

REGULAR MEETING
March 5, 2001

CALL TO ORDER:

A regular meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth Council Chambers, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, March 5, 2001, at 6:42 p.m.

ROLL CALL:

Present were Mayor Drake, Counc. Fred Ruby, Evelyn Brzezinski, Dennis Doyle, Forrest Soth, and Cathy Stanton. Also present were City Attorney Mark Pilliod, Human Resources Director Sandra Miller, Finance Director Patrick O'Claire, Community Development Director Joe Grillo, Engineering Director Tom Ramisch, Operations/Maintenance Director Steve Baker, Police Chief David Bishop, Library Director Ed House, Development Service Manager Irish Bunnell, City Engineer Terry Waldele, Project Engineer Jim Brink, City Utilities Engineer David Winship, Principal Planner Hal Bergsma, Senior Planner Barbara Fryer, City Transportation Engineer Randy Wooley, Support Specialist Kyle Higgins, and City Recorder Darleen Cogburn.

CITIZEN COMMUNICATION:

Russ Randall, a retired Beaverton citizen, displayed a noise meter and gave the list of sound levels that were acceptable in nearby cities. He said his neighbor built a backyard basketball court within ten inches of the fence line, which is 18 feet from where he sits. He said it was so loud because of a vertical retaining wall, it focused the noise onto his house and he and his wife would go to the basement with earplugs. He noted that he had been to the City Dispute Resolution Center and Code Services and was not able to solve the situation. He mentioned the police had been out three times. He noted there was front street basketball, which was acceptable. He stressed there were other facilities for teenagers to go to, but they opted to put in this court. He asked the Council to consider an Ordinance that had a numerical noise limit, as other cities did and issue a restraining order.

Mayor Drake noted without an Ordinance in place it was difficult to issue a restraining order. He asked if the City's Dispute Resolution Center did not work or was it that one party would not take part in it.

Randall reported the neighbor spent \$10,000 on the court and it was unlikely it would be removed. He stated this individual was past mediation and there was no way they could agree on stopping the play. He felt there was nothing to stop other people in Beaverton from doing the same thing and that an Ordinance was needed.

Mayor Drake related this would be looked into since he was not able to get him to agree to certain hours. He communicated a report would be requested from Code Services and the current law would be looked at to see what was in place.

Randall reported he supplied copies of the other cities' ordinances.

Mayor Drake commented these ordinances were accessible to the City.

Henry Kane, Beaverton, said he was present to report that there would be congestion with the Commuter Light Rail causing gridlock on Canyon Road, Farmington Road and Lombard Avenue. He asked how they could divert \$25 million to Commuter Light Rail and make the road levy permanent. He stated that he felt the project was dead because the cost had gone up \$85 million. He added the Legislature had a \$.5 billion shortfall and would not be giving millions of dollars for a commuter car that had no real ridership. He noted that the engineers discussed the five transit stations, one of which served Washington Square. He stated that the map showed the transit station rail line on the eastside of Highway 217 and the railroad tracks were on the west side. He said Washington County had asked Beaverton, Tigard and Wilsonville for money, and suggested the Council should reconsider once they saw the facts.

COUNCIL ITEMS:

There were none.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Mayor Drake noted that Coun. Stanton had asked to pull AB 01061

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

01061 Development Modifications and Funding Shortfalls for the Hart Rd. Project (Murray Boulevard – 165th Avenue) Continued from 2/26/01 (Pulled for separate consideration at this meeting.)

01069 Liquor License Annual Renewals

- 01070 Reorganization of Human Resources Department and Transfer Resolution
- 01071 Reorganization of Community Services Division and Transfer Resolution
- 01072 Classification Range Adjustment for the City Attorney and Confirming Transfer Resolution
- 01073 CUP 2000-0027 Sorrento Water Works Expansion
- 01074 CPA 99-00025 Comprehensive Plan Land Use Element

Contract Review Board:

- 01075 Waiver of Sealed Bid – Purchase of One (1) Mobile Data Terminal From an Existing Bid Award Through the Washington County Consolidated Communications Agency
- 01076 Contract Change Order - Ratify Additional Work Performed on the Library Building Construction Contract

Mayor Drake repeated the motion including the recommended action in AB 01074, for recommended changes regarding the re-notification of the tax lot by the Planning Commission for a public hearing.

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

Separate Consideration:

- 01061 Development Modifications and Funding Shortfalls for the Hart Rd. Project (Murray Boulevard – 165th Avenue) Continued from 2/26/01

Coun. Stanton noted that this was the continuation of a discussion that began the week before regarding the undergrounding of utilities in this project. She stated the Code required undergrounding of utilities and they discussed whether they had the funds to underground this project.

Mayor Drake noted Davis Road was not undergrounded and staff had provided information on other projects that were not undergrounded. He noted that staff had provided information about some recent projects that had not been undergrounded.

Coun. Brzezinski commented that she asked for an extra week to discuss this agenda bill, and she was pleased with the information she received. She stated that she was comfortable with taking the recommended action, which was to determine that there was insufficient funding to underground existing overhead utilities for the Hart Road project. She requested that

the City stop telling the Project or Citizen Advisory Committee that anything was possible, when in this case, it looked like in both 1995 and 1997, there were agenda bills that said they would not be doing undergrounding. She stated that the Advisory Committee needed to know up front what was and was not possible. She stated that she was ready to pass the agenda bill as it was presented the previous week.

Coun. Soth suggested that some of the confusion was because the Development Code required underground utilities in residential areas under new development. He explained that on Murray Boulevard they still had the high-power lines overhead and the only undergrounding that was done there was for the local distribution portions. He pointed out that it was very expensive to underground high voltage because of the heat generated. He noted the original proposal made sense and he supported it.

Coun. Stanton commented the Project Advisory Committee, which brought forth undergrounding as part of their recommendations and was not told the undergrounding would not happen and they were also not informed with the Davis Road project. She said she appreciated the minutes from the Washington County Coordinating Committee, showing that undergrounding was excluded. She stated that they needed to abide by the Code until it changed, or at least let people know.

Mayor Drake stated that both sides were right on this, and understood Coun. Brzezinski's concern about not addressing it up front. He explained that until a policy decision was made, the Committee needed to look at this, and said he was not comfortable telling people they could not consider it. He noted that the Council were the policy makers, and unless they gave direction (that something like undergrounding was excluded) going into major projects like that, until they made a policy decision, the Committee had to look at it. He clarified that the Committee made the recommendations, but the Council had to deal with policy issues .

Coun. Brzezinski said she read the packet of material and it said that Mayor Drake was present at the Washington County meeting and that he supported the decision, but in fact the Mayor and someone else tried to get them to continue to fund undergrounding and when the vote was taken it didn't say who voted one way or the other, but it was a 5:3 vote. She stated his support of taking undergrounding off the table was attributed to him and she did not feel the minutes from the Washington County meeting reflected that. She suggested that they should not use that again because the Mayor did not support it.

Mayor Drake agreed that he had not supported taking out undergrounding in the County project, and explained that he knew if the City was going to do it, they were going to pay more than the basic cost of the road. He noted that some cities had in their Ordinance the undergrounding requirement and others did not. He noted that the discussion was in 1995

and it would probably be discussed in the future. He explained that the argument for cities that don't require undergrounding was that if they underground for the cities that do require it, then the funds wouldn't stretch as far. He said he supported it because that was how the City Ordinance was written, but when push came to shove it was a \$.5 million bill that he thought the road project should pay for.

Coun. Brzezinski MOVED, SECONDED by Coun. Soth approval of AB 01061 with the three recommendations listed in the agenda bill:

Mayor Drake read the agenda recommendations and noted that he assumed they included the recommendations of the Project Advisory Committee.

Coun. Stanton referred to Recommended Action No. 3 where it said it should include undergrounding of utilities, and suggested that part should be changed or deleted, since she assumed this motion would pass.

Mayor Drake explained that it was brought forward because that was how the Beaverton Code was written. He then asked Joe Grillo, Community Development Director, if it could then be struck out by the Board of Design Review (BDR).

Grillo clarified that the Engineering Department had to request a variance along with the original design application to the BDR.

Question called on the motion. Couns. Doyle, Ruby, Brzezinski, Soth voting AYE, Coun. Stanton voting NAY, motion CARRIED. (4:1)

ACTION:

01077 Proposed Expanded Photo Radar Locations

Mayor Drake said this item would be deferred to a later date in April.

PUBLIC HEARING:

01078 APP 2001-0001 Connor Commons; Appeal of Zone Change Denial (RZ 2000-0010)

Mayor Drake stated that Grillo would read the required statements related to the public hearing process according the State law.

Grillo read the procedures into the record (in record). He asked if anyone wanted to challenge the rights of any Councilor or the Mayor to hear this matter.

There were no challenges.

Grillo asked if any Councilor or the Mayor wished to abstain due to lack of impartiality.

There were no abstentions.

Coun. Soth remarked he drove past the area and walked through the area, and did not talk to anyone except to ask the permission of the people that live in the "white house" to walk around the property.

Grillo asked if there was anyone present who wished to challenge or object to the City Council's authority to hear this matter.

There were no challenges.

Irish Bunnell Development Services Manager, reported that John Osterberg Senior Planner, who had worked this application for many months was ill, and thus the staff report would be brief. He said the Council had received all of the appropriate materials and staff were there to answer questions.

Coun. Soth said he understood from the Planning Commission (PC) information that there were no photographs and asked them to look at the detailed maps behind the agenda bill. He noted that it was a peculiarly shaped property, and he wanted to identify the various locations.

Grillo verified the various locations on the maps. He noted that the particular triangular piece had an access to the east out to the meadow.

Coun. Ruby reviewed his question (in record), and explained it related to the PC acknowledgement that even though the applicant was only planning to build 45 units, he understood the PC had learned that up to 76 dwellings could be constructed under the R2 zoning and therefore the PC concluded there was no effective way to limit future development to a lesser number such as 45 units. He referred to the request for R2 zoning and asked if there was a way to comply with the applicants needs. He said he understood from the written response from staff, with Metro's directive that a new development must achieve at least 80 percent of the maximum allowed density. He noted the applicant's plan of building 45 units was inconsistent with the Development Code and "may" require the City to increase the density. He asked if he was correct and if this was part of what they would be considering.

Grillo stated that "may" was the operative word, and clarified that if staff knew with absolute certainty that the type of product the applicant was going to build (in fact what they were going to build) met 80%, they would probably not have this extent of an issue. He explained that the dilemma was that staff could not come to the Council that evening and tell them with any certainty, even though the applicant may, that in fact the individuals would build the type of construction or unit (indicated). He pointed out that the Code required building to 80 percent of maximum

density and that did not have to be built all at once, but it had to show how it would be built. He explained the number could be 45 units but it could be 51, he did not know. He said it was a problem if the Council conceded to 45 units as the applicant suggested, but if the minimum 80 percent was 51 then he was in a conundrum. He related he had two directions from the Council and he could not comply with both.

Coun. Ruby asked if it was not possible, based on the submission of the design plan, to factor in wetlands and other things that would be reduced to reach the number now.

Grillo explained they were only looking at the zone change, and the rest could be determined in the design review. He stressed the development could be different and they did not have a development application on appeal that evening.

Coun. Ruby asked if a change in zoning designation was the only way to harmonize the City's action in this process with the applicant needs.

Grillo said that was the observation of the PC in their deliberations that a different zoning designation would work better. He said they would hear two sides to that story, and he thought the PC thought there was a different way to get to where the applicant wanted to be.

Mayor Drake reported that there had been other rezones where property was sold with a rezone, with no specific project.

Coun. Stanton asked Grillo if they looked at an appeal of a rezone if this had come forward as a Planned Unit Development (PUD) under a Conditional Use Permit (CUP).

Grillo clarified that a PUD came forward and had to be evaluated with some type of underlying zoning. He stated until he knew specifically what this community had on this piece of property, other than what it currently had, it was difficult to answer that question.

Coun. Stanton asked if it remained zoned R7, would a PUD be able to change it to 45, 51, or 61 units.

Grillo replied that a filed PUD or CUP, would have a maximum of 22 units.

Mayor Drake asked what the options were, if the Council voted no.

Grillo stated that there were three options. He said the first option was, Council could deny it and adopt the PC findings. He said the second option was they could deny without prejudice, which allowed the property owners to re-file for a different zoning and they would not have to wait. He pointed out that the third option was the applicants could disagree with the Council and appeal it to the Land Use Board of Appeals (LUBA) within 21 days.

Coun. Soth asked where was the transition zone mentioned in the Comprehensive Plan or the Development Code. He questioned if they were talking about a design feature to transition between the single-family homes and the multi family homes.

Bunnell explained they were referring to density when they were talking about transition, specifically R2 and R7. He related that they thought that R3.5 or R4 would serve the applicant and the number of units that were allowed under these zones (which was close to what they understood was planned for development).

Coun. Soth reiterated that he thought that was a design feature rather than a transition zone.

Bunnell replied the design requirements or the site development requirements that were attached to the zones were similar. He said he believed they were talking about density and design features that eased the transition between the two areas. He added this would come later under a development application.

Coun. Brzezinski said she did not remember reading anything in the agenda bill materials about building to 80 percent of the density, and she wondered if anyone else remembered reading it.

Coun. Stanton replied it was in the PC minutes of December 20, 2000.

Grillo recalled that Council had reported back to Metro that the City would only achieve 90 to 91 percent of the housing goal because they were not able to meet the 100 percent of the housing allocation and that was why the 80 percent of the maximum density came into play. He said that was why the Council put it into the Development Code; they were not going to meet 100 percent of the City's housing allocation. He explained even if it was not in the minutes, the 80 percent was still there and was still an issue.

Coun. Brzezinski questioned if the applicant ever discussed the issue and did the applicant respond as to why that should not bother the City. She explained that it sounded to her that if the Council approved it for R2 zoning, they would need to require more units than planned.

Grillo explained that the Code allowed for certain things such as streets, wetlands, and etc. to be deleted from the calculation. He said this subtracted out acreage, which then effected the total amount of maximum dwelling units, and as that number drops then 80percent of that number dropped also.

Coun. Brzezinski said she understood that it wasn't 60 percent of the 80 percent, of the absolute maximum. She asked if it was possible the

Council would not approve the smaller number the applicant had requested.

Grillo clarified that if the Council approved the R2 zoning and a development application came, staff would then look at those items that would be credited towards the acreage. He said they would then look to what 80 percent of that was and ask the developer to show them how they intended to meet the requirement of the code. He explained that if it was 51 units, the applicant had to show how they could build the 51 units even if they only wanted to initially build 45 units, for example.

Coun. Doyle pointed out there was a short discussion about the 80 percent density and the amount of units allowed, in the Planning Commission Minutes of December 20, 2000, on page six and seven.

APPLICANT:

Tony Weller, Principal, Consulting Engineering Services, Inc. (CES) NW, Kristen VanLoo, CES NW, Craig Zell Marketing Analyst and Dave Cram, Traffic Consultant and Genesis Development representative were present to answer questions.

Weller thanked Council for the opportunity to be there. He noted the PC met and granted a Comprehensive Plan Amendment (CPA), so they went from standard density to medium density residential. He explained that put them in a situation where they needed a zone change, to complete the process that was started with the CPA. He noted they needed to get one of the three density designations, R4, R3.5 or R2. He said his client wanted to build town homes and the only zone that allowed town homes was R2. He explained that the other zones required a CUP or PUD. He said Beaverton calculated maximum density on gross area and they were used to it being calculated from the net area, so the minimum and maximum were based on the same formula. He added that Beaverton gave a wider range between minimum and maximum. He reported the PC's concerns were basically density, compatibility, traffic impacts, etc., and stated that he felt they had met that. He said the City's Code was very specific, and gave the specific sections and criteria, and they felt they had met the specific criteria for the zone change. He noted that they did not propose a unit cap that Coun. Ruby asked about, but it would be something that they were willing to consider. He recalled that staff had expressed some concerns about the administration of that, and reiterated that it was something they would be willing to accept, even though they felt they met the criteria for R2 outright.

Weller noted that the PC as well as the staff report had stated, and the materials in their application supported, the conclusion that they met R2. He pointed out that they had not seen any written documentation that showed that they did not meet the specific criteria they were asked to address in either the application or testimony.

Weller said they had done the calculations related to minimum density, and noted that they had done the layout with the townhouses even though the townhouse issue was not what they were there for, but the townhouses were relevant to minimum density. He reported that the property was two parcels, and by the time they get the road in from 150th into the middle of the site, they would have used a lot of ground in right-of-way (ROW). He noted that ROW would be removed from the calculation of density. He stated that they were comfortable that they could meet the minimum density requirements with a unit cap. He related that in the earlier testimony (December 20, 2000), they stated anywhere from 45 to 60 units as a maximum, to give them flexibility, and this site plan showed 47 units, which he said they would round up to 50 as a maximum.

Weller stated that they met minimum density and it was their responsibility and their risk to do that. He pointed out that if the Council set a cap they (applicant) could not exceed the cap if it was a condition of approval. He said it was the applicant's responsibility to show that they could meet the criteria, and they believed they could.

Weller noted that on the compatibility issues, they felt it was just density, and noted that the compatibility issues such as building height, setbacks, color and materials, would be addressed at Board of Design Review. He stated that it was interesting that a detached single-family unit was an outright use in an R2 zone, and questioned how it could be made compatible to your adjoiner. He commented that it was a good site for the zone being close to major arterials, jobs, Light Rail and Tualatin Hills Park and Recreation District (THPRD) Nature Park. He noted there would not be cut-through traffic in the neighborhood. He said the new signal on Walker road improved access. He pointed out that it was a difficult shaped parcel and R2 zone would allow them to maximize density, even though they had used a large amount for access into the parcel. He said they were doing one small site, they felt they had met all of the criteria and they were willing to consider a cap.

Weller explained that as part of the road design the alignment was selected because it allowed a development of the adjacent parcel and utility access. He added this helped to consolidate the access points in the future. He stated that they did not believe the Comprehensive Plan required a transition zone even though it was logical. He pointed out that the zoning map showed all kinds of examples where R2 and R7 adjoined.

Coun. Soth asked whose property the Laurel and Holly hedge was on.

Weller answered it was on the development property and would be discussed in design.

Coun. Stanton asked about the new light on Walker Road.

Weller affirmed there was a new traffic signal at 150th Street and Walker Road.

Coun. Stanton asked what he meant at the end of his presentation when he said, "He would be open to," but he didn't say what.

Weller replied they were acceptable to a maximum of 50 units. He felt they were able to meet minimum density and still achieve that amount. He noted that infill was an issue in many communities.

Coun. Stanton stated that the City could condition it, but they would be out of compliance with Metro if they did so.

Weller explained that they would be out of compliance only if they based the minimum density on the 50, and said they suggested keeping minimum density based off the underlying zone and set a maximum density that was less than what the underlying zone allowed.

Coun. Stanton noted that the City needed to comply with the 80 percent maximum.

Weller clarified that minimum and maximum densities were based on two different numbers. He stated the minimum is based on the maximum density after you subtract right-of-way, water quality and other types of open space. He said they met the minimum density with their proposal, and they were willing to take that risk.

Coun. Stanton asked if that was 80 percent of the maximum.

Weller stated it was 80 percent of the maximum as defined in the Code. He explained they subtracted the right-of-way and other facilities that were allowed to be removed.

Mayor Drake asked Pilliod to comment on the issue.

Mark Pilliod, City Attorney, remarked he was struggling with determining 80 percent of maximum density, when they had no facts regarding how much would be ROW, water quality, etc. He stated there was no development application, so they were only able to speculate on what 80 percent might mean.

Mayor Drake clarified that they did not know those answers because they were not talking about a specific application but were strictly talking about a zone change at this time.

Weller reported that he knew it was happening in other jurisdictions for the same reasons and they were not adjusting their minimum calculations for the Metro compliance issue. He stated that he knew that Washington County and Lake Oswego were doing it. He stated that he had the numbers for the site, the ROW, the water quality tract, etc. and could show based on the plan they intended to submit, that they would meet minimum density. He noted that if someone came after them and it did

not work for them, then they would either need to come back for another zone change or do something that was similar.

Coun. Stanton stated that they would have to build 76 units.

Weller clarified that if the Council adopted a cap to the maximum density, and approved the zone change, then it was up to the developer to meet the minimum density, which had not been changed, but they would have set a maximum.

Mayor Drake stated that he respected Weller and his professional opinion, but felt the internal opinion differed from his, and noted that it appeared that Pilliod and the Planning Staff disagreed with Weller's opinion. He said the Council needed something to hook on to and asked Grillo to comment.

Grillo encouraged the Council to take a look at the value of the rezoning request that was in front of them that evening, as it related to the Comprehensive Plan and the other criteria that was stated in their (staff's) statement at the beginning of the hearing. He said if the Council believed the applicant and the material made the case, then they could vote for that and let the application come forward and it would be separate and distinct from the conversation that evening.

Coun. Stanton referred to the map on the wall and noted a loop that went to the property and streets that did not connect.

Weller indicated there were two private streets in that proposal.

Coun. Stanton commented she believed in connectivity, but also believed in neighborhood integrity. She said she heard 51 units mentioned in the numbers.

Weller noted that was just an example from Grillo, but the applicants had taken a maximum cap of 50 units and went with that.

Coun. Stanton asked if it would be 80 percent of the 50 units.

Weller clarified that it was 80 percent of the maximum.

Coun. Stanton asked if the 50 units were 80 percent.

Weller explained they were hoping to be a few units short of 50, and make the 80 percent.

Coun. Stanton said if 50 or 51 units, was 80 percent, than that allowed 64 units at 100 percent and that made it 12 short of the 76 units which came with the zoning. She stressed the issue for her was, what level of insurance did she have that it would not be 76 units, because that was what was allowed.

Weller said it depended on how the Council felt about having the concept of a maximum density. He reiterated that they felt they met the criteria for the maximum density and they had no intent to develop to that extent with this client. He stated that they felt they had addressed both the CPA and the zone change criteria. He said that was supported by the current staff report that evening, which restated in each area the PC was concerned about, that they met the criteria. He pointed out that the staff report that went to the PC stated that they met the criteria, which their application also said. He noted that they did not have anything thus far, that said density issue affected that criteria. He stated that the discussion on maximum density was within the criteria. He said they were surprised that the way staff calculated maximum density it was 76 units. He explained that his approach was to take the total area and subtract 20 percent, and noted that the traffic report was based on 60 units, which they assumed was the maximum. He said David Cram was there that evening to present information and brought a revised table that helped address what the difference would be looking at what staff said the maximum was. He said that they based maximum on 80 percent because you typically had 20 percent in roads and access-type issues. He said the revised table would show the difference between R7, to the R2 at maximum density, and noted that the difference was less than a two-second delay at the intersection.

Coun. Brzezinski asked if they selected R2 because it was the zone that would allow this type of development outright, and they felt they met the criteria. She asked if they had some philosophical opposition to 3.5 or 4, or was this just to have the kind of development that they wanted, you would then have to go through another step.

Weller explained that they had envisioned fee simple lots for townhomes, which put a double-edged sword to this, because for people to own their property, the lot size would be below minimum. He noted R3.5 was a 3500 square foot minimum lot size and that required a CUP and a PUD, to address the lot size. He noted that would work for condominiums, but his client wanted to develop a project where people owned their property.

Mayor Drake asked if there were any further questions for Weller.

Grillo noted that the Council might want to determine whether or not the applicant intended to introduce any visuals, if they were not already in the record, and clarify that.

Dave Cram, Lancaster Engineering, 800 NW 6th Ave., Suite 206, Portland, OR 97209, stated the traffic study and Level of Service (LOS) summary was based on 45 units. He reported they also looked at the existing conditions and the year 2000 background conditions, which included some background growth plus previously approved projects. He reported that in both cases for existing conditions and background conditions, they came up with a LOS of C with delays for each scenario. He explained that they then added in the site trips for a 45-unit development and still came

up with LOS C, for both the morning and evening peak hours. He reviewed the material on the chart he distributed (in record). He noted that he had been told that it was 77 units and now understood that it was now 76 units. He said he had broken down the number of trips for the various assumptions and also recalculated the LOS and delays. He referred to the third column where it listed said 2001 background traffic, on the fifth row, the background delay would be 32.7 seconds with an 80 percent development that number went up to 33 seconds (increase of .30 and with 100 percent development it still only went up .3 second. He reported that the 2001 background for evening peak hours would go from 29.9 seconds to 31.1, with 80 percent development and 31.6 seconds with 100 percent development and both were within Level Service C category.

Coun. Soth said he assumed that Cram was basing this at the intersection of 150th and Walker.

Cram answered that was correct.

Coun. Soth asked if it was based on national established standards for this work.

Cram answered that was correct, and added both the trip generation and the methodology were nationally accepted.

Coun. Soth asked if the ADT that he talked about was trips or trip ends.

Cram answered it was trip ends.

Coun. Soth reiterated that was one coming and one going.

Cram answered if the ADT is 451, that was 450 trip ends.

Coun. Stanton referred to the AM peak hour and asked details about the 11 out of the 15 on the RF7 at 80 percent developed, and then 11 out of 15 developed units moving. She stated 11 out of 15 was about 75 percent for the AM peak hour. She explained with R2 100 percent development, was 34 AM peak, that was less than half. She questioned if you had 28 exiting which was about 30 percent of the 77 units under the R2 100 percent development, she wondered what the other two-thirds of the residents doing because they were not going to work or taking their kids to school.

Cram said he was not following her notes.

Coun. Stanton reviewed it again and said she wondered where the other two thirds of the population were, why weren't they going to work or taking their kids to school. She related she had a hard time believing that only one-third of the population were moving during the AM peak.

Cram explained that he was using the standards and that the morning peak hour trip rate was .44 trips per dwelling unit, in a one-hour period. He

said that did not mean that 100 percent of the people had to get in their cars and leave.

Coun. Stanton stated she understood that, but questioned the R7 at 80 percent development, but he showed it at 75 percent.

Cram noted it was a different land use category, and explained that would be single-family detached housing. He said the morning trip rate for that was .75, a higher trip rate.

Coun. Stanton asked what the trip generation was for the R2.

Cram reported that the trip generation for R2 morning hours was .44 per dwelling unit and .54 for the evening peak hour per dwelling unit.

Coun. Stanton commented that manuals were good for a start, but she could not believe that many people were not going anywhere.

Cram noted the figures were based on actual surveys and the national average.

Mayor Drake added that the Traffic Impact Fees on a single-family home were an average of about 10 vehicle trips a day, and in smaller units there were fewer cars and so there were fewer vehicle trips.

Weller reiterated that they believed they met the criteria for R2 and that the development was based on the same criteria.

In Support of the Application:

Loran Trumbo, Beaverton, Oregon, said he felt the project was a good fit for the site and that row houses were a better transition to single-family than other alternatives. He noted the area had improved as the older buildings were moved out. He added the new traffic light at 150th Street was an improvement with minimal wait time.

Coun. Brzezinski asked where he lived in relation to this.

Trumbo noted he lived within a rocks throw of the driveway going into this development and west of the development.

Chuck Bradley, Beaverton, Oregon, related he was a builder and responsible for the "mess," since he started the process. He indicated on the map the location of his home and said he had built a half-dozen homes in the subdivision. He added he had lived there about eight years and was the second house in the subdivision. He stated that he tried to purchase this property from the owner and felt this was a good thing. He said he had built higher-end homes and noted that he had friends who wanted to cut back and not be a slave to their home. He commented that he wanted his son to live close to him when he was in dental school and

wanted to provide affordable housing for him. He reported he had named the development after his son, Connor, and that was why it is called Connor Commons. He stated they were trying to offer housing that was needed. He pointed out that there were people who liked to live close to activities and their jobs and he hoped they were doing something positive for the area.

Bart Bartholomew Lake Oswego, Oregon, purchaser of the property said he was building a similar project in Lake Oswego off of Kruse Way, which was annexed into the City of Lake Oswego. He explained that in that case Clackamas County wanted them to annex into Lake Oswego, which they did, and that the idea was to get a CPA change which was equivalent to what they were requesting this time. He noted that they were building 31 townhomes there, with the option to also build apartments. He noted that to the north of the Lake Oswego project, were multi-family apartments, and to the east and the south were single family detached residential, therefore the surrounding neighborhoods were similar.

Bartholomew related that there had been an article in *The Oregonian* recently from Metro, talking about infill and the need for this type of development. He related that mainstream environmentalists applauded this type of infill on sites where streams, forest and wetlands were not being damaged. He explained it eased pressure not to expand the Urban Growth Boundary while meeting market demands for new housing project options. He quoted *1000 Friends of Oregon*, from *The Oregonian*, "Infill gets densities to levels where urban services are workable and it helps guarantee that those lands will reach their highest and best uses." He reiterated that this was similar to what they were asking for.

Chris Palmer, (no city indicated), reported he had lived in the area for 15 plus years and his family had been in the area since the early 1950's. He stated he was for the project. He expressed his compassion and understanding of the reasons the neighbors were against it. He related he went through the same feelings with the development process, but felt this was a good thing for the neighborhood. He added traffic was better with the light at Walker and 150th Street.

Randy Rutherford, Oregon City, said he was a representative of the applicant. He reported R2 was the zoning they sought and that which was suggested by City staff and PC. He related he was part of the development team that worked on the project in Lake Oswego and agreed that project was much the same as Connor Commons. He stated they took the direction they were given and would have 31 finished units ready by summer, that were unique to the market place, just as they were endeavoring to do at the Connor Commons development. He thanked the Mayor and Council for their time and efforts.

RECESS:

Mayor Drake called for a recess at 8:20 p.m.

RECONVENED:

The regular meeting reconvened at 8:30 p.m.

OPPOSITION:

John Whitehouse, Beaverton, stated he had been in the neighborhood for about eight years. He stressed his concern on the traffic report and said the percentage of trips were lower on R2 zoning. He questioned if that was based on using row houses in a high urban district that had fewer individual cars and more public transit available. He stated that explained why the model in the traffic report showed fewer trips, and said he believed the traffic density for single-family dwellings was more appropriate. He noted there was a gas station approved for 150th Street and Walker Road and wondered if the number of seconds added to the cycles in the traffic light, take into account the additional traffic that will be generated by commercial business.

Whitehouse stated the applicant had demonstrated their willingness to increase the number of dwellings and the neighborhood wanted it to be smaller number, and he felt a cap on the number was needed. He pointed out that if the appeal was granted there was nothing to stop the builder from coming back and building up to 76 units. He said he believed the developers alluded to the fact that traffic had been a growing issue and it was alleviated with the traffic light, and he thought the R2 zoning would increase the traffic. He felt the answer was to deny this request and to allow the people to come back with a request for a zone change to R3.5 or R4. He remarked that the developers alluded to the fact that might require them to build condos, but he believed by having a smaller density, they could develop a fee-simple type housing that would not be 45 houses, but would be closer to 30 or 32.

Wilber Templer, Beaverton, stated he lived behind the property and understood they wanted to make a walkway behind this development into Walton Court. He questioned how they could do that without talking to him since it went through his property. He added they had been there for 20 some years and he did not want a walkway because of the noise, garbage and graffiti.

Mayor Drake explained that they were only discussing the zoning and if the project went through, he would be contacted. He reported the City notified all properties within 500 feet and State law only requires 100-foot notification. He added the Council worked hard to reach adjoining people.

Coun. Stanton questioned the easement at Walton Court and asked if it was a pathway.

Grillo reported it was a tax parcel that the gentleman (Templer) owned.

Coun. Stanton asked if he owned the path.

Grillo said he could not tell her it was a path, and explained that it was a tax parcel that Templer owned.

Coun. Stanton clarified that it was a separate parcel. She noted if he owned it, the best thing that could happen would be that someone would buy it.

Grillo agreed with Coun. Stanton.

Coun. Stanton explained to Templer if he did not want the path, he should not sell.

Charles S. Nyehart, Beaverton, specified he was not opposed to the development of the property, but was opposed to the R2 zoning. He stated that the major objections given to the PC by the neighbors were that R2 was not an appropriate buffer zone for R7, and it might have a negative impact for the area. He said it would have a negative impact on the property values, and noted Don Morissette did a study nearby which showed that it had a negative affect on the property. He reported that the five pieces of property that back up to the property had sold in the last few months, and they sold for under the tax-appraised value, because of this particular project proposal. He commented that they, as property owners, were required to tell prospective buyers there was a proposal for rezoning and that obviously made the property less desirable.

Nyehart pointed out the negative traffic impact to 150th Street and Walker Road and also to Pioneer Road and Meadow Drive. He mentioned that most of the people in that neighborhood and the Surry Pines neighborhood could go out through 150th Street, but most went through Pioneer Road or by the school and take Butner Road. He noted at the 150th Street intersection he had never sat there for less than 31 seconds and it was usually 2.5 minutes, trying to get across the street. He said in the evenings, it was even worse. He commented another negative impact was the safety issue with fire and police access, and said there were also pedestrian issues. He explained that because of a lack of sidewalks, anyone walking in less than daylight was in danger.

Nyehart reported that his home was appraised above \$200,000 and they would be putting in \$130,000 homes behind his. He remarked there was an article in the *Oregonian* that stated that the most desirable home was an unattached single-family dwelling. He suggested since the property was originally two lots before it was annexed, they could split the zoning, making the Northwest portion R3.5 or R4. He said it would help minimize the negative impact against the homes that backed up against the property. He suggested a second option of buffering with trees and shrubs. He stated his third suggestion was to require a maximum number of dwellings put on the property, thereby protecting the neighborhood from

the possibility of another developer coming along and putting in 76 units, which technically the R2 zoning allowed.

Mason Van Buren, Beaverton, said he lived east of the north corner that was connected by a driveway, and noted he had three outbuildings including a barn. He stated that he was not opposed to having buildings going into the neighborhood, and noted that he had rebuilt his home into an estate, on a large piece of property. He commented that he had watched the neighborhood develop and noted that his neighbor had contributed part of his land on the other side of the power lines to the neighborhood. He stated he was not opposed to the building that was going on, but was opposed to the over-building or "squeezing in" the housing product they were trying to bring to the market. He explained that he was not opposed to the housing product, but was opposed to having so much of it brought into the little neighborhood. He noted there were apartments on Walker and some new townhouses at Meadow and Walker, but to continue having it go north and have it encroach on the otherwise single, detached homes, was an inappropriate way of developing the land. He suggested they were trying to maximize the numbers and were not concerned with the impact.

Van Buren said he was concerned about traffic and said they were correct that Beaverton was not downtown Portland where they could take the bus from anywhere. He stated that the numbers did not reflect the number of cars that were running through there. He reported that a car in the neighborhood hit his child recently at the corner of Pioneer and Meadow, and he was concerned about the number of cars. He stated there were no sidewalks, and there was a park at the corner, which children walked to. He believed people from this housing community would be walking to this park taking their lives in their hands. He said he was opposed to 77 units and that ten per acre was more appropriate.

Paula Thrush, Beaverton, said she was concerned about the proposal and how the density affected their neighborhood of Surrey Pines and the community in general. She listed the various multi-family housing in the area and said she thought there should be transition: maximum density, medium density, and medium density at a larger lot size such as 4,000 square feet and then the 7,000. She noted there was a development on Pioneer Road, with single-family detached homes with small, 3800 to 5300 square foot lots, and they were sold long before they were started, so there appeared to be a demand for this price of housing.

Thrush reported that they did the traffic study on June 22 and 27, 2000 after school was out for the summer, so she felt it was inaccurate. She said the proposed entrance off 150th Street concerned her with the slight curve and it was difficult to get through there. She said with traffic, transitions and density, R2 did not belong there.

Mayor Drake asked how performing the traffic study when school was not in session affected the study.

Thrush explained that there were three bus stops on 150th Street at A.M. peak hours and most parents drove their children to school, so that traffic would not have been counted in a late June count. She did not feel it was an accurate count.

Pat Russell, Beaverton, pointed out that this was the second major project in the Five Oaks/Triple Creek Neighborhood Association Committee (NAC), and people in the NAC felt that they could not "fight City Hall," so why try. He noted the testimony they received that evening had all been from people who did not live in the City, and his NAC would like to play a role to support the neighbors who they hoped would come into the City.

Russell stated that he was concerned about the memos that had gone to Council that day, since he had not seen them, and said he was concern with comments about the 80 percent issue. He said he thought the 80 percent issue dealt with whatever zone the Council adopted, and the zoning regulations said that the City's goal was to build out to 80 percent, which he stated was not mandatory, but what he called a "directive," and the City would not be called into court if they did not meet the 80 percent goal. He stated that the 80 percent had nothing to do with what the appropriate zone was in the Comprehensive Plan, because the range was 7.4 units per acre to 21.8 units per acre, so there was a range. He expressed his opinion that what the City was thinking in that medium density Comprehensive Plan designation that they could expect to have a variety of different zoning types in there. He said the three that would fit in the range were R4, R3.5, to R2, and he was not concerned about that, but was concerned about the base zone and how it met the needs of the neighborhood.

Russell said he would now speak as a representative to the Committee for Citizen Involvement (CCI) from his NAC, and reported that it had been discussed twice at the NAC. He said it was discussed after the developer had the neighborhood meetings, which he noted were not held at the traditional NAC meeting times or places. He reported that the NAC's position was to not take a formal position, but the reactions he heard at the meetings were of concern.

Russell, (again speaking for himself), noted that he supported the developer's effort and felt they were trying to do a good job on infill. He requested that his letters of December 6, 2000 and December 13, 2000 were on file. He also wanted to make sure his letter of February 15, 2001, was on file. He explained that the reason he wrote the appeal letter was that he wanted the Council to know that there were significant concerns expressed by the neighbors. He noted that the PC record was extensive, the January 21, 2001, meeting conducted by the developer attracted nearly 60 people, which he thought meant that people did not know what action had been taken by the PC. He said he supported the developer and felt that their NAC could work with them. He stated that he felt it was unfortunate that the zoning regulations did not provide some sort of protection for single family homes and still give the developer some

reasonable assurance of what he could achieve. He felt there was a large difference between CUP and a Design Review requirement. He stated one was discretionary and one was outright permitted and dealt with cosmetic issues. He stated that if Council decided on this application, he would encourage the City to initiate a zoning change because now there was a Comprehensive Plan designation with medium density, and they could not have R7.5 zoning there now.

Mayor Drake stated that he respected Russell's background and involvement in the NAC, but clarified that the neighborhood meeting was required by the City, (not required by the State) and not required to be at a NAC. He said the ordinance did not require it coincide with NAC meetings, which he agreed would be nice, but actually they had some NAC's that have said their meetings were too full, so they were not linked with NAC meetings. He stated he thought he heard Russell say the 80 percent density was not required, but clarified that Metro adopted it through the Metro Functional Plan and they were required to adopt it into the Code. He asked if he misunderstood.

Russell agreed with the Mayor's first comment regarding the developer's meeting location. He stated in regards to the 80 percent, he would defer to the City Attorney, but he from what he could remember, Metro's mandate was to achieve 90 percent yield in the City. He noted this particular property was not included in the calculation because at that time it was in the County as low density, so he thought that would be automatically tossed out. He suggested that the City staff had looked at it aggressively and said they would annex those areas and calculated that they could infill those reasonably and included it in the numbers. He said he did not know what the Planning staff did on their report to Metro, but his guess was they relied on what was in the City limits when the report was prepared. He said he did not think this property was included at the time of the report. He stated that he did not feel the City could be taken to LUBA because they didn't meet the 80 percent yield.

Mayor Drake clarified that as he understood it, once an application came in it needed to meet the 80 percent minimum.

Russell said he was not sure what they were saying "80 percent," and stated that what he read Metro to be saying was they wanted at least 10 units per acre infill. He said that was a regional goal that bumped up the zoning, higher than single family residential, but nowhere in the City's Comprehensive Plan designation did he see anything that said the City had to reach 21.8 units. He said if it was in the Comprehensive Plan, he would like to see it, because why would they have the 7.4 units, which was 50 percent of yield, and this was what worried him about what the memo was to Coun. Ruby, because he did not know how the question was framed. He stated that if they were talking about 80 percent of the top end of the Comprehensive Plan, then he had a real problem with that and he thought the PC would also, because he did not think they were told that.

He added he did not see it written in the record talking about 80 percent of the top end of the Comprehensive Plan of 21.8.

Coun. Brzezinski stated that from reading Russell's letters and from the beginning of his presentation, she thought he was opposing it, but then towards the end of the presentation it felt like he had backed off of that. She noted that she was not sure where he stood on it.

Russell explained that their NAC was not opposed to what they called "good development" and they recognized these areas needed development. He noted that there was a light rail station that supported up to 5,000 dwelling units, and they wanted good planning.

Coun. Brzezinski clarified that she still did not know his position.

Russell stated that the neighborhood had to be taken under consideration, and if the Council wanted to do R2, then his approach was that was fine, they could go ahead and do R2 and settle out on the issues; do a contract zone. He stated that if they did not want a contract zone, then he wondered if they were meeting the wishes of the neighborhood.

Coun. Brzezinski asked if he knew that the Council had a set of policies and criteria that they had to use to be able to point to something and say, "this was why they were denying it." She asked if he had found anything...

Russell interrupted that he thought it was on the record that evening that the PC took action and he did not hear any testimony by the applicant that refuted the PC findings. He stated that to him the PC findings stood that night.

Coun. Brzezinski pointed out that the staff report said that the PC did not say specifically which criteria this did not address.

Russell apologized and explained that his approach in planning was to try and get the issues on the table as reasonably as they could in a general manner. He said this was highly technical zoning information and complimented the City for the great effort for citizen involvement in Beaverton, which he thought was one of the best in the State. He clarified that he was concerned that information got out so the neighbors understood what was happening, since it was so technical. He said he did not concentrate on the findings since he thought that was the burden for the applicant, and said he had not heard the applicant talk about the inadequacies of the PC findings, but just that they did not agree with them. He said he thought the findings could be read both ways and the key finding was compatibility within neighborhoods.

Cheri Arthur, Beaverton, said she was not against the development, but was concerned that it was originally zoned R7, but times had changed. She said she understood that the people who owned the property needed to get their money out of it, but it came down to balance and the

community and neighbors' needs. She reported that at Walker School, 80 percent of the children were on a federal lunch program and right across from the school they were building homes that were selling for from \$800,000 to \$1 million, and she did not feel that was right. She asked the Council to think about what they were doing and do what was right.

Arthur said she had traffic concerns related to Walker Road, and noted that she used Tualatin Hills Park and Recreation (THPRD), and had noticed that there were more businesses and more traffic. She reported that a few years ago she was hit by a drunk driver going through Walker Road and she was nearly killed. She said those were the issues that needed to be considered. She stated that she was not opposed to the development, but was opposed to the fact that Metro wanted them to build as much as possible within the boundary. She added that the Council needed to look at the fact that the builders leave their problems with the neighbors when they are through. She noted the widening of roads need to be considered.

Coun. Soth clarified she was correct, that Metro did not have enough money to do what was on the plan, and neither did the state. He asked what her solution was.

Arthur said the solution was to abolish Metro, and said it came down to a money issue for everyone. She reported she had seen good development and good things happen, she would like to see that in this location, and if he built fewer units that could happen. She added that older people don't want two levels in their homes and she had heard people wanted more land and one level housing. She noted that as society aged the two levels were harder to handle.

Cynthia Munyon, Beaverton, said she concurred with the comments of Thrush and other neighbors. She stressed that traffic issues and lack of compatibility were serious problems. She said she had a copy of the PC report, their findings that said, "the specific objectives and policies of the Comprehensive Plan were not met for approval for the R2 zone change request," which she said had come up earlier. She read from various portions of the PC record (in the record).

Coun. Brzezinski noted she knew what the land use order said, and noted that the Staff Report dated February 20, 2001, had a statement that said, "The Commission did not specifically state which finding related to which specific objective or policy..." and she was just trying to ask the prior speaker (Pat Russell) if he could help her pin point what went with that. She reiterated that she and the other Councilors had read the material in advance of the meeting.

Garret Lindberg, Beaverton, said he believed the residents needed to be involved and share how they wanted the area developed. He noted that he was not directly impacted but it did effect the entire area around the development. He stated that his concern was that the developments

going on up north were drastically effecting what was happening south of Hwy 26. He explained that the large development north of Hwy 26 was of high-valued homes, and those residents worked in the industrial area around Nike, etc. He noted that the lack of proper transportation was drastically impacting the quality of life in the smaller neighborhoods. He reported that there was a plan off Meadows, where in 15 years it would become a major connection to Highway 26, which could not be done at this time because of private ownership. He noted there was already high-density in the area and the neighbors were concerned about if Beaverton was going into the area and "gobbling up areas like that and turning them into high-volume areas." He challenged the developer's approach that they could maximize their profit and receive more value out of a higher unit than a smaller unit. He said residents had been under the assumption that there were 35 units and now it was 75, so he wondered what was in the minds of the developer in the beginning stages. He said he had worked as a research analyst for many years and could adjust figures and make them more appropriate, so he questioned the accuracy of the traffic report. He asked if there had been any requirement for a flood plain study, since the area was originally waterways. He suggested the developer set aside a play area for the children and noted that they stated the children could walk to the park, but he pointed out that the children had to walk in a high-traffic zone. He said he appreciated the consideration of the people in the area and he wanted to support their desire for a livable community and the original plan of 35 units was more appropriate.

Coun. Soth noted Lindberg questioned the traffic study and asked if he was a traffic engineer.

Lindberg answered he was not.

Coun. Soth asked if he had participated in research and the kinds of studies that go into these things.

Lindberg answered he had not.

Coun. Soth verified that Lindberg was not familiar with the manual that the traffic engineers use for a basis of their conclusions.

Lindberg noted there were assumptions as to the kinds of development.

Coun. Soth explained that was all included in the manual that was used throughout the United States as a guide.

Lindberg asked if the impact on Walker Rd. was included.

Coun. Soth said it was.

REBUTTAL:

Tony Weller and Chuck Bradley, both with CES/NW Inc. spoke.

Bradley reported that he heard there would be a NAC meeting after their last neighborhood meeting, and made sure he attended so he could field any questions. He reported no questions were asked about the development, no neighbors who attended the meeting, Russell read his letter sent on February 15, 2001.

Weller suggested that Russell clarify if the letters were from him or the NAC.

Consensus of the Council was they were from Russell.

Dave Cram, traffic engineer, said they had talked to City staff, outlined the scope of work, and identified other developments that were approved but not yet built, including the gas station at 150th Street and Walker Road. He explained when they looked at the background conditions they included background growth and traffic. He reported that with Level of Service (LOS) C they found a 30 second average delay per vehicle for both the morning and evening peak hours. He explained that it did not substantially change with both the proposed development and with the maximum filed under the development. He said they assumed a land use code of residential condominium/townhouse, because that was the closest they could find to a row house (which typically have a single car garage and fewer occupants in the house) in the trip generation manual. He added single-family had more parking, cars and garages and generated more traffic. He stated that he had tried to maintain a neutral bias about the whole issue.

Craig Zell said he was a certified general appraiser in Oregon and Washington, and specialized in the appraisal of subdivisions, townhouses and condominiums. He stated he was not aware of any study that addressed empirical evidence that there was a diminished value in single-family neighborhoods due to the introduction of apartments, condominiums or townhouses, or higher density properties. He noted that this was planned to be medium-density, which he defined as 12 to 16 units per acre versus 20 to 22 units per acre. He explained that the value was defined by the units themselves and not by density, which was addressed at BDR. He reiterated that he was unaware of any diminished value for the single-family neighborhoods.

Coun. Soth stated they heard, over time, that this (type of development) would diminish the value of adjacent properties, and asked for confirmation that he (Zell) was unaware of any evidence of that condition.

Zell answered that was correct.

Coun. Soth asked Zell if it was his opinion that a good share of concern came because people became anxious and concerned about what might be going in, so they sold as a panic situation.

Zell said that could happen, and recalled an attorney representing the neighborhood, asking him to do a study when the first apartments went in at Murray Hill, but the study was not completed. He referred to the Aspen Crest development as a single-family neighborhood that later had townhouses included, and stated that he did not believe there was any diminished value in the single-family neighborhood. He reiterated that there were many cases where this was evident.

Coun. Soth asked if there was any evidence in Washington County that the County Assessor had reassessed the value of any properties due to developments in or around the area. He added he knew of one undesirable business that went in and neighbors were concerned.

Zell said he did not know of any studies that the County had done regarding value differences when higher densities were introduced into a neighborhood. He said he thought the Planning staff had done some work with the Assessor's Office, and while the assessment person's market value was a different process, he did not feel there had been a significant difference in single-family values.

Weller referred to page six of the Staff Report and reviewed comments (in record). He read from the read from the portion that addressed 3.4.2.8, which was 06 in the Staff Report that evening, in the middle of the page, it said there was no evidence to support the contention that a multi-family attached unit residential development in an R2 zone, was inherently incompatible to a single-family detached residential developments where they share a common property line. He read from other portions of the Report and the Code (in the record), and that staff had found from that, that there was nothing about approval of an R2 zone that would introduce incompatible use on either site. He stated that the Staff Report addressed the blanket zoning issue on page 8; and related that residential policies were not the case with Connor Commons because it was relatively new. He noted the approval of R2 did not presume the whole area would become a multi-family transitional zone. He related there was evidence in the staff report that addressed the specific Comprehensive Plan zone change, and he understood the difficulties of the neighborhood looking at the technical issues. He read a memo from Greg Leion, Senior Planner with Washington County, dated February 6, 2001, which said, "Meadows Drive was designated and became a major collector with a partial interchange on Highway 26, on an old Metro map. However, due to its proximity with Murray Boulevard an existing major arterial with full highway interchange, the fact that Meadow Drive is fully developed residential neighborhood, that designation is no longer proposed by Metro. The County designation for Meadow Drive is a minor collector and there is no plan in place at this time to change that." He mentioned the City Engineering Department reviewed the traffic report and deemed it acceptable to the development. He reported that the staff had reviewed the engineering and traffic report and found it adequate.

Coun. Stanton noted that she read Greg Leion's, November 2, 2001 letter and she had not heard anything about it from the applicant or the neighbors. She noted the recommendation of Leion and read from page 232 (in the record).

Weller stated there was a retraction from John Rosenberger.

Coun. Stanton noted Rosenberger's letter was on page 233 and did not see anything rescinding what Leion said.

Grillo explained that the difficulty in Leion's analysis rested on his sixth item, on the second page, where he made an analysis based on the year 2020, and the County was not using the 2020 analysis. He added this was not what was in their current Transportation Plan, so they could not use any analysis beyond what was currently in their Plan. He stated that got them to a subjective transportation reasoning, which had not been addressed in a public forum.

Coun. Stanton referred to about number five, which said the LOS D and it appeared they were talking D and E.

Pilliod reported it met the County standard.

Coun. Stanton asked why Leion said it should be 36 units.

Grillo stated he did not want to speculate on Leion, but he might have been forecasting a likely outcome.

Coun. Brzezinski referred to a policy (in the record) that said, "Residential opportunities will be increased to take greater advantage of the proximity to urban services, and these efforts must be balanced with the goals of preserving single-family housing stock and the stability of neighborhoods." She asked for a good argument for how she could go forward, balancing what this development wanted to do, with the goal of preserving single-family housing and stability of an existing neighborhood.

Weller pointed out that the two existing homes were considered underdeveloped properties and were intended for redevelopment. He explained that the existing two houses on the lot were not the housing stock that was intended to be preserved. He stated that by developing a site, it did not damage the single-family housing that already existed. He noted that the set back was similar and there was a design process that looked at compatibilities issues. He added they were surrounded by many transit opportunities and the transportation demand issues were to the south, to the arterial, where the majority of the connectivity was.

Coun. Stanton referred to page 49 of the Staff Report, of November 29, 2001. She questioned the pedestrian bicycle path and asked if there was a public pedestrian easement or would they need to find the owner to give or sell to them.

Weller reported the property was a tax lot and that was why the condition was there. He added they had not confirmed the exact status, but it appeared they had a property owner that believed he owned it and they did not have any evidence to refute that at this point. He pointed out that that was a condition that was already in place.

Coun. Stanton asked Mark Pilliod, City Attorney, about this, and stated they had a condition of development in the CPA that was based on assumption that there was a public easement. She asked if that turned out to be a tax lot that was purchased by someone else, what did that do to the condition of the CPA, which she understood they were not talking about that evening. She asked what would happen if the developer could not purchase the property.

Pilliod stated that there was no indication from what he was reading that the City has assured the developer that the City would exercise its eminent domain authority in order to acquire it for the developer. He said other than that it would be left to the private negotiations, or the failure of the condition and they could not proceed.

Kirsten VanLoo, CES/NW Principal Planner, said she had been working on the project for 1.5 years, and they conducted the PC hearing to clarify Coun. Stanton's question. She stated that there were findings that said, "if that was feasible or possible," and in all the meetings and discussions between staff, staff felt that a pedestrian or non-vehicular connection was important if it was feasible. She said she did not mean to disagree with the City Attorney, but she felt sure that the findings in the report gave them an opportunity to not provide that (the pedestrian way) if there was no place to run it. She said they would build a and a pedestrian walkway as far as they could, and when they no longer had legal right or legal authority to continue, they would stop. She felt City Council was very familiar where pedestrian connections extended as far as they could and then stopped until adequate right-of-way or adequate easement were obtained. She added she hoped that would not kill a project.

Coun. Stanton explained that she was reading it as a condition of approval, and there were no parameters on this, such as "if possible" or "if feasible."

Weller noted that there was for the BPA ROW.

Coun. Stanton reiterated that what she was reading was the condition of approval.

A discussion ensued about what was in the findings, etc. and portions of the findings were read and discussed. (in the record).

Coun. Stanton said she could continue this in a separate discussion.

Mayor Drake stated the rebuttal referred to what had already appeared in the report and was in the record, so concluded that there would be no sur-rebuttal.

Lindberg challenged that decision and noted that Zell was introduced, who discussed the values of property.

Mayor Drake pointed out that Zell was introduced at the start of the hearing and Zell was clarifying a statement that was made by one of the neighbors. He stated that he did not conclude that this was new information, and felt Zell was simply repeating what was already concluded in the staff report. He disagreed with Lindberg's challenge and stated the ruling had been made and it would stand.

Charles Nyehart, Beaverton, stated that his (Zell's) rebuttal was to a statement he (Nyehart) made that related to a report which PC had, by Don Morissette for property that was two and half miles away. He stated that he understood this property was located in the Waterhouse area, and said there was a written statement. He reported that Chairman Maks told VanLoo that the statement was there and they gave her many opportunities to bring that up. He said VanLoo had said the statement was not there, but Chairman Maks said it was there and did affect property values.

Mayor Drake stated that Chairman Maks was a good friend, but he was not a property appraiser or an expert in the field, so he concluded that he did not believe that it was new information. He stated it had been adequately covered in the staff report.

Coun. Brzezinski asked staff if there was precedent in the City to have zoning that would allow "x" number of units, but the City had said it could not be developed that high.

Bunnell reported that he could only think of one example over the past 17 years, and that was when it wasn't at the request of the developer that it not be developed that high, but rather that the utilities would not support maximum zoning. He stated that there had never been a cap on zoning density at the request of the developer because that wasn't the product they wanted.

Coun. Brzezinski stated that she did not care what the source of the cap was, she had just noted that Bunnell had said that it would be an administrative hardship to have something like a cap. She wondered if they had borne that hardship in the past, and what did it really mean to be an administrative hardship.

Grillo answered that they had not borne such a hardship in the past because they had not imposed it on themselves. He noted that the issue was if an adjacent property owner or a new resident came to the Community Development Department (CDD) front counter to find out

what was on the adjacent property, and staff took them to the Zoning or Comprehensive Maps to answer questions. He said they do not provide scenario's or caveats, such as "it shows up as R2, but I need more time to go back and check the record to see if the Council capped it or not." He said they did not do that, so they were headed down a path. He said if that was the direction the Council took, than they need to develop the very best administrative process to make sure it happened, but his counsel to the Council was that they should not proceed down that path but that they look at rezonings to see whether they met the criteria and then take the development through the development process to make it the very best they could make it.

Coun. Stanton reported that before zero setbacks and Metro, they had a cap on Carr estates and rezoned it to R5 because with the R5 they would not have to do several variances. She noted the neighbors were concerned about what a future developer might do.

Grillo emphasized he would never recommend that the Council tie a rezone to a particular developer, so they had to decide to be confident with R2, or not. He said if the Council was not confident that the development would come in with the best product for everyone, then they should turn down the zoning.

Coun. Doyle recalled that the applicant indicated that R2 met the needs of the developer and he would presume that they were indicating a development of 45 to 50 units. He added it sounded to him like the recommendation of staff was to go with the R2 because that avoided a CUP and other steps. He asked if he heard this correctly.

Bunnell said it always depends on the question that was asked, and said he could imagine a question being asked of "how can we do attached dwellings without going to the PC for a CUP and PUD." He believed the answer was R2.

Coun. Doyle asked if that was the most expedited way to accomplish a goal.

Bunnell stated that he assumed a question such as that was asked and an answer of that sort was given.

Mayor Drake closed the hearing.

RECESS:

Mayor Drake called a brief recess at 10:05 p.m.

RECONVENED:

The regular meeting was reconvened at 10:19 p.m.

Mayor Drake asked Bunnell if the pre-application notes were in the staff report.

Bunnell answered they were not, but staff had confirmed that the question was asked and the answer was given that to do attached dwellings, the easiest would be an R2 development. He added the other zones required a step at the PC for a CUP or PUD.

Mayor Drake asked if he reopened the Public Hearing this would be public record.

Pilliod said it was evidence that it was not currently in the record so there would be the sur-rebuttal issue.

Mayor Drake asked how to handle this with seven or eight people that testified.

Pilliod suggested asking if anyone wished to make any comments.

Mayor Drake explained that the document was a pre-application form where the applicant would come in and talk with staff about what they wanted to do on the property. He noted that was not required, but they did require applicants meet with the neighborhood before they submitted their application. He asked if anyone wished to comment.

Mayor Drake reopened the hearing.

Coun. Stanton stated she wanted to read the pre-application notes.

Mayor Drake asked Bunnell if they were critical to the record.

Bunnell said he did not think they were, that was why they were not in the record, but they were in the file and public documents.

Mayor Drake closed the hearing again and did not admit the pre-application notes.

Coun. Doyle asked for an explanation of the legality of a cap and said it sounded as if they were capping the units.

Pilliod explained that since the applicant had suggested the cap they could not complain if it was imposed as a condition. He stated that his concern with a cap, was not so much on the practical side of how the staff would maintain an awareness that the cap applied to this property (which he thought was an administrative matter that could be accommodated.) He explained the difficulties with the cap related more towards the Council findings with the justification that the criteria for approval had been satisfied. He pointed out that criteria for approval were not so precise that you could justify a specific number cap. He said that if the Council found that it was compatible if they capped it at 52, but not at 53, he wondered

where the evidence was in the record, to support that distinction. He indicated his concern was how justification was offered for imposing a cap. He added there was plenty of evidence, in the form of testimony, that people recognized some form of development was acceptable and that a certain density was bantered around. He noted that the concern was that the numbers were in the 70's and 80's, and no specific numbers were discussed. He said it was discussed subjectively in terms of compatibility, which may be important, but it was not precise. He said it didn't help arriving at a particular number other than a number offered by the developer to oppose a condition.

Coun. Doyle noted he saw Pilliod's point.

Mayor Drake pointed out the limitations the property had with ROW, access, storm drains, pedestrian paths, etc.

Grillo added public or private streets, water quality, etc., were the limitations.

Mayor Drake commented it was an average amount based from raw land that determined the minimum and maximum. He asked Grillo if that had been figured and was there a number that Council could consider. He asked what number to consider if the Council was inclined to do that.

Grillo explained they typically lose 20 to 30 percent off the top for street ROW, private streets and etc., so 3.5 or 3.56 acres was not the total amount available for the development. He noted if you took a third of the property, you lost about an acre and that was subtracted, which left less than 76 units as a maximum. He said once you subtracted out what was credible according to the Code it would be closer to the low 50's.

Mayor Drake asked Grillo to give Council numbers to work with so they had a realistic figure. He emphasized that the number went with the application and the property, so if a new developer wanted 76 units they would have to go back through the process so the neighbors could argue against it.

Grillo said he was concerned about getting past assumptions versus restrictions.

Mayor Drake noted that there were realistic subtractions from the acres. He asked what the number of units would be to respond to the requirements of the Functional Plan.

Coun. Soth asked Pilliod if they did this, if it was appropriate to support the decision by relying on the previous projections of the applicant as a guide, rather than to specify a specific number.

Pilliod said he would leave the recommendation to staff, and stated if Council wanted to impose a condition then they could impose one, but justification was needed to arrive at that number.

Coun. Soth stated that he was concerned about placing a specific number as a limitation on the development, since they had not done this before and there was an opportunity to put in more units. He said if someone chooses to make the owner 200 percent profit on buying the property, whereas a condition that he was thinking of would not specify a number, so much as specify that the applicant has indicated that the number of units would be significantly less than the maximum allowed. He continued that would give them the flexibility to do the 45 or 50 as well to give the staff direction as to bear with them as they had already indicated in some fashion.

Pilliod said if the Council wanted to make assumptions and opposed a conditioned format with the developer having the opportunity to factor those in and arrive at a number that was not precisely defined that night with the cap, they could do that. He noted that was a possibility in terms of assuming a percentage of space for water quality facilities, ROW's, etc (which were defined in Code), that would then leave it to the developer to draw the lines on the map. He said the numbers could then vary. He commented that ultimately they would find that the number they could arrive at didn't offend the principles of compatibility with the type of development, numbers and the traffic figures.

Mayor Drake noted that there were opportunities for the neighborhood to comment at BDR about buffering, color, height, etc.

Coun. Soth noted they had two opportunities, one at the Facilities Review as well as BDR.

Mayor Drake noted that was correct.

Grillo explained his formula on the board (in the record) and noted that if you assumed the information, (while he was concerned about making this assumption, this was not a bad average). He reported that the average a development site lost was 20 to 25 percent off the top, when streets and ROW's were removed. He said if they accepted that assumption the loss would be a little over an acre, so that becomes the new net. He pointed out what would be the likely maximum that a developer could get on this site. He said if the developer had to produce some water quality facilities and ROW's and miscellaneous tracks (easements), he could only get credit for what was defined in the Code. He said if that was the assumption that they were comfortable with, then 54 is the maximum the developer could probably achieve and he had to hit 80 percent of that. He said that meant that staff would look for a development application taking everything into account. He added it depended on what the product line was, what the developer proposed and what was taken off the top.

Coun. Soth asked if the 30 percent included any deduction for preservation of trees.

Grillo explained that with a significant grove the ultimate decision was to set it aside and that was acreage taken off the top, for purposes of calculating density. He said he wanted to be sure that everyone understood the definition of 80 percent minimum density. He noted every community complied with the requirements to accommodate people moving in. He stated the community went through an analysis, to show how to accommodate the population and employment. He indicated the staff went through a lengthy process and it became public document called a Compliance Report. He noted that as a community they adopted an 80 percent minimum density on the zoning districts. He added they asked for a Waiver of Substantial Compliance on the employment numbers.

Coun. Soth MOVED, SECONDED by Coun. Brzezinski, that Council approve the appeal of APP 2001-0001 and overturn the denial by the Planning Commission.

Coun. Soth said in looking over the PC findings he believed the applicant had fulfilled all conformances with the Comprehensive Plan. He disagreed with finding #1, (page 32 of the record), and felt it did not apply to this issue, since it instead applied to the change of standard density to the Comprehensive Plan to the medium density. He said finding #2 was particularly applicable to a design requirement rather than with the rezone. He stated that finding #3, identified need for a transitional zone, which did not exist, so he thought that was out of line. He noted finding #4 said that the proposed R2 would not fulfill the need for a transition zone, and again noted that there was no where they could find a transition zone. He stated that finding #5 was the dispute or disagreement between what they had heard that the 45 were planned, and 76 would be the maximum. He noted that Grillo had pointed out that the maximum was not taking into consideration any deductions for amenities on sight, such as roads, detention ponds, etc. He added that he thought the PC erred in their findings, and in their summary of findings they again referred to the maximum number of units and the strong impact on the neighborhood, and again the transitional zone. He reiterated that for those reasons he felt the PC erred. He noted that the staff report as well as the arguments in the appeal, in his view, led him to say the appeal of the denial was warranted.

Coun. Stanton said that on the other side, she would give two sections of the Comprehensive Plan, 3.1 in the "Land Uses Overview" and 3.4 "Residential Designations," and read from those sections (in the record). She noted that these applied to findings #2 and #3. She stated that she did not support the motion.

Coun. Stanton reiterated that they were only talking about the rezone, not what happened on the ground. She commented that they all wanted to

depend on the honest word of an honest person, and that worked for her and her neighbor, but not for these situations. She added the R2 zone did not give her a level of assurance.

Coun. Doyle asked the motion maker if he would entertain the notion of capping the number of units on an R2 piece of property. He explained that times were changing and he had not heard a strong objection to the number of 45, which the applicant had brought forward. He noted he had read the testimony twice and listened, and shared Coun. Stanton's concern. He said that had nothing to do with those who were there testifying, but he suggested an idea of a cap was valid and supportable. He stated he was comfortable with that and recalled they had put conditions on other properties. He said he was trying to find a solution, and he understood why this route had been followed. He noted if they could do service to the neighbors and the developers, and it would work for everyone, he would support a motion like that.

Coun. Soth responded that his concern was setting the cap while he recognized the purpose and that the applicant had stated a number which they intended to follow in further development proposals. He stated that he thought they would be setting a dangerous precedent for future applications, so he preferred to set it at an imprecise number that allowed the applicant flexibility. He noted from Grillo's illustration it could be anywhere from 43 to 54 units, depending on the configuration and the plot plan. He said that (if such a change to the motion) was agreeable with the second, and it would get them off dead center.

Coun. Brzezinski (seconder) asked how they would word it, when it was not a precise number.

Coun. Soth explained that he had talked to Pilliod earlier, and they could condition it to the effect that they would rely upon the assurances of the applicant, to develop this property to the numbers which were indicated previously with the staff and the PC. He clarified that this would allow the developer the flexibility within the parameters that Grillo had outlined, but at the same time it would not be fixed at a specific number.

Coun. Brzezinski asked for verification that they understood the City Attorney's comments.

Pilliod explained that the only difficulty that he had with the language was that he had no way of knowing the assurances indicated between the developer and the staff in the past.

Coun. Brzezinski suggested that they could go with what had been said that night.

Pilliod suggested a range using hard numbers.

Coun. Doyle noted from what he read from the PC hearing, if this went back to the PC with a R3.5 with all the things that entailed including a PUD of 45, he felt the PC would pass it. He pointed out that he was trying to figure out a way to spare everyone three more sets of hearings.

Coun. Soth asked if Doyle had a number in mind.

Coun. Doyle said 45.

Mayor Drake agreed setting a number provided much more certainty for all parties and that met Metro's 80 percent minimum.

Coun. Brzezinski pointed out that it showed 47 in one example and 46 in another and she was more comfortable with a number around 50, in case the 30 percent was wrong.

Mayor Drake noted Grillo suggested 30 percent with the roads, paths, water detention and miscellaneous tracks.

Coun. Brzezinski clarified that 50 was a maximum, not a set number to be built.

Coun. Soth suggested 45 to 50 for the range.

Coun. Brzezinski related she agreed with 45.

Coun. Doyle indicated he preferred 45.

Coun. Soth accepted the friendly amendment, with a maximum of 45, with the consent of the second.

Mayor Drake questioned if that included approving the appeal and overturning the denial and making it 45 units.

Coun. Soth and Coun. Brzezinski reiterated that was correct.

Mayor Drake related the motion on the floor was to approve the appeal, overturn the denial and include a maximum number of 45 units on the property.

Mayor Drake stated they were plowing new turf and with Metro's 2040 Concept Plan more land was being filled in, and noted they dealt with a constrained urban form. He said that situations in the future would be providing some type of certainty to both the developer and adjoining property owners as they worked toward achieving the 2040 Concept Plan. He concluded there would continue to be these kinds of challenges, as people who have been left alone in the past felt invaded. He added this was one way to evolve the City processes.

Coun. Soth indicated his preference was single-family detached dwellings, however given the land constraints they were under and with the mandates from Metro, there was redevelopment and infill they needed to work with. He noted that people made attractive offers and because the cost of land today was so great, the smaller lots were needed for development. He noted opportunities for building within the Urban Growth Boundary were tighter and tighter. He added because of financial distress it was not possible to have the streets, sidewalks, etc. in place.

Coun. Brzezinski stated she supported the motion, because as she read it, the primary reason the PC denied it was the possibility of 76 housing units on this land and she felt they all agreed that was too many. She noted that 45 was less than 60 percent of what was possible. She noted she supported keeping the urban growth boundary where it was and doing what they could to fill land in a way that both provided affordable housing, and also did not damage existing neighborhoods. She felt this was a good faith effort to take some land and put a little more than half of what could be put there. She commented that because of the rock and a hard place that they were in, she would not be surprised to see it happen again.

Coun. Doyle expected the Design Review process to be watched closely. He reported it came back through them and felt they were clear on what they had heard that evening.

Coun. Ruby noted he supported the motion as amended because he thought it was a good project and the town-homes as presented were a good transitional vehicle between the existing single-family neighborhood and the multi-family housing. He related his concern was controlling the number of units and by adopting the R2 zoning they required the developer to build more units than he actually wanted to build. He noted that with the amendment, they were engaging in contract zoning and were advised it was not a good direction to go. He said he would have voted against the appeal but given the optimism that this type of particularized zoning approach might work, he was willing to support it.

Question called on the motion. Motion to approve the appeal, overturn the denial and place a maximum of 45 units density on the property. Couns. Brzezinski, Soth, Doyle, Ruby voting AYE. Coun. Stanton voting NAY. The motion CARRIED. (4.1)

ORDINANCES:
Suspend Rules:

Couns. Soth MOVED, SECONDED, by Coun. Stanton, that the rules be suspended, and that the ordinance embodied in AB 01079 be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Brzezinski, Doyle, Ruby, Soth, and Stanton voting AYE, the motion CARRIED unanimously. (5:0)

Pilliod read the following ordinance for the first time by title only:

First Reading:

01079 An Ordinance Amending Ordinance No. 2050, the Development Code, by Amending the Public Notice Procedures for Quasi-Judicial Zone Changes; TA 2000-0010

Pilliod read the following ordinances for the second time by title only:

Second Reading and Passage:

01064 An Ordinance Relating to the Display of Address Numbers on Buildings, Amending Beaverton Code Sections 9.02.010 Through 9.02.040

01065 An Ordinance Relating to Towing Operators, Amending BC 6.06.060, and Repealing BC 6.06.010, BC 6.06.020, BC 6.06.030, BC 6.02.040, BC 6.06.050 and BC 6.06.070

01066 An Ordinance Annexing Two Parcels of Land Lying Generally Outside of the Existing City Limits to the City of Beaverton; ANX 2001-0003 (16880 SW Baseline Road)

01067 An Ordinance Annexing Approximately 0.33 Acres Of Land Lying Generally Outside of the Existing City limits to the City of Beaverton Amending Ordinance No. 1800, The Comprehensive Plan Map and Ordinance 2050, the Zoning Map on Property Consisting of one Parcel With a Single-Family Residence (16045 NW Bronson Road); ANX 2000-0004; CPA 2001-0002/RZ 2001-0002

01068 An Ordinance Annexing Approximately 0.5 Acres Of Land Lying Generally Outside of the Existing City Limits to the City of Beaverton and Amending Ordinance No. 1800, The Comprehensive Plan Map and Ordinance 2050, the Zoning Map on Property Consisting of One Parcel Developed With a Single Family Residence (115 NW 173rd Avenue); ANX 2000-0009; CPA 2001-0001/RZ 2001-0001

Coun. Soth MOVED, SECONDED by Coun. Doyle that the ordinances embodied in Agenda Bills 01064, 01065, 01066, 01067, and 01068 now pass. Roll call vote. Couns. Brzezinski, Ruby, Soth, Stanton, and Doyle voting AYE, the motion CARRIED unanimously. (5:0)

Other Business:

Patrick O'Claire Finance Director asked permission to allow the Mayor to enter into a personal services contract in advance of the formal contract review board ratification. He said this was a personal services contract to have a Geotechnical Geoenvironmental consultant perform peer review of

the Hagen's site. He related this also assisted the staff with consulting and engineering services. He added the Request for Proposal (RFP) was currently out and due back the following Friday. He stated they were requesting that Council give the Mayor the authority to award the contract to the proposal that best met the City's needs and then the City would come back on March 19, 2001, with a ratification agenda bill awarding contract to the selected vendor.

Mayor Drake noted the PC conditioned Polygon Development on the Sexton Crest development. He reported the developer agreed to a third party review of the environmental situation status. He added they worked cooperatively with the Department of Environmental Quality (DEQ) and the developer. He indicated DEQ was in agreement with this process and helped review the three consultants that responded to the RFP. He added they helped the City pick a consultant to do the work and the City oversaw the project, which was paid for by the developers. He stated they were asking to expedite this for a timely process.

Coun. Brzezinski asked if the Council did not usually see RFP's before they went out.

O'Claire answered the Council saw it if it was \$35,000 or more and this was expected to be \$20,000.

Mayor Drake noted that Coun. Soth participated in the meeting the prior week.

Coun. Soth reported this was being requested because some urgency on the part of DEQ through their processes. He said part of it was because if it was done before a certain cut-off date, it was easier for both the DEQ and the City. He explained it all had to do with the designation of various kinds of sites that DEQ and the Environmental Protection Agency (EPA) were interested in.

Mayor Drake noted that the developers wanted to look at this and help facilitate it, to get to some of the answers, and pointed out that both sides were invited in to have a discussion on which way to go. He added that DEQ was on a timeline and it did not benefit the City, the property owner or adjacent property owner, if there was a negative evaluation on the property, when it wasn't warranted.

Coun. Soth MOVED, SECONDED by Coun. Brzezinski, that Council authorize the Mayor to enter into a personal services contract for the consultant as outlined by the Finance Director.

Coun. Brzezinski, Soth, Ruby, Doyle, and Stanton voting AYE, the motion CARRIED unanimously. (5:0)

EXECUTIVE SESSION:

No executive session was necessary.

ADJOURNMENT:

There being no further business to come before the Council at this time,
the meeting was adjourned at 11:26 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this 16th day of July, 2001

Rob Drake, Mayor

