

City of Springfield  
Regular Meeting

MINUTES OF THE SPECIAL REGULAR MEETING OF  
THE SPRINGFIELD CITY COUNCIL HELD  
MONDAY, JANUARY 28, 2008

The City of Springfield Council met in special regular session in the Council Meeting Room, 225 Fifth Street, Springfield, Oregon, on Monday, January 28, 2008 at 7:06 p.m., with Mayor Leiken presiding.

ATTENDANCE

Present were Mayor Leiken and Councilors Lundberg, Wylie, Ballew, Ralston, Woodrow and Pishioneri. Also present were City Manager Gino Grimaldi, Assistant City Manager Jeff Towery, City Attorney Joe Leahy, City Attorney Matt Cox, City Recorder Amy Sowa and members of the staff.

PUBLIC HEARINGS - Please limit comments to 3 minutes. Request to speak cards are available at the City Recorder's. Please present cards to City Recorder. Speakers may not yield their time to others.

1. Appeal of the Planning Commission's Approval of the Marcola Meadows Master Plan Application.

Mayor Leiken introduced the item before Council and the public. He noted that he would be explaining the procedural outline that would be followed for this meeting.

Mayor Leiken opened the public hearing.

Mayor Leiken asked for declaration of ex parte contacts and bias from the Council.

Councilor Wylie said she had received some emails from some of the petitioners.

Mr. Leahy clarified that those were the same emails that were sent from Mr. Shevchynski and had been included in the record. He confirmed that with the City Recorder.

Councilor Pishioneri said he, too, had received those emails. He had no other contact, except saying 'hello' to Mr. Satre at a different function, and this topic didn't come up.

Councilor Woodrow said he also received the emails noted and had deleted them.

Mayor Leiken said he had also received the emails that were now in the record.

Councilor Lundberg said she also received the emails noted. She also received an invitation via voicemail to attend the neighborhood meeting. She returned the call in a voicemail to indicate that she would not be attending.

Councilor Ballew said other than the emails noted, she was periodically close to the site, but had no other contact.

Councilor Ralston said he had received some phone calls from angry and concerned citizens that talked about the development taking seventeen feet and not receiving any notice. They were also confused about applications. He agreed to meet with Nancy Falk on a Sunday. When he arrived, there were other neighbors there, and they pointed out the issue. He discovered that the property owners were not losing property, but that the property to be taken was public right-of-way. There were a lot of things in that public right-of-way that the neighbors had put there at their own cost, such as fences, trees and walls. He heard there was going to be a meeting on January 2 and he indicated he would attend to find out more about the issues. At that meeting, Tom Boyatt, Brian Barnett, and Gary Karp, all City employees, were in attendance. There were twelve concerned citizens with lots of questions. The first concern was about roundabouts, and that roundabouts hadn't been mentioned a year ago. Staff pointed out that a year ago the action was only a zone change. Staff also pointed out that it wasn't the developer that had proposed the roundabout, but the City staff. The citizens said they didn't want to pay for new improvements. Staff indicated the property owners wouldn't lose any of their property, and the applicant or developer would pay for all improvements, including moving walls and fences. Citizens asked about their drainfields and power poles, and how they would be moved and at what cost. It was pointed out that traffic was intense along that area. The citizens were told about a private access road, and were confused about how that would work. The citizens said they should do away with the roundabout idea and make the developer pay to build on their property. Staff pointed out that roundabouts were a safety issue, cost less, were more efficient, kept traffic moving, and actually slowed traffic down. Staff described the access road. The citizens were concerned about buffering, so staff explained how the buffering scheme would work. Staff said the City should be in charge of the design work to make sure the citizens were taken care of, and one of the citizens suggested the City send the bill to the developer. Staff also pointed out that at the time when the actual design level kicked in, that notices would be sent out and the neighbors would have an opportunity to give input. Councilor Ralston said he chose to disclose this information because he felt it was educational to him, but would not influence his decision tonight.

Mr. Leahy said he had provided a copy of Councilor Ralston's notes to Jim Spickerman, the attorney for the applicant. One other copy was available for public review.

Councilor Ralston said he didn't speak during the meeting and left after the meeting without talking to anyone. He did receive a phone call from Ms. Falk that evening.

Mayor Leiken confirmed Councilor Ralston's declaration was that he was not biased.

Mayor Leiken said the next decision before Council was to determine the type of public hearing to be held. He noted that it was his understanding that staff recommended that the Council conduct a de novo public hearing rather than a hearing solely on the Planning Commission record. He asked Mr. Leahy to explain this distinction.

Mr. Leahy said the Mayor and Council was entitled by the Development Code to select the process they believed best suited the issues raised and the breadth of participation they desired. A hearing on the record limited testimony to those people who participated at the Planning Commission hearing. It also limited the testimony that was offered to comments on information already in the record, in other words, no new testimony. This placed an unusual burden on the Council to be able to discern new testimony from testimony already in the record and disallowed the Council from hearing information they may feel was important or helpful to their decision. It also may give rise to concern from citizens who believed they should be entitled to address their

elected representatives on any point they feel relevant to the application. Admission of new testimony could also be used as a challenge during a higher appellate process such as the Land Use Board of Appeals (LUBA) or the Court of Appeals. He explained further.

Mr. Leahy said a de novo hearing allowed anyone with an interest in this hearing to offer testimony and that testimony was not limited to the record, so new testimony was allowed. This type of hearing also removed challenges to participation by any parties to the earlier hearings and anyone who claimed they were prevented from participation and were therefore harmed, either at the Planning Commission hearing or at this hearing before the Council. It was also more consistent with individual citizen's expectations of being able to present their elected representatives with their redress about particular land use items.

Councilor Ballew asked if there were appeals that could be filed following a de novo hearing, or would the appellant need to go to a higher level.

Mr. Leahy said once Council made a decision, whatever that decision was, people that participated in the hearing that were dissatisfied with the decision, could file an appeal with LUBA.

Mayor Leiken asked for a motion regarding the type of public hearing process.

**IT WAS MOVED BY COUNCILOR LUNDBERG WITH A SECOND BY COUNCILOR WOODROW TO CONDUCT THIS APPEALS HEARING AS A DE NOVO HEARING. THE MOTION PASSED WITH A VOTE OF 6 FOR AND 0 AGAINST.**

Mayor Leiken said the next item related to the standing of the appellants. The staff report indicated that appellants Philip M. Newman, Dennis Hunt and Clara Shevchynski did not participate in the hearings at the Planning Commission. Under our rules tonight, these individuals did not have standing to appeal. However, since Council voted to conduct a de novo hearing, these people were all welcome to testify. He said he would entertain a motion, based on the staff report, to determine these appellants had no standing in the appeal before Council.

**IT WAS MOVED BY COUNCILOR LUNDBERG WITH A SECOND BY COUNCILOR WOODROW TO DECLARE THAT BECAUSE APPELLANTS PHILIP M. NEWMAN, DENNIS HUNT AND CLARA SHEVCHYNSKI DID NOT APPEAR AT THE PLANNING COMMISSION HEARING ON THIS MATTER, THEY HAD NO STANDING IN THE APPEAL BEFORE THE COUNCIL. THE MOTION PASSED WITH A VOTE OF 6 FOR AND 0 AGAINST.**

Based on the two motions adopted by Council, Mayor Leiken asked Mr. Leahy to explain if claims to prejudice or limitations on participation had been remedied.

Mr. Leahy said there were no guarantees, however, this de novo hearing allowed any one who was interested in this matter to provide oral or written testimony to the Council on the Planning Commission decision, on any issues raised in this appeal or any other testimony they would like to provide. Mr. Newman, Dennis Hunt and Clara Shevchynski were welcome to testify at this hearing.

Mayor Leiken asked Planning Supervisor Greg Mott, to describe the order of testimony, the applicable criteria and any other information related to the proceedings.

Mr. Mott said because Council was conducting a de novo hearing, that meant anyone who testified tonight could address the criteria of approval for master plan approval. He noted that this criteria was located in the Springfield Development Code, Section 5.12-125. This was the same criteria that the Planning Commission, the applicant and all that testified used to arrive at the decision by the Planning Commission. Anyone who testified tonight could address those criteria, introduce new testimony that they felt applied to the approval of the Master Plan for that site, address specific issues raised with the appeal by the appellants, or could introduce new objections. He noted that the criteria was listed and mounted on the wall behind the Mayor and Council, in view of the public.

Councilor Ballew said she had read staff's response to several of the points that were made in the appeals, and wondered if staff would be responding to some of the points the appellants and others testifying were making.

Mr. Mott said all issues that were raised in the appeals, had a response in the staff report. Staff would not review those. All of the appellants, even those that didn't have standing, received a copy of the same staff report that was provided to the Mayor and Council.

Mr. Leahy said if other points came up that Councilor Ballew believed staff should respond to, she could direct them to do so to the best of their ability.

Mr. Mott noted that along with the procedural items that Council had already voted on, the order of testimony was as follows: Staff presenting staff report; Planning Commission members testify; each appellant (SC Springfield LLC, Donna Lentz, Nick Shevchynski, and Wesley Swanger) testify for ten minutes. It was the Mayor and Council's discretion whether or not they would want to have a question and answer discussion with those that testified.

Mayor Leiken asked Mr. Karp to present the staff report.

City Planner Gary Karp said this was a team effort. He presented the staff report on this item. Seven persons, including the property owner (SC Springfield, LLC) and 6 individuals, had appealed the December 20<sup>th</sup> Planning Commission's approval of the Marcola Meadows Master Plan. As permitted by the Springfield Development Code (SDC), and for ease of review, staff combined all appeals into one staff report.

On June 18, 2007 the City Council, by a vote of 4-2, approved Metro Plan diagram and Zoning Map amendments to allow a mixed use commercial/residential development on the former "Pierce" property on Marcola Road. Mr. Karp referred to the subject property which was displayed on a map on the wall behind the Mayor and Council. He described the location of the property and the development proposal. An approval condition of these applications was the submittal of a Master Plan application to guide the phased development of the property over the next seven years. The applicant could obtain extensions for up to fifteen years. The Master Plan application was a Type III procedure, requiring Planning Commission review. The Master Plan application was submitted on September 28, 2007. The Planning Commission conducted public hearings on this application on November 20, 2007, December 11, 2007; and December 20, 2007. At the conclusion of the December 20<sup>th</sup> hearing, the Planning Commission voted 7-0 to approve

the Master Plan; this action included 53 conditions of approval. That final number of conditions included three that were challenged by SC Springfield LLC and deleted that night and several that were amended by the Planning Commission, including Condition #27, which was at the core of their appeal tonight. On January 4, 2008, seven separate appeals of this decision were submitted to the Development Services Department; six of these appeals were from six individuals and one was from the applicant of the Master Plan, SC Springfield LLC. Appeals of a Type III Planning Commission decision required review by the City Council and that was the reason for tonight's public hearing. He acknowledged the criteria of approval of the Master Plan which were posted on the wall behind the Mayor and Council, but noted that there were no criteria of approval for appeals. The Council should listen to the testimony, deliberate, and then make their decision.

The attached staff report divided the issues raised in these appeals into the following general categories: 1) procedural challenges; and 2) challenges to findings and conditions of approval. Issues raised by the 6 individuals fell largely into this first category and included notice, participation at hearings, etc., but did not raise objections to any of the 53 conditions of approval. Issues raised by the applicant/appellant included: adequacy of findings demonstrating proportionality, imposition of conditions not justified by the criteria of approval, and delegation of decision-making authority to the City Engineer, but raised no challenges to procedure.

Of the numerous issues raised in these appeals, the most significant, if upheld by the Council, was Condition #27, which required the Master Plan to depict an access lane adjoining the residential properties along the south side of Marcola Road and a roundabout at the intersection at Martin Drive and Marcola Road. Mr. Karp noted that the terms 'access lane' and 'frontage road' were the same. Attendant to this requirement was the dedication of sufficient land to accommodate the access lane and roundabout scheduled to occur during the Master Plan's Phase 1 development. The construction of the access lane would occur within existing right-of-way, but to maintain the existing cross-section of Marcola Road, the portion of Marcola Road abutting the development site would need to shift north onto this property. This shift would occur just west of the intersection of 28<sup>th</sup> and Marcola and would transition back into the existing alignment just west of the new roundabout at Martin Drive. The staff's recommendation of this condition was supported by the Planning Commission and was based on: 1) the authority granted by the Springfield Development Code to require such improvements; 2) the proposed development was the only reason improvement to Marcola Road was necessary; 3) the applicant offered no reasonable workable solution to the traffic and safety conflicts along Marcola Road created by the proposed development; 4) access to any point along the development site's frontage with Marcola Road creates traffic safety conflicts with the residential property along the paralleling south frontage of Marcola Road; and 5) the only successful mitigation of the impacts to these nearby properties, whether by using a roundabout or a traditional intersection design, was the inclusion of the access lane. Without all these improvements staff could not support the Master Plan as submitted by SC Springfield, LLC, and the Planning Commission unanimously concurred with this conclusion after evaluating the facts.

Mr. Karp entered into the public record Mr. Shevchynski's emails and a letter from Mr. G.K. Haigler, who was opposed to the roundabout. He also entered into the record a letter received by Mr. Shevchynski showing that there was a neighborhood association in 1975. Mr. Karp believed that was prior to the City's formal process for neighborhood associations in the Municipal Code.

Transportation Manager Tom Boyatt addressed the Mayor and Council regarding transportation issues. He walked through the problems as understood by the transportation division staff and the

specifics of Condition #27, which was appealed by the applicants. Condition #27 proposed an access lane to address safety problems of adjacent access across the street, problems with turning movement and thru-traffic compounded by the dramatic increase in traffic along Marcola Road. The roundabout intersection control at the Martin Drive/Marcola Road intersection was proposed because it would slow traffic in that corridor and address the increased traffic volume. A signalized traffic control could also do the job, but staff felt the stop and go nature at the signal would compound the volume and turning problems. The applicant's submittal ignored the safety capacity problems of the proposed Master Plan. He referred to a map showing the Master Plan submitted and the relationship with Marcola Road. Staff had serious reservations about these problems, and proposed a workable solution to address the safety and capacity. The Planning Commission and, he believed the applicant, agreed with the recommended solution which was provided in Condition #27 and the application was approved.

Mr. Boyatt outlined the traffic problems in this area:

- Increased traffic volumes with the development. It appeared in the traffic analysis that it would be over a one hundred percent increase on background traffic levels in the year 2015. That included traffic counts from the Transportation Impact Analysis (TIA) and from staff traffic counts, with the projected growth rates. They now needed to determine how to keep the roads as safe as possible when the traffic went from 10,000-12,000 average daily trips a day in 2015, to 25,000-30,000 average daily trips a day.
- Two new intersections on Marcola Road which would receive the majority of the traffic. The two intersections as proposed by the applicant were in conflict with many of the existing driveways on Marcola Road. Staff determined this caused a public safety hazard and needed to be addressed. He referred to a map showing the intersections and discussed the traffic queues with traffic signals at each intersection as proposed by the applicant. Staff did their best under the time limits to work towards solution. He referred to the map displayed and in the Council packet showing one rendition of how the roundabout could work. He described how this rendition used the existing curve line rather than shifting everything south. It separated all the movement in and out of the driveways from the volume increases along Marcola Road and the need to access the property to the north, and segregated them to a single point. Staff did hear from neighbors who said they would prefer two entrances, and he noted that the drawing was just conceptual. This design included a frontage lane that separated the driveways from Marcola Road. He explained how that would assist with the traffic queue.

Mr. Boyatt noted that other proposals for different solution could be brought to the Council, or regarding the numbers in the staff report. He wanted to assure the Mayor and Council that the staff believed the nexus to the mitigation in Condition #27 was established by the traffic volumes. The Dolan analysis more than adequately confirmed the proposal by staff. Those were complex calculations and it would be difficult for staff to try to redo that math on the fly. Mr. Boyatt said Gary McKenney, Transportation Planning Engineer, and Brian Barnett, Traffic Engineer, were both in the audience and available to answer any questions.

Councilor Pishioneri asked about trips per day on Gateway Street as a comparison.

Mr. Boyatt said he couldn't recall the numbers on Gateway, but said on 42<sup>nd</sup> Street today, the trip count was about 10,000. Currently, the trip counts on Marcola Road were about 10,000. Harlow Road had a trip count of about 27,000-30,000 a day. He said one of the reasons staff was looking to separate the south side access from the volume moving through was to reduce roadway

friction. If they could get the friction reduced, they felt they could get a lot more capacity out of the three lane cross-section.

Councilor Pishioneri asked if the lots along Marcola Road were about 150 feet wide. Yes.

Mr. Boyatt referred to the map showing this design. After getting some additional information and hearing from the applicant, staff would propose to put only a stop sign from the access to Marcola Road.

Mayor Leiken said there were several Planning Commission members in the audience who wished to speak.

Frank Cross, Chair of the Planning Commission. Mr. Cross thanked staff for their efforts during these past couple of months in preparing the information and resources the Planning Commission needed to make their decision. He felt the decision made was appropriate and benefited Springfield as well as the neighborhoods and applicants. He wanted to let Council know that he was here to answer any questions of the Council regarding the Planning Commission decision.

Mayor Leiken said he would allow other two Planning Commissioners to talk, and then would ask Council if they had questions of them.

Johnny Kirschenmann, Vice Chair of the Planning Commission. Mr. Kirschenmann said as a Planning Commissioner, he took it seriously that he had been asked to look at facts and criteria and make a good decision. He based his decision on three things: 1) what's best for Springfield; 2) the safety of the residents on Marcola Road; and 3) working with the applicant to achieve the goals as smoothly as possible. He thanked the applicant's representative, Rick Satre, for doing a great job of bringing information to the Planning Commission and for all the hours he put in meeting with them. He said the commission members had to base their decision on information. He was concerned about the two roundabouts, but once a compromise was made, he felt good about having just one roundabout. He felt it was a good compromise. He thanked staff for presenting all of their findings and for the time they put into this.

Bill Carpenter, Planning Commission member. Mr. Carpenter said he wanted to make three points, each revolving around traffic and dedicated land for roadway improvements. Each of the concerns, were addressed using good planning techniques. The three points were: 1) traffic misconceptions; 2) traffic future needs; and 3) basic tenant roadway design. He said it was easier and cheaper to build facilities before they were congested, rather than after it was too late. Since Marcola Road was a designated truck route, the traffic congestion now would be much less than it would be when an additional 600 homes and a major retail area was added. The question was what was best for the City of Springfield. This had turned into a case where the applicant wanted too much tax support and the neighbors wanted too much right-of-way, which had already been purchased by the City for future improvements. Those residents were not paying any taxes on that right-of-way, but were claiming ownership rights. The Planning Commission balanced those needs and noted that the roundabout improvement would take the least amount of land from all parties. The problem was that the neighbors had come to believe that the available right-of-way was their land rather than the City's. Unfortunately, that was not accurate. The whole issue was partially complicated by the demand for a roundabout at a major intersection out of the development. A few years ago, this Council reversed a Planning Commission decision on an earlier development for another home improvement store at that site. His recommendation was to

only follow that path again if the applicant failed to provide the Dolan documented land for its required large development in north Springfield. Unfortunately, if this developer was unwilling to look into the future, which would be a win-win for everyone, then he believed the Council should begrudgingly follow staff's request and deny the appeal. Council had the opportunity to make a legacy decision that would reflect good planning or to make the transportation decision that would continue to hobble the City's transportation system without forward-looking ideas. He said he was available to answer any questions. He felt the safety considerations, as well as air pollution concerns, should have the Council leaning towards the required major roundabout.

Mayor Leiken asked if Council members had any question of the Planning Commissioners. There were none.

Mayor Leiken asked the representative(s) of SC Springfield, LCC to come forward for their testimony. He reminded them that they had ten minutes for their presentation. He noted that he would stick to the ten minutes for each appellant in the interest of time.

Rick Satre, President of Satre Associates, 101 East Broadway, Suite 480, Eugene, OR. Mr. Satre spoke on behalf of SC Springfield, LCC. He distributed a packet to the Mayor and Council for reference as he spoke. He also referred to a couple of display boards. He said the display boards and the pages in the packets matched. Mr. Satre said most people in this room would be thrilled if the Master Plan process could be completed for Marcola Meadows. In that regard, he said he would try to keep it simple because he believed there was a simple solution. He referred to sheet 1 in the packet he had distributed, and said it was the vision of what the applicant intended to do to provide for the entire community of Springfield. The applicant was ready to fully fund and construct what was shown on page 1 in that packet. He said this was all about traffic and Marcola Road. He referred to sheet 2a in the packet and said it was a reminder that Martin Drive was in the 2002 TransPlan for the community as a proposed collector. They had planned all along to locate that collector in support and concert with the adopted TransPlan for the community. He referred to sheet 2b, and noted that it was a reminder that the collector in the location shown in the Master Plan was in the conceptual 2005 road network for the City. He referred to sheet 2c, and said it was a reminder that in 2006 the City of Springfield retained a consultant for a peer review of the initial Master Plan and the City's consultant recommended Martin Drive be located where it was located in the Master Plan. He referred to sheet 3a, and said it showed what was submitted in their September 28, 2007 Master Plan. Staff had shared with Council other images that showed crosswalks at the proposed intersections that bisected some of the existing driveways. Looking at what the applicant submitted in September, the applicant had proposed modifications to the crosswalk alignment so that none of the driveways would be bisected by a crosswalk. Two of the four driveways highlighted on sheet 5a would then be inside the signal and have their own green phase in the signal control. He noted that sheets 3b and 3c were documentation that had been included in the September 28, 2007 Master Plan application. He referred to sheet 4, a copy of the approved Condition #27 that the applicant had appealed. Staff had said, with respect to the approved condition on sheet 4, that at the Planning Commission session on December 20, 2007, there was, during Planning Commission deliberations, conversation and a verbal understanding between staff and the applicant regarding the physical parameters or the interpretation of the narrative format on Condition #27. It was true that the applicant was in agreement with that, but that same night the design on 5a was shared with the applicant. When that was shared by staff, the applicant realized that what some of them were thinking regarding what the narrative meant was not the same as everyone else in the audience was thinking. When this design (sheet 5a) was shared with the Planning Commission and the

audience, the applicant knew they would need to appeal, as there was a great difference in the interpretation. He referred to sheet 5b and said the applicant had just received that today. Sheet 5b showed two acres of land being used north of the existing right-of-way. He referred to sheets 7a and 7b. These were new drawings presented on the record for the first time. Staff hadn't had time to review them. He said they were not proposed design solutions, and were not engineered solutions, but were two drawings that showed the applicant's interpretation of how all three voices could be accommodated. The neighbors had asked to remain harmless, or whole. The applicant's proposal was that nothing happened south of the existing curb line. Sheet 5a showed from a capacity functionality perspective, the proposed intersection worked without signals. This would discount the need for a roundabout. Staff had also said, and the applicant agreed, that there were legitimate challenges with respect to impacts on the residential driveways that existed today on the south side. The applicant was proposing to dedicate, at no cost to City, whatever right-of-way was required north of the existing right-of-way, up to a total of thirty feet to accommodate whatever improvements were needed (as shown in sheets 7a and 7b). The applicant was willing to dedicate the right-of-way and construct the improvements in sheet 7a, whether they be signalized T-intersections or raised medians. The applicant was proposing, by holding the neighbors whole, by accommodating staff's legitimate safety concern regarding driveway impacts, that within those thirty feet to dedicate and construct a second west bound lane on Marcola Road. By constructing a second west bound lane, it allowed enough turning movement so that someone leaving a driveway could pull into one of the two new turn lanes and would have enough turning movement to be able to make a u-turn. One of staff's concerns was out of direction travel if there was some limitation if some of those driveways could only turn right. That was one proposal that worked and addressed the neighbor's concerns, staff's safety concerns on the driveways and the applicant's concerns of not wanting to utilize more than the thirty feet. The applicant had originally proposed a thirty-foot setback before the commercial pads were there. He referred to 7b, an illustration that showed the parameters within the proposed alternative Condition #27 language that the applicant had appealed. This showed the same concept as 7a, but showed an elliptabout (elliptical roundabout). The applicant was prepared to dedicate the right-of-way should the Council wish to see a roundabout at Martin, and pay for all the costs associated with that roundabout. He said they would save their legal argument with respect to the frontage road, until their rebuttal. He said they felt the requirement for the applicant to construct the frontage road was disproportionate to the impact because there were lesser impact solutions to address that driveway issue.

Councilor Ralston asked if the proposed design in sheet 7b held property owners harmless.

Mr. Satre said yes, other than the gray shaded section where the roundabout was constructed. There would be some change, but no impact south of today's sidewalk.

Councilor Ballew said she was still concerned about the safety of people trying to get out of their driveways onto Marcola Road without a frontage road. She asked how that was solved with the design on sheet 7b.

Mr. Satre said there were dueling traffic analyses. The applicant disagreed with staff's assertion that there was 158 percent increase expected. The applicant's analysis was noted in sheet 5c. The applicant's analysis showed a thirty-six to seventy-two percent increase in traffic (depending on which section of road was considered) in 2015, not 158 percent. He referred to sheet 7b and spoke about Martin Drive and the roundabout. The sections in blue were the driveways that would be affected by the construction of the elliptabout. Those driveways would allow eastbound

vehicles to enter those driveways through the roundabout because of the lower speeds. They would be allowed to exit in a right turn. Because the roundabout was right there, they would need to go through the roundabout to go west. He discussed the driveways that were impacted by a left turn lane entering into the private/commercial driveway, the eastern most of the intersections. He said the section in red was the 2015 queue, which meant that in the p.m. peak in 2015, there would be a certain number of vehicles waiting there to turn. The purple driveway on this drawing would have its own signal and green phase in that signal. The three blue driveways, depending on traffic, could slip into that left turn lane. Because there was an additional westbound lane, they could do a U-turn to head west. There was no issue with them heading east.

Councilor Ralston asked if there would be a raised median in that road.

Mr. Satre said there would be at the left turn pockets. There was still a center refuge lane where there was not a left turn pocket.

Donna Lentz, 1544 E Street, Springfield, OR. Ms. Lentz said during the Mayor's State of the City address on January 9, the Mayor spoke about reusing existing structure to minimize our environmental imprint. She said she agreed. Using land in moderation as needed to accommodate residential and commercial use over the next twenty years as to hold the urban growth boundary (UGB) from having to be moved out, was wise and best for the community. Jerry's, Wilco, TruValue, and Walmart suited the needs of our community. If there was an issue of Jerry's not having enough parking and always being full, she could understand having another home improvement store in our community, but that was not the case. Jerry's was locally owned and operated. She said she had homes on her street that had been on the market for over a year, so there was no need to construct additional residential. The old Waremart building had been empty for over ten years, so she agreed with using existing structures that could be filled before we built something this immense. The City already had an urban renewal project underway, and she was concerned this would derail that and shift the City's interest from downtown to something else. She was concerned that with a potential recession coming, that could be ignored. Thinking of the future of the community, it was important to think about how we used our land, why we needed to use it, when and how. That was a forefront for our citizens and our Council. She thanked the Mayor and Council for their time.

Nick Shevchynski, 2347 Marcola Road, Springfield, OR. Mr. Shevchynski thanked Karen LaFleur, Planning Program Technician, for her assistance in helping Mr. Shevchynski and Mr. Swanger go through the files. She did an impressive job of organization. He referred to the emails that he had sent out to many individuals, including the Mayor and Council. Because Councilor Woodrow had deleted those, he asked the City Recorder to provide Councilor Woodrow with those emails. He was disturbed that he was asked for \$11,000 to pay an appeal fee in order to present this. He felt it was to keep people from having standing to appeal. There were other ways to get judicial review. He said he had talked to the neighbors on the west and north side, and they all were aware of what was going to happen and said they hated it. One neighbor said she was going to move. He referred to Mr. Carpenter's comment that the neighbors felt the dedicated land was theirs, and said he didn't think that was true. The neighbors felt that just because it was dedicated land, it didn't need to be misused, done haphazardly, without input or thought. The power poles used to be on the north side and Springfield Utility Board (SUB) moved them to the south side. Mr. Swanger went over to SUB to ask about the poles and he said they were astounded and weren't aware of this project. They told Mr. Swanger that to move the poles would be very expensive, but the City could make them move them. He said there was discussion about

who would pay for what. One of the explanations presented by the staff was that the sidewalks would be poured around the power poles. Pouring concrete around the poles decreased the life of the pole by fifty percent. Those were the kind of concerns the neighbors had, not that the right-of-way was their land. They wanted to find out what was going to happen to those seventeen feet of right-of-way, how the underground utilities would be addressed and other unanswered questions. The neighbors didn't want it approved and decisions made later. He asked if the Mayor and Council had any questions. There were none.

Wes Swanger, 2415 Marcola Road, Springfield, OR. Mr. Swanger said he wished he had been given access to the proposals and could give his view as a neighbor on the south side. The packet that was sent to him had the proposed roundabout. He could be in favor of a roundabout and could see its merits, but was concerned that his only access onto Marcola Road with one of the drawings was only one little window between Martin Drive and Lowe's driveway. Nothing was to say that traffic was going to back up and impede him from turning onto Marcola Road. The patrons that used Lowe's would have access to a stop light to access Marcola Road. He thought the neighbors on the south side should have that same opportunity.

Mayor Leiken asked if there were any questions for Mr. Swanger. There were none.

Mayor Leiken said the testimony would be open to the public at large. Each speaker would be allowed three minutes to speak.

Nancy Falk, 2567 Marcola Road, Springfield, OR. Ms. Falk said she disagreed with Mr. Carpenter. She had owned their property since 1957, and some of their other neighbors had been there even longer. In 1954, this was developed as a subdivision, the North View Subdivision. She said they resented that from the first their homes didn't exist on maps and pictures. They were now considered a non-conforming existence. She said they had a five-foot easement off of their properties and they paid, by the foot across the front footage of their properties, for those improvements (curbs, sidewalks, drainage, etc.). The power poles were just recently redone and she felt it was ludicrous to think about ripping that out and moving the lines over for the benefit of this development. She said the developer wasn't willing to give up any room in their 103+ acres for these improvements. The easement was being used. She said staff had told the property owners that the traffic wouldn't go beyond their property lines. The easement was being used. She said they had been promised it would not go in that area. She discussed the seventeen feet.

Mr. Leahy asked if Ms. Falk had any written testimony she would like to submit.

Mayor Leiken said it would need to be submitted tonight if she had it available.

Ms. Falk said she could get it ready later tonight.

Sean Morrison, 1515 SE Water Avenue, Portland, OR. Mr. Morrison said he was a registered traffic engineer in the State of Oregon and worked for Group Mackenzie. He submitted a letter from Traffic Engineer Chris Clemow into the record. He summarized the letter. Based on the testimony already in the record, the City of Springfield code requirements stated that the capacity performance standards were met with the installation of a traffic signal. Staff had not provided information that a signal was not safe, just information that roundabouts were safe. The goal of the City was to create the most efficient system possible, while minimizing impacts. Materials submitted into the record clearly indicated that roundabouts had a greater property impact than

signals. Regardless of proportionality, it was not appropriate to create unnecessary property impacts when a more property efficient solution was available, while still meeting City standards for performance and approval criteria.

Darlene Hrouda, 2595 Marcola Road, Springfield, OR. Ms. Hrouda referred to the question about traffic numbers on Gateway, but said that wasn't relevant because there were no residential homes bordering Gateway. She asked if that was the amount of traffic that would be anticipated on Marcola Road and felt it was an amazing amount of traffic for a residential area. She felt that a single access for a frontage road would be an unfair burden for the house that would have all of the roads access in front of it. Two frontage road accesses would make more sense. She addressed the discussion that the City believed the property owners on the south side felt the right-of-way was theirs. She said they knew that property was not theirs, but they had paid for improvements on that property. The owners had been maintaining the public right-of-way over the years in a very nice way. The least impact on the south side, the better. The residents that had been there a very long time deserved to have everything on the developer's side of the road.

Gail Wagenblast, 2457 Otto Street, Springfield, OR. She said she had a lot of concerns about this development. There were a lot of houses for sale in Springfield that were not selling, and people were struggling to sell them. Putting in another 500 houses in row houses without any land and nowhere for kids to play didn't make any sense. She discussed the amount of traffic. She said if the projection was that the traffic would be as busy as Harlow Road, that was very busy and a lot of traffic to put into a two-lane road. The staff's expectation of 150 times more traffic was much more realistic than Mr. Satre's estimate of thirty-six to seventy-two because of the number of houses being proposed, plus the businesses. She felt it would be difficult for the neighbors living on Marcola Road to get in and out of their driveway, and she felt that was a legitimate concern.

Mayor Leiken asked if staff had additional comments.

Mr. Boyatt said he wanted to reinforce for Council that the photos shown by the developer were interesting, but staff and Council had just seen them for the first time. Staff would not be able to recommend on way or another without further review.

Mayor Leiken asked that if any of the appellants would like to provide rebuttal, they come forward.

Mr. Satre, representing SC Springfield, LLC, spoke first. He said as noted in their previous testimony, the photos presented did not show a design proposal, but was an illustration of suggested Condition #27 language that was included in the agenda packet. Specifically, in the handout tonight, Item #6 was their suggested language. In their conversations and negotiations with staff in November and December, they all agreed that a design process would take more time and they still agreed with that. They would use the appropriate channels through an engineered process with the City staff. What they had before Council this evening, was revised Condition #27 language, which the applicant believed put appropriate parameters on the condition. He believed they had adequately demonstrated this evening that, with respect to standard, that a signalized intersection met capacity standards, and that additional right-of-way dedication and additional public improvement on the north side of Marcola Road along with left turn pockets and adequate U-turn movement, more than met the applicant's responsibility with respect to addressing the development's impact. He noted the illustration presented by staff tonight showed removing 1700 feet of existing arterial and reconstructing 20 feet by 1700 feet of

a local street and another 70 feet by 1700 feet of public improvement. That did not seem like a practical solution and was not proportionate to the impact by the proposed development.

Ms. Lentz said this was a wonderful project, but didn't suit the City's needs at this time. The property was a wonderful opportunity for many uses, such as McKenzie Willamette. She noted that there was no park on that side of Springfield. The neighbors had no sport or recreational use there. The project didn't suit Springfield's needs at this time. There were a number of other uses for that property.

Mr. Shevchynski said there was a lot of paperwork generated regarding this project and the applicant had spent a lot of money on this project. He suggested everyone (the City, the neighbors and the applicant) get together to find out if there was any common ground to try to solve some of the issues. He noted that there was a water main that ran under the north lane of Marcola Road and has broken several times. If a roundabout was put in, it would be very expensive to dig that up to repair it. He explained the problem in the lines. There were a lot of things yet to be discussed and questions answered.

Mr. Swanger chose not to speak on rebuttal.

Mayor Leiken closed the public hearing.

Mayor Leiken reminded Council and the audience that this was an appeal hearing on the decision by the Planning Commission.

Councilor Lundberg said she had served on the Council for many years, and during that time there were decisions that were hard to reach and Council members didn't always agree. She said they were usually given enough time to make those decisions they could all live with and was the best decision on behalf of the community. She noted the appeals, not only from the applicant, but also from the neighbors. She would like additional time to consider this issue. Staff needed additional time to look at the new information supplied by the applicant and the neighbors. She would like to give staff the time needed to review this new information. The additional time needed for staff to review this and provide information back to Council would be about 45 – 60 days. She would like the additional time, but if the time was not extended, each of the Councilors was prepared to make a decision on the information as presented.

Mayor Leiken noted that with the timeline of 120 days, Council needed to make a decision tonight. It would be up to the applicant to allow that additional time.

Mr. Leahy said no one had offered to extend the timeline. In the absence of additional time, Council needed to make a decision based on the record.

Mr. Satre asked if Councilor Lundberg's request was directed at anyone or just a concern she was expressing to her fellow Councilors.

Councilor Lundberg said the Council was under a deadline and needed to make a decision unless allowed additional time. She was asking counsel who could grant that extension.

Mr. Leahy said the applicant was the only one that could grant an extension beyond the 120 days. Other people opposed had no basis to request that extension. His recommendation to Council was

to make a decision based upon the record. Council could not make a decision based on whether or not the applicant granted the extension. On January 8, 2008, Mr. Leahy had asked, through the applicant's attorney, to give Council a two-week extension to review the information. As of tonight, he had not received a response to that letter. Also through the attorney, Mr. Leahy had expressed concern that if a lot of new information was received tonight that had not been reviewed by the City's transportation staff, staff would need 45 to 60 days to review. His recommendation to Council was to make a decision based on the record.

Councilor Wylie asked about the new material presented by the applicant. She asked what would happen to their proposal if the Council affirmed what was already voted on.

Mr. Leahy said a number of things could happen. If the City Council affirmed the Planning Commission's recommendation, that decision would be potentially appealable to LUBA, by neighbors, others testifying, or the applicant. The developer's proposal to Council would not be what the Council approved, but rather what the Planning Commission proposed with or without clarification. There could be further discussion with the staff and applicant regarding Marcola Road. The City Manager had made it clear that if further discussions took place between the staff and the applicants, that he wanted the neighbors involved. Staff agreed. Council had a record before them based on information, they had a deadline, and his recommendation was to make a decision.

Mr. Satre said he took Mr. Leahy's recommendation to Council very seriously about making their decision based on the record. He said he did not feel they (the applicant) had submitted new technical information, but had shared a couple of illustrations that clarified their proposed modified condition language. The applicant was not proposing to shortcut the due process with staff on a technical level. The applicant and staff had been in agreement all along that the public improvements would be done through the public process. The applicant was seeking modified, or clarified, language for Condition #27 with realistic parameters. In that regard, because they didn't feel there was any new technical information, the applicant was prepared to grant two weeks extension, or until their next regularly scheduled meeting.

Mayor Leiken asked for a five minute recess for the City Attorney, City Manager and staff to discuss this further.

Council recessed at 8:39 p.m.

Council reconvened at 8:50 p.m.

Mayor Leiken asked Mr. Leahy to share the information from the break.

Mr. Leahy said staff spoke with Mr. Boyatt and other staff. If the offer of the applicant for two weeks was for the Council to deliberate about the evidence in the record tonight, then that was up to Council to decide. The other option would be for Council to make their decision tonight. If the offer from the applicant was conditioned upon during that two week period the Transportation staff would review the information submitted tonight in the context of the testimony submitted by the applicant, consider the testimony of the neighbors, and work in some manner to do a transportation review from that information, work with the neighbors and applicant to come up with a solution that might be a variance with what the applicant proposed or the City proposed in the staff report, that would not be able to happen in two weeks. The Transportation staff needed

45 to 60 days to do that in a manner which provided sound analysis of the transportation, the safety impacts, and considering the needs of the applicant and the needs of the neighbors. Mr. Boyatt had asked Mr. Leahy to convey that whatever decision Council made, the Transportation staff would continue to work with the applicant to meet the needs of the neighbors, meet the needs of the community and to work with the applicant to the extent possible to minimize the impact of the transportation planning on the proposal. Two weeks was not enough time for the staff to do the kinds of things they would like to do in light of the transportation information presented tonight.

Mayor Leiken asked Mr. Satre if they had anything further to add.

Mr. Satre said regardless of what happened with the Master Plan decision, one of the next steps in this process would be a very thorough and appropriate public improvement planning process with the applicant and staff working together. That did take time and was a two-way conversation, with the neighbors included. They believed that what they were asking was for Council to consider revised language, not a design solution. The applicant would be thrilled if this Master Plan process could be concluded this evening. The applicant's wish was that Council could either make a decision to stay with Condition #27 as the Planning Commission approved, go with the applicant's proposal or some modification of their proposal. The applicant had said they were willing to do a roundabout, or elliptabout. If the Council needed thirty days, the applicant could make that work. They had lost three weeks because staff had been counseled not to speak to the applicant about this once the appeal was filed. They didn't feel it was fair to be penalized for that, but felt that thirty days would work. The applicant would be ready at a moment's notice to meet with staff to talk about realistic solutions.

Mayor Leiken asked that a motion be made.

**IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR PISHIONERI TO DENY ALL THE APPEALS BEFORE COUNCIL AND UPHOLD THE PLANNING COMMISSION'S DECISION AS CLARIFIED IN THE STAFF REPORT WITH REGARD TO CONDITION #27 BASED ON THE COMMISSION'S FINDINGS AND CONCLUSIONS AND THE EVIDENCE IN THE RECORD AND BECAUSE NOTHING PRESENTED AS TESTIMONY THIS EVENING PRESENTS A COMPELLING REASON TO DO OTHERWISE. (See vote below)**

Councilor Pishioneri said it was unfortunate that these options couldn't be given more consideration if the time was available. Based on the information before him, he had to agree with the expertise of the Planning Commission.

Councilor Woodrow said he made the motion based on the fact that it provided the greatest flexibility for the residents on the south side of Marcola Road, even with a roundabout. It did provide the safety for the residents on that side as well as providing access to both Martin Lane and the development and neighbors. He agreed with Councilor Pishioneri that it was a shame it couldn't be worked out, but Council needed to make a decision tonight.

Councilor Lundberg said she voted no on the zoning change, and had not changed her mind. She was disappointed on where we were, but didn't want to support the proposal. She wanted to be proud of the decisions the Council made for the City. She was sorry the property did not develop earlier. She would be as helpful and supportive as she could as far as the development progressed

from here, but she would not support it tonight. She said it was impactful in the wrong ways. She was concerned about how the development would develop out and that there might be a store and nothing else for quite awhile. The traffic had a myriad of issues, and although she felt a solution could be found, she hadn't seen anything she was happy with so far. She was not going to support this application for those reasons.

Councilor Ballew said she would support the Planning Commission findings. She had great confidence that the applicant and the staff would work together in a very sincere and professional manner to come up with a solution that everyone could live with. She hoped to see that in the future.

Councilor Ralston said he didn't support this in the first place, but that would not hinder his opinion tonight. Having been a Planning Commissioner, he valued the work done by the Planning Commission and he tried not to overrule their decisions. He hoped they continued to take their jobs seriously because these were important issues. His three main concerns were safety, traffic flow, and holding the neighbors harmless. He said he was intrigued by an ellipitabout, and felt the roundabout was the right solution. He hoped it would be possible for staff and the applicant to agree on the alternative interpretation of Condition #27 and work with the new ideas that were brought forward tonight. He would like to think that all parties could be satisfied. Council was dealt with the situation now, and he was prepared to make the decision based on the facts.

Councilor Wylie said she supported the Planning Commission and their work. She supported some of the things brought by the applicant, such as holding the neighbors harmless. She was hoping that the staff and applicant could work together to find solutions. She believed that Springfield did need the housing stock and the additional retail. The City needed more jobs and more housing. If we had more housing stock, perhaps the cost of housing would go down. She was supportive of this project.

Mayor Leiken addressed Ms. Lentz concerns. He said Council's decision tonight was on the appeal. The reason why Springfield had success, was that the Council's role as an elected body and policy makers, was to facilitate, not make decisions on what a property owner did or did not do with their property. The decision was made to move forward to rezone. He noted, based on his own experience as the Executive Director of a local economic development corporation, the difficulties in getting developers interested in this property. He appreciated Ms. Lentz's comments. The Council had an ongoing goal to use and reuse before expanding the UGB. He said he had spent a lot of time professionally, investing and reinvesting and writing a pollution prevention text for the State. He thanked her and noted her passion on this subject. He said it made an impression on him that the Planning Commissioner voted 7 to 0 on this, including two commissioners that rarely agreed on issues. That sent a strong message to him. If he were asked to break a tie, he would vote to uphold the Planning Commission decision. He was not opposed to what the applicant was looking at and felt that what they were doing was suitable. From the market standpoint, we were teetering towards a recession, but that market would come back. He thanked all who took time out of their evening and testified tonight.

Mayor Leiken called for the vote.

**THE MOTION PRESENTED PASSED WITH A VOTE OF 5 FOR AND 1 AGAINST (Lundberg).**

Mayor Leiken said this concluded the hearing. He thanked the applicant and all who testified.

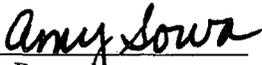
ADJOURNMENT

The meeting was adjourned at 9:06 p.m.

Minutes Recorder Amy Sowa

  
Sidney W. Leiken  
Mayor

Attest:

  
City Recorder