowd said the information was pulled off the computer and not new information. He pointed out that the key part was Goal 2, and clarified that they were not saying the City necessarily had to find a zone, but they at least had to find one that was feasible. He explained that one or more zones could satisfy the use, retail commercial, large scale, at Murray/Beard. He pointed out that they had heard scads of testimony about a grocery store, there was no other real use being proposed. He quoted from Goal 2, and said they were arguing that the City did not have any zone that allowed the commercial, large-scale use at that location. He said there was no zone adopted by the City that would allow for the corridor-concept in the Metro Functional Plan. He explained that the Corridor Plan called for pedestrian and transit oriented development, there were no City zones that would allow that development. He pointed out that to be in compliance for the City and Metro plans, they needed to adopt an implementing zone. He said currently the Plan said there could not be new commercial development outside of existing areas along Murray Blvd. He noted that the existing Plan and Code both put a one (1) mile separation requirement between neighborhood services or like development. He reported that in Murray Hill .8 miles away there was a Thriftway store that was very much like the proposed use. He stated that staff's plan was to get a variance in the future which did not look like the right thing to do.

Winterowd pointed out that if they looked at any of the other zones, and they had exhaustive analysis, there was no other zone they had except the possibility of Office/Commercial, which would not allow a Haggen's. He explained that when NFL put the proposal together, they suggested Office/Commercial, four acres of it along the corridor, because that was the one Commercial zone the City had that might begin to implement the corridor concept. He noted that Office/Commercial would have a higher occupancy, and that was one of the reasons they suggested Medium Density Residential next to the apartments so people could walk to work.

He said that was also why they had objected to this development so close to the Town Center where grocery stores would be allowed, but they would be under more stringent regulations related to pedestrian orientation, parking regulations, etc. He stated they if they approved this store now with fewer limitations, it would eat into the market. He noted that the market areas for both locations overlapped considerably, and the Haggen's store would draw from the Regional Town Center.

Winterowd said looking at staff changes, they had been mystified by how the process had gone, noting that when the application came in there were many details about the design which were thrown out for legal reasons. He explained that this was only a CPA and the wisdom before the PC was that they had to find a zone to implement it, but now that had changed and they did not need a zone. He said it was inconceivable to him that they would adopt a CPA without any zone that would implement the use they had in mind.

Winterowd addressed public need, and said there was irrefutable evidence supporting the public need. He then pointed out a letter from Don Scott, who specialized in supermarkets, which indicated that the same assumptions which were used in the Leland analysis, said there was, in fact, much less demand for commercial/retail in the market area.

Winterowd moved on to the transportation issues and noted that in the record was information where the City said that it made sense to have the NS in the interior of the neighborhood to avoid clogging up Murray Blvd. He reported that it was not a LOS A, B or C, that was considered, but it was the function of the road.

Winterowd said he wanted to talk about the impacts and noted there had been testimony that somehow, it would be easier to mitigate a CS commercial use joining a Single Family Residential (SFR), when that site was located topographically at a higher elevation than the adjoining SFR. He stated that the only way to do that was to dig a big hole, do berms, or walls, etc. He said at 149th, it was higher, looking down at the single family houses, and they could also lower the elevation at either site, if they put a strip of SFR abutting it so there would be transitional zoning (which was in the NFL plan).

Winterowd explained that in the NFL plan they had shown a how it could be done without having to write new zones. He referred to a court case in Washington, which did not apply in Oregon, but was instructive, (in the record). He said what Haggen's "MO" was in Tigard, and other locations, was they buy residential land cheap, get it up-zoned, and put their store in, which was cheaper than buying Commercial property. He commented that it had the effect of dividing the neighborhood. He reported that the Washington Supreme Court said was this was in effect spot zoning, and it was inconsistent with the Plan. He asked that the Council review the lengthy document, and they would see the other reasons why NFL

believed the Council could more easily make findings to deny the project than to approve it.

TESTIMONY IN OPPOSITION::

Susan Cook said Charles Cook had to leave but would testify the following week. Stephanie Burge left earlier.

Mayor Drake noted they would have to fill out cards again, if they wanted to speak the following week.

Jack Franklin, 5025 SW Fairmount Dr., asked that they refer to his testimony before the PC for the specific reasons he opposed the CPA, since he would try to not duplicate his testimony. He noted that in his earlier testimony he referred to the possible detrimental effects the CPA could have on the proposed Town Center at Murray and Scholls. He reported that he had talked with John Nelson, with the Mitchell/Nelson Group who were looking for a grocery store to anchor the Town Center who said that it would not be a Fred Meyer. He noted that with the new Albertson's on one end and Haggen's on the other, how would another grocery store survive at the Town Center. He said they should give the Metro 2040 Plan every chance to be successful and should not torpedo the Town Center by reversing the PC decision.

Franklin commented that he felt the decision had been made with insight into the future of Beaverton, and the applicant had asked that both locations, or neither, be approved. He stated that if the Council reversed the PC decision, he thought they were giving implied consent to a grocery store at Murray/Beard. He declared that there were enough conflicts with the Plan and the Metro 2040 Goals, and urged the Council to uphold the PC decision.

Coun. Soth asked if the conversation Franklin had (with Nelson) was prior to or after the PC decision.

Franklin said it was after the PC decision, however, he made reference to the Town Center in his original testimony.

Jeff Wood, 8900 SW 149th Place, noted that he had lived on 149th for the past two years, and got involved with this issue right after he moved there. He said he had lived in Washington County for a long time, mostly in Hillsboro. He explained that before making a decision to move here, he had seen the various philosophies over time, where they "threw the car lots on open ground," and he was afraid the same thing was happening in this case. He commented that he thought he was going to be living on "grocery row."

Wood said what bothered him was the planning part and he was impressed that the PC did not just go along as it had been done in the past. He stated that it seem like planning should not have anything to do

with big berms. He commented that the people from Hagen's were very nice, he had attended all the meetings, and they had explained things in detail. He said he was convinced that the compressors would be a lower decibel than the birds that were there now, etc., but he still did not see the reason to put this huge thing in their neighborhood. He pointed out that he was on the end, the least affected of anyone on 149th, and reported that when he bought his home they were told there would be a park nearby and the odd-shaped berm would not be developed for a long time. He said right after they bought it, he was told they were going to have apartments behind them, then the next information was it would a grocery store, and he was wondering if the women's prison was still available? – they at least close it at night!

Ken Schlegel, 8380 SW 152nd, said he was opposed to the proposal. He reported they were notified two and a half years ago, and at that time they lived at 149/Beard. He noted that they had not known they were in a NAC but began attending the meetings. He said from his point of view, what he heard at the NAC was that it had already been approved, was a slam-dunk, already in the process. He reported that there were claims it would be good for the community and would bring everyone together, but he thought the Council could see it had divided 149th, from the neighborhood. He said they sold their house and moved to another neighborhood. He explained that he was opposed to the proposal because it would increase congestion on Murray, and noted that the proposed access was on the blind-side of the hill heading south, which would increase the frequency of accidents in that whole area. He reported that he had witnessed two accidents at the site at Murray/Allen, and noted that it was a hazard. He said he was a firefighter and saw lots of accidents where people were coming up to where people were stopped, over hills, etc. and those were worse accidents. He reiterated that his major concern was the increase in potential accidents, and urged the Council to uphold the PC decision.

Tricia Ball, 9153 SW 149th, spoke on behalf of herself and her husband. She said regarding the zone changes, she had attended NAC and PC meetings and thought the PC decision was very well thought out. She noted that her opinion of the proposal had not changed, it was still inappropriate for the land use of this parcel to be changed to Commercial use. She stated that she felt it was even more inappropriate since the Murray Scholls Town Center Plan was on the way. She suggested that if a large commercial area was allowed one mile from the proposed development at the Town Center, it might encourage a strip development such as on Canyon and TV Hwy. She said the change of zoning was inappropriate and it was not a true swap. She reported that she observed a NAC Board Member taking down the notices put up by the NFL to remind the neighbors of the meeting.

Mayor Drake pointed out that was not pertinent to the hearing; that was a neighborhood issue.

Ball stated that she thought it was pertinent in that it showed how the neighborhood had been divided.

Maura Malone, 14900 SW Ruby St., stated that she was troubled with this proposal. She explained that she had witnessed the neighborhood being torn apart due to changing development. She said this proposal had undermined the Council Goal #1, To Enhance a Sense of Community, and instead it had pitted neighbors against each other. She noted that criterion #2 related to the impact on the surrounding areas, and said this proposal crippled the neighborhood. She stated that the proposal said that a neighborhood's cohesiveness was expendable for the good of the larger community, which she questioned. She said before it was fashionable for the Mayor and Council to go on walks she had spent seven months talking to neighbors about how they felt about the proposed CPA, and overwhelmingly they were against it, and over 900 people signed a petition to block the CPA. She reported that people thought they had enough shopping choices and were worried about a large commercial structure on Murray/Beard clogging up traffic and channeling cut-through traffic to various streets in the area. She reported that many of the residents had checked with the City before purchasing their homes and relied on the policies to protect their interests. She declared that a shift in zoning was ways too intrusive and dramatic. She said it was spot zoning which said that the quality of life of those who lived near there was expendable. She reported that seven neighbors had moved, and she believed it was because of this proposal. She said it did not meet criteria 1, 2, 3, 8 or 9 of the Plan and urged the Council to uphold the PC decision.

Kami Ehl, 9243 149th Ave., noted that she did not live adjacent to the proposed development. She stated that she opposed the CPA and had tried to listen objectively at the meetings, but thought this kind of zone belonged on the perimeter. She reported that about one year ago, two small businesses opened adjacent to the 155th/Beard parcels, and as a stay-at-home mother, she had not seen any increase in traffic along Beard. She said those were the exact types of businesses they needed to attract, but the large commercial development was not. She pointed out that large commercial developments continue business long after the neighborhood shuts down in the evening and children need to have a stable environment, uninterrupted by this type of activity. She said she did not object to change or the development of the land at Murray/Beard but did not think this was compatible with the neighborhood. She asked that the Council uphold the PC decision.

Mary Peterson, 9148 SW 149th Ave. submitted her written testimony and read her letter (In record). She noted some of the comments by PC members and quoted some of the statements (in her letter in the record). She said the Commissioners fulfilled their role and the Council should uphold their decision.

Tom Horman, 15190 SW Copper Ct., said he turned in a six page letter (in the record) on June 3rd., half of which was editorial, and the rest was

related to the criteria that, in his view, the applicant had failed to meet. He stated that the applicant said the criteria could be met, but did not say, "it does meet." He noted there was a minimum of a mile separation required between certain businesses, and in order to approve it, the Council needed to find that it was more than a mile from the Thriftway and the day care that was one-half mile away. He said the Commercial they were asking for needed to be on the intersection of a minor collector and/or arterial, and neither of those were true with the Option A. He said the only option it would be true on was Option D, which was not recommended for approval, by staff. He said his rationale was included in his letter and pointed out that if one of the criteria was not met, and it had to be denied. He stated that this was not really about whether they liked Hagggen's or not; and said the saw them as an upscale store which he would not mind having near his house. He said it did not fit on this piece of property.

Mayor Drake noted that they received correspondence from people who were opposed and read the list of those (in record).

Mark Holady, 9000 SW 149th Ave., stated that he was a resident and business owner in Beaverton. He said he wanted to talk about preserving Murray Blvd. as a corridor, and had heard that the Plan must conform to Metro 2040, and uphold 2040's goals. He pointed out that according to the 2040 Growth Concept most of the increased density would take place in identified Regional Town Centers, Light Rail Station communities, corridors, and main street areas. He noted that Murray Blvd. was one of the corridors which had the purpose to connect two nodes: one at Murray/Allen and one at Murray/Scholls. He pointed out that the site at Murray/Scholls was slated to be a Town Center, with Murray functioning as a smooth flow from the Town Center to the existing businesses at Allen. He said the staff and applicant were concerned about meeting 2040 in the future, but he was concerned about the present. He explained that if the Council approved the CPA, it would be contradicting itself, in that it would be submitting to Metro 2040 and acting at cross-purposes. He said adopting the application would create a congested bottleneck and the Town Center would be weakened. He stated that NS zones were different than Commercial because NS drew from the neighborhood. He stated that adoption of the CPA would be taking a step backwards in good planning and the Council could not be both for and against Metro 2040, or for and against good planning. He said Orchard had said earlier that Metro was supporting the application, but he (Holady) stated that the Metro letter of September 15, 1997, did not support Hagggen's (in record) and quoted from the letter. He urged the Council to deny the application, and leave the corridor as planned.

Monica Holady, 9000 SW 149th Ave., said she was there in opposition, and understood that City Planning Staff supported it in part, because the applicant had control over the properties. She said she thought it was a hearing about a CPA, not about who was wily enough to gain control of some land, and wondered if they were talking about land planning or a land baron. She stated that if the application fit the Plan, then the applicant

would not have to bring both parcels before the Council. She pointed out that the applicant did not own the entire corner of 155th/Beard, so she wondered what would happen with the property that had been developed at that location. She said her question was did this proposal fit the Plan, and the answer was that it did not. She recalled that the PC decision stated that the application did not meet criteria 1, 2, 3, 8, and 9. She commented that she thought the needs were met with the services in her neighborhood, and the quality of life would be adversely affected. She pointed out that the intersection of Murray/Beard had three schools within walking distance, and suggested that it might be because no children had testified their voices were disregarded and wondered if the Council would also disregard their safety. She asked that they uphold the PC decision.

Mayor Drake said he would accept a motion to continue the hearing.

Coun. Soth MOVED, SECONDED by Coun. Doyle, to continue the public hearing concerning ECP 97002, ECP 97003; Sexton Mountain Village Expedited Comprehensive Plan Amendments, to September 28, 1998.

Question called on the motion. Couns. Soth, Doyle, Brzezinski, Stanton and Yuen voting AYE, motion CARRIED unanimous. (5:0)

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 10:55 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this 15th day of March, 1999

Rob Drake, Mayor