

MINUTES OF PLANNING COMMISSION MEETING – February 18, 2014

Call to Order at 7:00 p.m.

Roll Call: The following Planning Commission members answered the roll call: Chair Tamara Stempel, Kevin Johnson, Kim Sieckmann, and Kirk Stempel. Craig Seghers arrived after the Comprehensive Plan and Zone Change hearing.

Absent: Michele Kremers, Pat McMahon, Craig Seghers (arrived for item #3)

Staff: Clay Glasgow, City Planner; Shane Abma, City Attorney; Jolene Morishita, Assistant City Administrator; and Scott Tabor, Director of Public Works.

Chair Tamara Stempel lead the flag salute.

Consent Agenda:

1. Minutes of January 21, 2014 Meeting

Commissioner Kim Sieckmann moved and Commissioner Kevin Johnson seconded a motion to approve the consent agenda consisting of the minutes of January 21, 2014 as presented.

Motion carried unanimously.

Regular Agenda:

2. Public Hearing – Z0017-14-CP/Z0018-14-Z, Comprehensive Plan Amendment from Single Family Residential to Open Space and Zone Change from Single Family Residential R-7.2, to Open Space, OS. The subject property is at 18711 SE Valley View Road, owned and operated by Oak Lodge Water District. Reason for request is for Future use of a portion of the property for an off-leash dog park. Chair Stempel opened the public hearing at 7:04 p.m. She explained the hearing format and asked if there were any ex-parte contacts, bias or conflicts of interest to declare.

Commissioners were asked if they visited the site; all of the commissioners have visited the site. Commissioner Kim Sieckmann noted this issue has been in the public for some time now. He has attended most of the City Council meetings where there has been significant testimony and discussion. He had conversations with staff, which is the applicant on this issue. He had many questions from local residents most looking for information. There have been ex-parte contacts but nothing that would interfere with his ability to hear this issue. He did review a previous plot map of the cell towers area.

Commissioner Kevin Johnson reported he also attended Council meetings when this issue was being discussed. He had contact with various citizens in the city, a meeting with Dan Bradley who is the General Manager of the Oak Lodge Water District and has a copy of the IGA between Oak Lodge Water District and the City of Gladstone. He does not feel any of these contacts will impair his ability to hear this issue.

Commissioner Kirk Stempel reported contact with the public. He too has been to Council meetings when this issue was discussed. He feels he can vote on this issue without bias. Chair Tamara Stempel reported she has attended City Council meetings when this issue was discussed. This has been a topic within the community but she has not had any lengthy conversations with anyone. People have asked questions, but she didn't know very much about it and didn't realize the Planning Commission would be hearing this issue until recently. In the past three or four days she has been searching on the internet to see what other communities have done with their dog parks.

Chair Tamara Stempel asked the audience if there were any objections to the Council's jurisdiction to consider this matter. There was no response. She asked if they wished to make a challenge of any council member's impartiality or ability to participate. There was no response.

Staff Report: City Planner Glasgow reported the Planning Commission will hear at least one public hearing on this issue. They are not the decision-making body in this case. Their charge is to take public testimony, discuss that testimony and the relevant criteria, and arrive at a recommendation to forward on to City Council. City Council will then hold at least one public hearing and they will render a decision. The Planning Commission recommendation will become a piece of the evidence they consider when coming to a decision.

The area shown on the notice sent out is much larger than it is proposed to be; it is much smaller than indicated. This is a proposal for a Comprehensive Plan map change and a Zone Map change. Currently the subject site is planned residential and zoned R-7.2. The proposal is to change the plan designation and zoning to open space. The issue tonight is not specifically the dog park use; if approved by Council ultimately, any use that is allowed within an open space plan and zone designation could potentially go in there. Open space is generally to provide for public recreational uses.

The existing facility is a conforming use within the underlying residential zone. The City cannot create a non-conforming use. If any of the property being used by the Water District gets into this open space it would become non-conforming. Through this process it will be important to nail down the size of the piece of the property that is being considered.

The burden of proof is relatively high. Gladstone was planned and zoned back in the late 70's. Generally it is about the same as it was planned originally. The subject property is over 7 acres in size with cell towers and water district facilities. City Planner Glasgow reviewed the relevant criteria from the Comprehensive Plan and Zone Change:

1. Needs to be shown the granting ...fulfills a public need
2. Public need is best carried out by granting the petition of the proposed action and that need is best served by granting the petition at this time
3. Proposed action is consistent with Metro's Functional Plan (13 Chapters)

4. Proof of significant change in neighborhood or community or mistake in the planning or zoning for the property under consideration
5. Property in affected areas presently provided with or concurrent with the development can be provided with adequate public facilities including but not limited to transportation systems
6. State-wide planning goals

City Planner Glasgow stated he feels he has a conflict of interest in this issue. He has a definite opinion in this case and he is representing the applicant, writing the staff report and recommendation. It puts him in an odd position. He left this report with no recommendation so it would not appear there would be conflict.

City Planner Glasgow pointed out the issue tonight is not to discuss the dog park specifically; the discussion should generally be on the Comprehensive Plan and zone change which if approved could potentially provide for an off-leash dog park as well as other uses allowed in an open space zone (such as parks). The Planning Commission is not making a decision tonight. They will open the public hearing, close the public hearing and make a recommendation to be forwarded to City Council. Council is actually the decision-making body and the hearing for that is currently scheduled for March 11, 2014, unless changed tonight.

Questions from the Commission:

- Commissioner Sieckmann noted there was no application in the packet. Answer: City Planner Glasgow stated that because of the snow he was unable to get everything into the packet. He has it with him tonight if the Commissioners want to go over that tonight.
- Commissioner Sieckmann asked who filled out and signed the application. Answer: City Planner Glasgow said he did.
- Commissioner Sieckmann asked if he had questions of the applicant or staff, who will answer those questions. Answer: City Planner Glasgow said he would take those questions.
- Can the zoning be changed on a portion of a parcel of land? Is there an example elsewhere in Gladstone where this happened? Answer: City Planner Glasgow said yes; you can plan and zone differently a portion of a property. He gave an example of property that was partially zoned R-5 and partially zoned R-7. When the original zoning was set up, the attempt was to follow property boundaries; however, property boundaries tend to follow physical features and common sense.
- The property is owned by Oak Lodge Water District, not the City of Gladstone. Is it normal for Gladstone to put in improvements on privately-held property (property not owned by the City of Gladstone)? Answer: City Planner Glasgow said no, as far as who can apply for this, it can be the property owner or City (transfer of ownership). The reason for this consideration is the size of the use of the property has not yet been determined and the owner does not want to sell the property, they would rather lease or be in some type of use agreement with the City.

Assistant City Administrator Morishita explained she did not start the timer while the staff report was being given because she did not consider a limit to the staff report. Mr. Glasgow would have had up to 30 minutes which he didn't have and the questions would have been in addition to that report. She will give the other side the same consideration; 30 minutes to testify and questions will be in addition to that time.

- On the map the cell tower is included which would make it a non-conforming use. Answer: City Planner Glasgow stated the actual location of the zone change is much smaller than what is indicated on the map included in the notice.
- The Planning Commission has the authority to change the size of what the applicant is asking for? City Planner Glasgow said yes; through this public hearing process the Commission will arrive at a recommendation of approval, denial, or approval in some modified form.
- Could there be a condition of approval for a size change? Answer: City Planner Glasgow stated that would be done as part of your recommendation.

Applicant Presentation: City Planner Glasgow stated this is the first time he has filled out an application for a plan change and zone change. He had to show why the City zoned this as they did or if there has been a significant enough change in the community to warrant a different zone. He reviewed each of the required criteria and addressed them in the staff report. He tailored the application to the dog park. The staff report and application are identical.

Questions from Commissioners:

- The Clackamas County property map shows the subject property with a section lined off. Is this what the City is requesting to be rezoned? Answer: This is a conceptual drawing that is big enough so the area can be seen. The area shown there is an idea; the specific area being proposed for is actually the piece just north of the Nick Shannon Memorial Park.
- Is the applicant requesting rezoning of the section with a line straight across the back side of Nick Shannon Park? Assistant City Administrator Morishita showed a map of the actual location of the rezone and City Planner Glasgow confirmed that it was the area to be rezoned (121.5' x 211').

There were no further questions from the Commissioners.

Testimony in Favor: Keith Klum, 17270 Crown View Dr. stated he sent a petition around with help from the neighbors. While gathering those names he came up with consistent comments by people. This area has been used for the past 20 years without a fence for dogs and their owners. The only thing that has changed has been the fence across the front with a gate. The consensus of the neighbors was if there is not going to be a dog park, take the fence out and let the people use it as a park again.

As far as feces go, he is there every morning with his dogs and he makes the rounds. Anything that is there he picks up and he knows other dog owners do the same. Actually it was policed better after the fence went in than it was before. He has found less trash; maybe a golf ball or a Frisbee than in the kid's playground area. A lot of people like the fence where you can separate the dogs from the kids. You can have the kids playing without interference with the dogs or anything else. He has heard more concern with cats using the sand as a litter box than he has the dogs.

He found this dog park to be a great place for the neighbors to meet neighbors. He came from an area where everybody waived at everyone whether you knew them or not, Gladstone hasn't been that way. Now people stop and talk; it strengthens the neighborhood. A lot of people are upset that a few people can shut down the use of this area for everyone else who have enjoyed the use of it. He only saw one incident where there was an aggressive dog in with non-aggressive dogs. It was brought to the owner's attention that it wasn't acceptable and he has never been back with that dog. Not all people who signed the petition are dog owners or even use the park, but they like the value of it there. There was only one person in all the people that he talked to that said no they wouldn't sign. It wasn't for any personal reason; it was they just didn't want to get involved with the politics. He is very much in favor of taking the fence down and let the park be used in its entirety if there isn't going to be a dog park.

Donna Cancio, 6861 Oakridge Drive stated she did not have a packet and asked if the City is proposing, on behalf of the water district owner, to enlarge the public space area, taking some residential and making it open space? City Planner Glasgow said yes. Ms. Cancio stated she has always liked open spaces and increasing the open space for the neighborhood is a positive thing whether it is used for a dog park or more playground equipment. It will allow more flexibility. There is no house there, there has never been a house there and there are no plans of putting a house there; so why is it zoned residential. As an open space it can be preserved so there are not houses on top of one another sometime in the future. She would like to see the open space increased.

Commissioner Sieckmann reminded the audience that the Planning Commission has certain criteria that they have to follow on a zone change. Donna brought up interesting points, but there are certain rules that the Commission has to follow. It is not a matter of use and it would be great to make it open space but the Commission has to follow the criteria in the Code and laws. He asked that testimony be based on the criteria.

Carleen VanOrsdel, 17445 Via Del Verde asked if the Nick Shannon Park is zoned residential. Answer: City Planner Glasgow said no, it is zoned open space. Ms. VanOrsdel asked if this area is not changed and the dog park is taken away someone could come in and build a house there. Answer: City Planner Glasgow said given the underlying zone, yes and given the reality of ownership, probably not. Ms. VanOrsdel stated if it is zoned R-1 then someone can come in and build houses, townhouses, etc. City Planner Glasgow said it is zoned for residence. Ms. VanOrsdel stated it seems to her that not having more houses is a good reason to get the zone changed; it's crowded enough.

Ms. VanOrsdel lives in Gladstone and pays exorbitant property taxes. There should be a perk for that because she doesn't see a lot of perks for her at this point in time. To keep it zoned where more people can get enjoyment out of it is a better reason to change the zone. She thinks it should remain open and people should be able to take their dogs in there just as freely as anyone else that can walk on that property.

Testimony in Opposition: Jeff Kleinman, 1207 SW Sixth Avenue, Portland 97204 stated he is an attorney representing Ken Yielding and the Sudderberry Family Trust whose property is at 7000 Oak Ridge Drive in Gladstone across the fence from the dog park. He asked that the hearing be continued to allow further efforts to address the criteria. If not continued he would like the record to remain open for seven days for that purpose.

The issue is really not whether a dog park is a good or bad thing. A lot of communities have dog parks; the question is whether this particular site is appropriate for the dog park that was placed there. Even though the Commission is looking at open space zoning more generally, the issue is to condition this site as no dog park. He asked if the application is going to be available online. City Planner Glasgow stated he would do that first thing in the morning.

Staff has identified in the staff report some of the criteria that are highly problematic here and where the burden hasn't been met and cannot be met. He introduced Mr. Yielding who has photographs of the health hazards created on this site by the dog park. As staff indicates the burden of proof for a plan amendment and zone change are great, the proof has not been met on this occasion. The demonstration of public need is a very serious and intense test especially where the Code says that the public need is best carried out by this particular site. What that really calls for is a site selection process if the City wants a dog park. There are better sites in the city for it. There certainly is no demonstration of public need that its best met at this location. He doesn't think there is compatibility with the Comprehensive Plan and with Metro's Functional Plan. Nor can you take land out of the housing inventory easily without providing a great deal of analysis.

There are health and safety issues. Metro's Title 12 protects residential neighborhoods. You are not doing that when you create the hazard that exists on the property whose owners he represents. The burden of proof has not been met and they don't think it can be met at this location. Regardless of zoning this has been used as a park, not a dog park. That's fine if the dog park does not come back. The park use can continue, but you are not taking the residential land out of the inventory that needs to be maintained as is.

Ken Yielding, 7000 Oakridge Drive submitted a packet of photographs of the current flooding at the Oak Lodge Water District Park and pictures of other dog parks in the area. All of these dog parks are space far from residential homes. He will submit a written statement to the Council when the record is held open. He lives in the house that adjoins Oak Lodge Water District property (dog park). He has been to City Council about the dog park. He has complained to the City and the park was subsequently closed. The City was operating the dog park on a piece of land that was zoned only for residential use.

The presence of the dog park was a horrible experience for his family. His four year old son was repeatedly charged and barked at viciously through the chain link fence. He witnessed several dog fights at the park. His wife was a victim of a dog attack when she was a child. The attack resulted in 37 stitches on her face. She has PTSD from this dog attack. Over the last summer she was repeatedly charged and barked at viciously in their backyard while attempting to garden in their back flowerbed. She stopped going out to their garden due to the smell of the urine saturating the soil and this dog behavior. The odor of feces in the summer was unbearable at times in his house, dining room, kitchen and master bedroom. These rooms all are facing the dog park and overlook it. It is not pleasant to open a window that is 20 feet from a dog park for fresh air and getting a smell of sun-baked dog poop. If it was cooking steaks on the back deck during the summer or sitting together with my wife having coffee there is always the constant presence of the dogs in the park. They have experienced the dogs barking at them, people yelling at their dogs, the smell of urine and feces and having dogs do their business in plain view. All these issues present while they are trying to enjoy eating on their back deck.

The zone change from R-7 to the open space will only address the legality of the park itself. The location is inappropriate for a dog park and the zoning change will not change the natural behaviors of dogs barking, fighting, marking their territory and defecating. There are substantial negative impacts from the dog park on the enjoyment of his home and property. With the dog park placed on the incorrect type of zoned lot, it has negatively affected the value of his life, his property, and his enjoyment on his home. With this going on he is compelled to file a claim of inverse condemnation. The action of the City changing the zoning to allow a dog park will affect the enjoyment of his home and his property.

The lot leased by the City of Gladstone for the Oak Lodge Water District in Gladstone Dog Park is not an ideal location. All the residents in the local area understand and know that the lot floods. One third of the park is currently swamped with water.

Shirley Gardner, 6907 Oakridge Drive stated she has lived in this house for 36 years. The serious concern she has is for the safety of the children. They do not have sidewalks and there is more traffic coming when they had the dog park. Cars are parking next to the play structures where the kids should be playing and where bikes and strollers should be parked. Kids have moved into the neighborhood and there are younger children again. When they first moved there the area was not used at all and it was opened up for the residential people to keep the little kids from playing in the street. Kids could go up and use the property to play catch and teach the kids how to ride their big wheels. After that people started bringing their dogs on leash and also using that same open space. The kids riding their bikes up and down the street to go to the play area are too young to go to Kraxberger to play on their own. Parents can take them up but with the dog park you are getting dogs in and out of cars that sometimes are not on the leash and scaring the kids that are playing in the park. There is no parking.

The dog park is a mud hole; it is not a healthy situation for any dog being taken into that dog park. They will pass disease onto each other. She submitted more information on the safety of the park. Instead of it being turned into an actual dog park, she would like to see the fence come down and back the way it was; where the kids can ride their bikes, wear the rubber boots when it is all muddy playing around. The kids and dogs on-leash can share the property as it was intended originally.

Jan Premo, 6966 Oakridge Drive lives next door, 15 feet from the current locked-out dog park. She did not come prepared to talk about non-dog park issues but will use what she has to try and keep the dog park out. She works at the state penitentiary with the men who don't get along with men. She knows what kind of mentality goes on. Her greatest concern for opening the additional space is that it violates the safety of those houses that border that line. The farther away from the street you get, the more time you have for interested, bored, drug-seeking, selling people to go to the back 40, cut through the fence and get to property back doors all the way along that park. Too much space, too far from the road, too busy; these guys have nothing better to do. When they see an opportunity, they will take it.

Ms. Premo has nothing against the dog park; the thing that is really sad is that it was initiated by a neighbor that just wanted a little place for the dogs to take a quick run and then go back on their walk. There was never an intention to make it a county dog park or county anything. The reason the whole thing came up was because the police officer was harassing a person that had the dog off-leash (a well-trained dog) in that section of the park. It has now expanded into this really torrential horrible thing. She would not feel safe back there. It is too far from the road that would push too much darkness in the back.

The dog park site should not be expanded; it is violating the trust of the people who bought property there. They do not or should not feel safe because there will be an opportunity for a criminal to go back there and get in the back door of any one of the houses and take their time at doing it. She would rather have a house on this site because at least she will know who the people are and she knows there would be some security at least of knowing who the family is. Do not recommend opening that space; it violates her safety. She would feel safe and would not stay there. It would depress her; she has been here 16 years and loves this place. She has a dog but she cannot possibly stay there and feel safe if the space is opened up. It would not be acceptable.

Ms. Premo visited Clackamette Park and feels that anyone that has visited there knows there is criminal activity going on. There are dogs without licenses, without shots that are being put in there. The only recommendation she would make is if you are going to make this into a park that has a dog place for it make sure the neighbors are satisfied by their own safety, make sure the dogs that are entering the park are part of the neighborhood, that they have a license, and have their shots. If there has to be a card system that gets people in there, she is fine with that. If it gets too big there will be people from all over the county; strangers who are not invested in her neighborhood, and who will leave dirt, damage and trash. Her and other people have worked their hearts out to try and get that little tiny dog park to work because they wanted neighbors to do that.

Donna Todd, 16710 SE Valley View Road is opposing the dog park. She submitted pictures to the Commission. She noted just as Shirley and Ken are affected by the dog park, her issue is different. Their home is 30 feet from the dog park. They open up their door or look out their bedroom window and they see the park. Then there is a port-a-potty in there and they called to get that moved back. They are the ones that are affected by the noise and she has five reasons: Too much noise disturbance (cars, trucks, vans) from 7 a.m. to 10 p.m. at night 365 days a year. Traffic is totally over the top and as a residential area they don't want it rezoned for that reason.

Their property values will go down. They had their house analyzed by a real estate lady; it is in the packet submitted. She said that the property values will go down if the dog park remains. If it is rezoned property values may go down to the tune of maybe \$10,000. The residents are losing money, the taxes will not go down, but the property values will go down. The stress of this issue keeps her hyped up all the time. She will be calling the noise and nuisance officer.

When she moved into this neighborhood it was a quiet neighborhood. There were none of these kinds of things going on. They have had their issues as they have been broken into once, had a flag stolen, stuff like that. They don't believe a dog park belongs here because there is going to be even more similar stuff that going on. They can't leave their windows open at night because traffic gives off exhaust and noise into their bedroom.

They have nothing against the dogs, but they don't want the dog park 30 feet from their home. She doesn't believe it is uniting neighbors, it is dividing neighbors. If people want to bring their dogs they could at least think about people who are right by the dog park. It is not a good situation. How would anyone like to live there and have this happening? They didn't know they could do anything about this dog park until the news media showed up across the street after it was closed.

Harry Todd, 16710 Valley View Road does not approve; he is opposed to a zone change. His wife just testified and this has affected them very much. The dog park might be right for somebody else but not right for them.

Debra Watkins 205 W. Clackamas Blvd asked why there is a park already if these changes have been made. It seems like things are backwards. There is an established dog park there; it's closed but it's there. Why is it there if the zone change hasn't been done? City Administrator Glasgow stated the City is in this process now because the dog park was opened up at a time when it simply wasn't allowed; land use approvals hadn't been received. In order to get land use approval there needs to be this comprehensive plan and zone change approved.

Ms. Watkins stated 20 years ago she volunteered on the Planning Commission and worked for the chief advisory board in Oregon City and was part of comprehensive planning. There is protocol and things that have to be done with regards to land use. City Administrator Glasgow stated protocol must be followed; the park has been closed and proper protocol is now being followed.

Sherry Uehytil, 17123 SE Valley View Road stated like many of these neighbors the dog park came as a surprise. They have only been living in Gladstone for one year at this location. When they purchased the house they had no idea that there was going to be a dog park around the corner. It would have perhaps made a bit of a difference in their decision. What they have noticed since they have been here is there wasn't a lot of dog traffic; neighbors are out walking their dog on leash, you see the same folk's day in and day out until the park became open. When it was opened they saw more dogs off leash and people who were not familiar to them in the neighborhood. It is a bit of a draw of people from the outside.

She appreciates that every step has been reviewed as to what is appropriate for the land use and what things have to be taken into consideration in the application but she is concerned that City Planner Glasgow is both staff and applicant. There is too much of a possibility of conflict of interest in that both sides are being taken care of by one individual.

The suggestion of going through a formal look of all the different sites that might be used for a dog park in the area might be a more appropriate way to identify a dog park for Gladstone. She does not believe this is the right place for a dog park, they have dogs as well. Most often dog parks are far away from the interior, in larger parks, or don't have people living right next to them. She hasn't been here that long and doesn't know if there has been a significant change to warrant a dog park. The area is set up for residents, they were looking for a place where things are quiet and settled down and this is a game changer for them living in the neighborhood.

Ms. Uehytil asked who paid for the fence and the slats in the fence. She is paying high taxes here in Gladstone; she doesn't want to pay more taxes to take care this property. The flooding that is there doesn't have to be addressed right now but perhaps if it becomes a park that might be something to be looked at. Who is paying for the port-a-potty and who is going to pay for other issues that may come up with this property going forward? If the City of Gladstone is leasing this property there will be additional costs. Has that been considered into the budget. These types of things need to be looked at as well.

She knows there is a cost for having perks in the area, but for her living so close to it she does not consider the dog park a perk. They really like the way it was set up when they moved in. People were around with their dogs on their leashes and it was not that many people there at one time. She liked that. She does not like listening to all the dogs barking and fighting and you hear them constantly.

Rose Johnson, 5480 Abernathy Court looked at some of the criteria on Mr. Glasgow's report and she found a couple of problems. The public need for this dog park has not been established. There are things in the Gladstone Municipal Code that asks that the decision makers (City Council) has to weigh the public need against negative affects a dog park places on nearby property owners. At some point a decision has to be made if there is good criteria, is it a need or simply a desire. Then there is a problem with the dog park enclosure right now; it is only .59 tenths of an acre. There are another 7 acres that the water tower is in. Are there

rules that the water tower is suppose to be in that enclosure for security and safety for the water supply.

There was a statement in the report about how the existence of the dog park, which was contrary to the zoning, established a land use for a dog park. The mere existence of a dog park does not establish a land use pattern when that use went on for six or seven months was illegal. It establishes the City's liability for a law suit from nearby homeowners. Ms. Todd and everyone in her subdivision have CC&R's (covenants and conditions) attached to their deeds. Any City code is superseded by the CC&R's. There should be a study for the substantial change. Title 2 of the Comprehensive Plan calls for the protection of residential neighborhoods to preserve the residential character; dog parks are not doing that. There needs to be a design review. The City needs to go back to the beginning and do a design review, site selection study, environmental impact study, a traffic study, a drainage study, and a noise control study. All of these requirements are in the Code. She will be submitting a letter during the seven-day period.

Neutral Testimony: None.

Applicant Rebuttal: A question was asked during comments of who will be paying for the all the costs associated with the park. City Planner Glasgow stated if there are any costs associated with this the City will be paying for any expenses. Sherry Uehyti asked if this area was zoned for Nick Shannon park, the port-a-potty, and all the expenses. What process was used to change the space? City Planner Glasgow noted the Nick Shannon Memorial Park is already zoned open space. The dog park sort of arrived in an area that is not zoned properly. It was a designated a pocket park.

A member of the audience asked if it is residential where the dog park is now. City Planner Glasgow said yes. Chair Stempel explained if the water district sells the property there could be homes where the dog park is now.

Rose Johnson explained that Shannon Park is a separate tax lot (.6 acres). The enclosure of the dog park is not a tax lot, simply a fenced enclosure of .5 acres. The remaining acres where the water towers are located are in the 7.1 acre portion of the property.

Donna Todd asked why the City decided to put a port-a-potty in the dog park; they didn't put it in for the kids. Who pays for that? Answer: Chair Stempel stated she assumes the City pays for it; but she doesn't know who asked for the port-a-potty.

Staff Comments: City Planner Glasgow thanked the audience member who pointed out the potential conflict of him being staff and applicant. He will get the application up on the City's website first thing in the morning. There was a request to leave the hearing open for 7 days to receive written testimony.

This is a plan and zone change. Criteria must be addressed for a plan and zone change not an off-leash dog park.

Questions from the Commissioners: None.

Hearing no further questions or comments Chair Tamara Stempel asked for a motion to close the hearing.

Commissioner Kim Sieckmann moved and Commissioner Kirk Stempel seconded a motion to close the public testimony portion of the hearing at 8:20 p.m.

Motion carried unanimously.

Commission Decision:

Commissioner Sieckmann asked for legal guidance on leaving the record open since the final decision will be made by City Council. City Attorney Shane Abma stated there will be no recommendation today because there has been a request to keep the record open. This hearing could be continued until the next Planning Commission hearing, not keep the record open and not getting additional rebuttal.

City Planner Glasgow noted because there is a Comprehensive Plan change as part of the proposal, there is no time limit.

Commissioner Kim Sieckmann moved and Commissioner Kirk Stempel seconded a motion to continue the hearing until the March 18th Planning Commission meeting.

Motion carried unanimously.

Commissioner Craig Seghers arrived at the meeting at 8:25 p.m.

3. Discussion of Planning Commission Packet Availability Date. Chair Tamara Stempel opened discussion on packet availability. City Attorney Shane Abma explained the staff report must be made available seven days before the hearing. Citizen submittals are not a part of the record until the person shows up and submits it. It was the consensus of the Commission that they receive packets on the Tuesday 7 days before the Planning Commission meeting.
4. Medical Marijuana Dispensary Facility Discussion. Chair Tamara Stempel opened discussion on medical marijuana dispensaries. Commissioner Kim Sieckmann asked what had changed on this issue since the City Council meeting. City Attorney Shane Abma reported today the full Senate passed Bill 1531 which allows cities to regulate but not prohibit. The new law states that cities can reasonably regulate time, place, and manner restrictions (where it is located, when it's open, and how the product is dispensed). The Senate passed the bill but it still has to go through the house. The original bill was to regulate or prohibit; so it is now just to regulate, not a prohibition. The question remains can a city prohibit the dispensaries because of the Federal Control Substance Act.
5. Work Session: Gladstone Code Review. Chair Tamara Stempel started the discussion on the Winterbrook Study. She noted the County has put a lot of effort into the McLoughlin Corridor

and how they want the entire length to look. She suggested that the Commission see what the County is doing and coordinate with them. Commissioner Sieckmann reported the McLoughlin Area Business Alliance (MABA) is working on the same type of issues for development, redevelopment of the McLoughlin area in unincorporated Clackamas County. He asked staff to contact this group and get information as to what they are doing and put that information in their packet. Chair Tamara Stempel suggested asking a representative from the McLoughlin groups to come in and talk to the Commission. City Planner Glasgow stated he would request representatives from some of these groups to come in and talk to the Commission.

Discussion followed on Chapter 2.28, Planning Commission. Commissioner Sieckmann voiced concern about the wording of 2.28.090, Meetings. City Planner Glasgow suggest changing the text to read, "Shall meet once a month or as necessary." It was decided to leave the language as it is and let Council know they are fully prepared to meet every month.

Commission talked about what constitutes an excused absence under 2.28.040, Vacancies and Removals. Assistant City Administrator Morishita suggested, "...if you miss two consecutive meetings you are at risk for being removed." After a commissioner has two unexcused absences, their name will be given to City Council for their decision to remove.

Chair Tamara Stempel asked if there is a group in charge of historic preservation. Assistant City Administrator Morishita said no. Chapter 2.48, Historic Preservation Policy will be an issue soon because the City received the grant for the feasibility study for the trolley bridge. Commissioner Craig Seghers stated he is the treasurer of the Historical Society and there is no formal organization. Commissioner Sieckmann suggested that Council create a Historic Review Board. City Planner Glasgow stated the City needs an entire new Code Section Title 17 for historic and cultural resources. State law provides for property owners to opt out. Herb Beals left historical books and information and this information could be used to determine historical sites. Chair Tamara Stempel suggested that there be a memorandum of agreement as part of the bridge negotiations; actually have someone go into the City and do the historic inventory. It was decided to put in the recommendations to Council to create a Historic Review Board.

Clear vision will be discussed next month.

Other Business: None.

Upcoming Commission Considerations: None.

Business from the Commission: None.

Adjourn:

*Commissioner Craig Seghers moved to adjourn the February 18, 2014 Planning Commission meeting. Commissioner Kim Sieckmann seconded the motion.
Motion carried unanimously.*

Chair Tamara Stempel closed the Planning Commission meeting of February 18, 2014 at 9:45 p.m.

Minutes approved by the Planning Commission this 18TH day of MARCH, 2014.

Tamara Stempel, Tamara Stempel, Chair