

City of Selah
Planning Commission Minutes
Of
STUDY SESSION
July 7, 2009

Selah Council Chambers
115 W. Naches Ave.
Selah, Washington 98942

Chairman Munson opened the study session and asked Mr. Noe to address the items on the agenda.

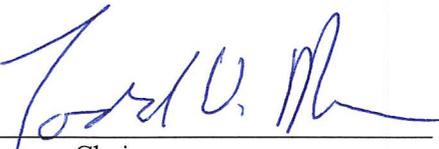
Mr. Noe stated there were two items and the first was the Planning Commission function. He stated the Planning Commission holds legislative hearings and quasi-judicial hearings. The project before you tonight is a quasi-judicial proceeding. You'll be acting as an adjudicator, not like a judge, in a quasi judicial capacity. In order to do that, before the hearing starts, you need to examine your own self and decide whether you have any interest in the outcome that would meet or surpass the objective. So if you have any interest in the outcome, whether it will affect your objectivity, you need to disclose that. If you feel you can't be objective, you need to step down and not participate in the decision-making process.

The other part of the hearing process has to do with exparte. The only testimony or evidence you'll hear will be in the opening hearing. You can't speak with anybody for or against the project or proposal until a decision/recommendation is issued. If for some reason you have spoken to someone outside the hearing process pending before you, you have to disclose that. These are the kinds of things that ensure fairness in the process.

During the hearing process, you'll get a lot of information. Some of it's factual, some of it can be emotional, some of it can be argument. Your job is to ask for the facts and then apply those facts to the criteria set forth in our municipal code.

Mr. Noe asked for any questions regarding the proceedings. Mr. Munson responded that there would probably be many questions as the hearing progresses. Mr. Noe stressed that when questions come, it's important to not feel like you need to make an immediate response. If you need more time to think about your answer, it's okay to find out more information before answering.

Study session closed.



Chairman

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A. Call to Order

The meeting was called to order to by Chairman Munson at 6:00 p.m.

B. Roll Call:

Members Present: Commissioners Quinnell, Roberts, Eagles and Munson.

Members Absent: Commissioner Smith.

Staff Present: Dennis Davison, Community Planner, Diana Turner, Secretary.

Guests: Rod Matson; Mike Shinn; Preston Shepherd; David Taylor; Charlie Eglin; Armando Esquivel; Tonya Esquivel; Keith Mathews; Tom Stokes; Gerald Kobes; Jordan Matson; Dan Stephens; Bill Huibretgse; Marvin Sundquist; Dusty & Erika Dore' Jason Matson; Bill Almon; Eusebio & Carolina Herrera; James Garner; Troy Helms; Chris Thorn; Andrew M Kohler; Lynn & Charles Gilroy; and Jess Hale

C. Agenda Changes None

D. Communications

1. Oral - None
2. Written - None

E. Approval of Minutes

Chairman Munson called for a vote on the minutes of June 2, 2009. Commissioner Quinnell moved to approve the minutes, Commissioner Roberts seconded. Minutes were approved with voice vote 4/0.

F. Public Hearing

- 1 Old Business -
 - a. 2007-2 Matson Fruit Company Selah Urban Growth Area Comprehensive Plan Amendment

Chairman Munson opened the public hearing and asked Mr. Davison if there were any agenda changes he was aware of. Mr. Davison stated that there were none. He called for all individuals in the audience that wish to provide testimony to be sworn in. All the individuals giving

testimony in the audience, staff and Commissioners were sworn in at the same time.

Mr. Davison stated the proceedings would be recorded and a court recorder would also be making a transcription of the meeting. He also stated that if any Commissioner had an appearance of fairness issue to explain it.

Chairman Munson asked if anyone on the Commission had exparte contact or you/your families have interest or dealings with any individual pertaining to this request?

Mr. Hordan, who is working part time for the City, stated he had worked for Matson and Mr. Shinn in the past, but he did not think it was on this proposal.

Mr. Shinn stated that Mr. Hordan worked on this proposal and presented copies of bills from Mr. Hordan.

Mr. Noe asked if Mr. Shinn wanted Mr. Hordan to be disqualified as a consultant for the City?

Mr. Shinn stated yes. If he were an attorney he would be precluded on the basis of conflict of interest.

Mr. Noe stated that appearance of fairness is not for staff it is just for the Commissioners, but it was noted for the record.

Chairman Munson stated the proceedings would continue with Mr. Noe's recommendation.

Mr. Davison stated the bills from Hordan Planning Services would be Exhibits 38, 39 & 40 and an email he received this afternoon would be Exhibit 37.

Chairman Munson stated the order of the hearing.

Mr. Davison explained the procedure and the packet the Commissioners received for the record. He also stated that the Commissioners were given a white folder that was prepared by Mr. Shinn.

Chairman Munson called for the staff report.

Mr. Hordan presented the staff report.

This is file no. UGA Plan Amendment 2007-02 and the proponent is Matson Fruit Company and owner of the property.

The proposal is to amend the Future Land Use Map by re-designating 8.43 acres of a 14.38 acre parcel Industrial rather than the existing designation of Commercial and amending the City's adopted zoning map reclassifying the 8.43 acres Industrial (M-1) rather than the existing General Business (B-2) zoning. According to the application, the purpose of the rezone is to expand the current Matson Fruit facility to add a packing plant and storage area.

The location is 600 block of North Wenas Road – 200 feet North of the Railroad/East Home Avenue intersection.

The zoning and land use are:

ZONING

North: General Business (B-2)
South: Industrial (M-1)
Southwest: Multi-Family Res (R-3)
East: Industrial (M-1)
West: General Business

LAND USE

Vacant, further north AAA Storage
Matson Fruit Company
Brightenwood Apartments
Burlington Northern Santa Fe Railroad
Vacant

The existing and Future Land Use Designation:

North: Commercial
South: Industrial
Southwest: High Density Residential
East: Industrial
West: Commercial

The Environmental Review:

A Determination of Nonsignificance (DNS) and notice of adoption of an existing environmental document "Selah Urban Growth Area Comprehensive Plan Final EIS" was issued November 11, 2007.

History and Current Request:

In 2002, the City of Selah acquired some property east of North Wenas Road within the City for the purpose of constructing a new municipal building to house City Hall, Courts and the Police Station. The property acquired by the City is situated north and west of the existing Matson Fruit facility and adjacent to North Wenas Road. When the City acquired the property, the property was separated from Matson Fruit by property owned by Otis Harlan and/or one of his companies. The City later decided not to develop the property for its original intended use and decide to surplus it. The City owned property and Harlan property were designated and zoned Industrial at that time.

In 2002, Otis Harlan, in conjunction with the City, requested that the City and Harlan properties be re-designated from Industrial to Commercial and the zoning be changed from Industrial (M-1) to General Commercial (B-2). The purpose for the change was to establish a commercial/retail area within the City, outside of the downtown corridor. The City has since, sold a substantial amount of their original land holdings and commercial development is occurring. Matson Fruit has since purchased the Harlan property.

Properties sold by the City include sales to: Banner Bank, Les Schwab, Valley Construction (retail mall), Weber Assoc. (fast food), Charlie Eglin (fast food), Garner Construction (hotel and convention center) and AAA Secured Storage. The City currently retains four parcels from their original purchase, two of those parcels are presently under contract for purchase.

This particular application was previously heard before the Planning Commission, which recommended approval to the City Council. The City Council denied the application and Matson Fruit appealed the decision to Superior Court through the Land Use Petition Act (LUPA). A verbatim transcript of the Planning Commission public hearing was not able to be provided to the court because the tape of the Planning Commission public hearing was lost. Judge David A. Elofson ordered a re-hearing at the Planning Commission level for a recommendation and transmittal of the recommendation to the City Council for a final decision (Cause No. 07-2-04502-2). This hearing is being held to comply with the judge's order.

Jurisdiction (SMC 10.40.040)

Amendments to the zoning map that are contingent upon legislative approval of a comprehensive plan amendment shall be considered a major rezone.

- (1) RCW 36.70A, the Growth Management Act, authorizes amendments to the comprehensive plan not more than once per year in order that the cumulative effects of all such proposed plan amendments are considered. A comprehensive plan map amendment request and a major rezone application may be submitted at any time, and shall be processed in accordance with the annual comprehensive plan amendment schedule.
- (2) The planning commission, rather than the hearing examiner, shall have jurisdiction for major rezone applications.
- (3) Processing of an application for a comprehensive plan amendment/major rezone is a legislative action and does not vest development of the property.

COMPREHENSIVE PLAN

Annual amendments – Community Planning is an interactive process, meaning that the Plan is a living document that will be amended on a regular basis as conditions change, better information becomes available, and/or community values evolve. The City will consider a unified package of amendments on an annual basis. Amendments may be requested by members of the public or suggested by staff. All proposed amendments are considered by the Planning Commission with a recommendation to the City Council. Public comment is invited during the Planning Commission review process, including at a public hearing on the proposed amendment(s). After receiving the Planning Commission recommendation, the City Council makes the final decision on all Comprehensive Plan amendments. If approved, the amendment will be adopted by ordinance (Reference Page 7 – Summary City of Selah Urban Area Comprehensive Plan)

The Comprehensive Plan is generally mute as to specific mapping criteria for its land use designations. The Comprehensive Plan does state on Page 35 that lands designated Commercial are established by recognizing existing commercial uses, providing for their expansion such as the commercial area at the I-82/Yakima Training Center Interchange. Additionally, on Page 36, the Comprehensive Plan states that the Industrial designation is established to provide areas for the continuance and expansion of existing industries and the diversification and establishment of new industrial uses. Areas designated industrial are not intended for general commercial use.

Other information regarding commercial and industrial patterns is found on Page 28 of the Comprehensive Plan. Commercial Development Patterns are described as follows: The existing land use inventory indicates that the City has an average amount of commercial use for a city of its population. Currently, 57.4 acres are developed commercially. Most commercial land use is clustered along First Street and at the intersection of North Wenas and East Goodlander Road. Future commercial activity is also around the I-82/Yakima Training Center interchange to the northeast. These two commercial areas serve the surrounding unincorporated areas as well as City residents. The First Street and Naches Avenue intersection is the approximate center of the central business district. Industrial Development Patterns are described as follows: The land use inventory identified 79.1 acres of land in industrial use. Part of the railroad right-of-way is included in this figure. Land in the industrial category is generally located along the railroad tracks, within walking distance from the central business district.

Although development patterns are not criteria for Future Land Use Designations, it is documented information from the Comprehensive Plan which provides some sense of where the current and future development trends are located for each land use designation. This helps in understanding the current Future Land Use Map and provides some guidance in this process.

Future land use needs as determined by the Comprehensive Plan indicate that by 2025, 100.2 acres of commercial land will be needed, thus, 38.5 acres in addition to the current commercial lands are needed to meet this requirement. A total of 310.4 acres will be needed for industrial use by that time, requiring an additional 100.0 acres (Table 3-4).

EXISTING ZONING

General Business Zoning District

The purpose of the general business (B-2) zoning district is established to provide for the day-to-day convenience shopping and service needs of persons residing in nearby residential areas. It is intended that all business establishments shall be retail, wholesale or service establishments and where all goods produced on the premises are sold at retail. The B-2 zoning district is located where urban governmental services are either available or can be extended by the proponent to facilitate the project at no public cost. Urban development standards shall be required for B-2 developments meeting the city's minimum urban standards.

Industrial Zoning District

The purpose of the industrial (M-1) zoning district is established to preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provisions for certain kinds of commercial uses which are most appropriately located as neighbors of industrial uses. The industrial district is located principally, but not exclusively, along arterials or adjacent to railroad rights-of-ways, and may possess varying levels of public service and utility needs which affect the timing and intensity of development that may be approved.

REZONING CRITERIA – SMC 10.40.050 Major Rezone Review Process.

Below are the required criteria for the processing of a major rezone:

- (a) Applications shall contain the information necessary to review the proposal as set forth in the application form and such other information as is needed to determine conformance with this title and the comprehensive plan. Additional information may be requested by the reviewing official at any time during the review process, and must be provided in a timely manner. Applications that are not sufficiently complete prior to the annual application deadline may not be docketed for that year's amendment process.
- (b) Public notice for major rezone applications shall be provided to the owner(s), affected agencies, jurisdictions, and adjoining property owners within six hundred feet of the subject's property.
- (c) Decision criteria the planning commission shall issue a written recommendation to approve, approve subject to a development or concomitant agreement, modify or deny the proposed comprehensive plan amendment/major rezone. The recommendation shall include the following considerations
 - (1) The extent to which the proposed amendment/major rezone is consistent with and/or deviates from the goals, objectives, mapping criteria and policies adopted in the comprehensive plan and the intent of this title;

- (2) The adequacy of public facilities, such as roads, sewer, water and other public services required to meet urban or rural needs;
- (3) The public need for the proposed change. Public need shall mean that a valid public purpose, for which the comprehensive plan and this title have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum, document:
 - (A) Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate; and
 - (B) Whether the timing is appropriate to provide additional land for a particular use.
 - (1) Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone;
 - (2) The testimony at the public hearing;
 - (3) The compatibility of the proposed zone change and associated uses with neighboring land uses;
 - (4) The suitability of the property in question for uses permitted under the proposed zoning;
 - (5) The recommendation from interested agencies and departments.
 - (d) Recommendation by the Planning Commission. The planning commission shall forward its recommendation for approval, modification or rejection of any comprehensive plan amendment/major rezone to the legislative body.
 - (e) Action by the Legislative Body. Upon receipt of the planning commission recommendation, the legislative body shall hold a public meeting or hearing and affirm, modify, remand or reject the recommendation.

On page four of the staff report contains the purpose statement for each existing zoning district which I will not read into the record. Near the center of page four we have the rezoning criteria, and I'm not going to read those individually but I will read them as part of staff's discussion and that starts about the center of page five..

REZONE CRITERIA DISCUSSION

Below are the rezone criteria and staff comments regarding the application request:

- (a) Applications shall contain the information necessary to review the proposal as set forth in the application form and such other information as is needed to determine conformance with this title and the comprehensive plan. Additional information may be requested by the reviewing official at any time during the review process, and must be provided in a timely manner. Applications that are not sufficiently complete prior to the annual application deadline may not be docketed for that year's amendment process.

Staff Comment -- This application was received during the year 2007 Annual Comprehensive Plan Amendment process. The application was determined complete for processing prior to legal notices being distributed requesting comment on the proposal.

- (b) Public notice for major rezone applications shall be provided to the owner(s), affected agencies, jurisdictions, and adjoining property owners within six hundred feet of the subject's property.

Staff Comment -- Proper notice for the original application was given via legal advertising in the Yakima Herald Republic on November 11, 2007 with First Class mailing to property owners within 600 feet of the proposal on November 9, 2009. A meeting scheduled for earlier this year was cancelled on June 12, 2009. Notice of this public hearing was mailed to adjoining property owners on June 26, 2009 and published in the Yakima Herald Republic on June 28, 2008.

(c) Decision criteria the planning commission shall issue a written recommendation to approve, approve subject to a development or concomitant agreement, modify or deny the proposed comprehensive plan amendment/major rezone. The recommendation shall include the following considerations:

- (1) The extent to which the proposed amendment/major rezone is consistent with and/or deviates from the goals, objectives, mapping criteria and policies adopted in the comprehensive plan and the intent of this title;

Staff Comment – One of the main goals of any Comprehensive Plan is to promote orderly growth and prevent incompatible land uses from locating next to one another. The Future Land Use Map (Figure 3-2) is one of the tools of a Comprehensive Plan which offers guidelines so that land use decisions are goal-oriented rather than arbitrary. In this case, the Future Land Use Map was updated in 2005 and set the guidelines for future land use of the subject property, adjoining properties and properties in the general area. The subject property was officially designated Commercial, as were adjoining properties to the north and west, with the adoption of the Future Land Use Map.

This Commercial designation is important because surrounding property owners, property purchasers and the community as a whole were given some land use predictability with adoption of the Future Land Use Map. The predictability is that this area would be designated and zoned for commercial activities. Since that time, the commercially zoned properties have developed with commercial activities. Purchasers of property in the commercial area have been ensured by the current zoning that commercial activities will, in fact, be constructed as anticipated by the Comprehensive Plan. This proposal is inconsistent with the Future Land Use Map, as presently adopted.

The Comprehensive Plan further states that “lands designated Commercial are established by recognizing existing commercial uses.....”. In this instance, substantial commercial development/use is, and has, taken place in the neighborhood. The subject property and neighboring properties were previously zoned industrial. Under that zoning district, no development was occurring. Since the land use designation and zoning change to Commercial, substantial development has occurred and is continuing to occur. Because of these uses, the subject property and other properties in the area are consistent with the Commercial land use designation.

It is the opinion of staff that a change in the designation and zoning from Commercial to Industrial would result in a disorderly growth pattern and would work against and be counterproductive to the growth actually experienced in the area. This is not consistent with the Comprehensive Plan, as it results in incompatible uses locating adjacent to one another, by expanding the industrial zone closer to the existing commercial properties in the area.

- (2) The adequacy of public facilities, such as roads, sewer, water and other public services required to meet urban or rural needs;

Staff Comment -- The public facilities in the area appear adequate for the proposed development. However, it should be noted that *Supporting Investment in Economic Diversification* (SIED) money was used to develop North and South Park Drives and its associated infrastructure mainly for the new

hotel and convention center and Les Schwab Tire facility. The intent behind the use of SIED money is to promote economic growth and provide jobs. The current commercial zoning and commercial development on the properties is meeting the intent of the purpose of the SIED money to the City. In essence, the City applied for SIED money for commercial endeavors in the area and it is paying off through commercial development.

(3) The public need for the proposed change. Public need shall mean that a valid public purpose, for which the comprehensive plan and this title have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum, document:

(A) Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate; and

Staff Comment -- Based on Future Land Use Needs for UGA 2025 Population, Table 3-4 of the Comprehensive Plan indicates that there is 61.7 acres of existing developed Commercial acreage. By the Year 2025, 100.2 acres of Commercial property will be needed. Thus, a shortage of 38.5 acres exists. The Comprehensive Plan indicates that there will be a need for Commercial property. The City, through discussion and its comprehensive plan, has acknowledged that the downtown commercial core is restricted by existing surrounding development. This restriction has led the community, through the Comprehensive Plan, to venture beyond the downtown corridor and establish the existing Commercial area where the subject property is located. Based on these facts, it is apparent that a shortage of Commercial property exists.

(B) Whether the timing is appropriate to provide additional land for a particular use.

Staff Comment -- The timing of this request is not good. The surrounding commercial properties are all developing as commercial land uses as contemplated by the 2005 Comprehensive Plan.

(4) Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone;

Staff Comment -- Staff does not believe that substantial change in circumstances has occurred to warrant an amendment to the land use designation or zoning. The area is designated and zoned commercial. Commercial land uses are being established on surrounding properties. The commercial development that has taken place on surrounding properties has come after the infrastructure in the area was constructed with SIED money for commercial uses.

The burden of demonstrating a substantial change in circumstances since the last zoning or amendment is that of the proponent. The only change in circumstances presented by Matson Fruit is that the business needs to expand. This is not a substantial change in circumstances. There may be a variety of factors that indicate a change in circumstances such as a change in public opinion, in local land use patterns and on the property itself. However, in this case, the local land use pattern for this area is definitely commercial and continues to be commercial. The subject property is vacant. Thus, to zone the property as industrial would be inconsistent with the current Comprehensive Plan Land Use Designation of Commercial.

(5) The testimony at the public hearing;

Staff Comment – Public testimony is an important part of the land use process. Public testimony is unavailable to staff at the time of this report's inception. Therefore, it will be up to the Planning Commission to incorporate public testimony into its decision.

(6) The compatibility of the proposed zone change and associated uses with neighboring land uses;

Staff Comment – The proposed change is not compatible with neighboring land uses. It is only compatible with property to the south which is the existing Matson Fruit Company facility. The proposal is an expansion of that facility. The property to the east is comprised of the railroad and no other uses. All other surrounding uses are commercial or residential. The proposed Industrial designation is incompatible with those designations. An encroachment of industrial uses into the existing commercial area could be disruptive and incompatible with existing and future commercial properties. This project proposes to introduce a more intensive industrial use into a designated commercial area which will be disruptive between the land uses and the mixture of commercial and industrial traffic.

(7) The suitability of the property in question for uses permitted under the proposed zoning;

Staff Comment – The property appears to be suitable for uses permitted under the proposed zoning district. The property is flat and lies within close proximity of rail and truck routes. However, the suitability of the property in question for the uses in the proposed zone requires that the reviewing bodies look at what might be permitted if the proposed zone were adopted. This leads back to the compatibility issue of the request. It is difficult to analyze the suitability of the property for uses permitted, as it pertains to compatibility.

(8) The recommendation from interested agencies and departments.

Staff Comment -- As of the date of this report, there were no recommendations from interested agencies and/or departments.

(d) Recommendation by the Planning Commission. The planning commission shall forward its recommendation for approval, modification or rejection of any comprehensive plan amendment/major rezone to the legislative body.

Staff Comment – Once this public hearing is officially closed, a recommendation on the application will be forwarded to the City Council for their consideration.

(e) Action by the Legislative Body. Upon receipt of the planning commission recommendation, the legislative body shall hold a public meeting or hearing and affirm, modify, remand or reject the recommendation.

Staff Comment -- Once the City Council receives the recommendation from the Planning Commission, it will render one of the above decisions.

ANALYSIS AND RECOMMENDATION

After review of the submitted application, City of Selah Comprehensive Plan and Zoning Ordinance staff believes the application is not consistent with those adopted documents. The applicant has not met its burden of proof. Specifically, this proposal is only in the best interest of the proponent and not the community as a whole. The public process was followed in 2005 and a

commercial area was established at this location, where once, a vacant and undeveloped industrially zoned area existed. Once the land use change was made from Industrial to Commercial, the property began selling and commercial endeavors were constructed. The surrounding commercial area continues to flourish. The existing and proposed commercial uses in this area are consistent with the Future Land Use Map in the Comprehensive Plan. This proposal is not consistent with the Future Land Use Map. This proposal does not promote orderly growth. This proposal encroaches into an existing commercial area, where commercial properties exist and are needed for the future growth of the City. This proposal is likely to introduce a more intensive industrial use into the commercial neighborhood and create an incompatible situation between existing commercial uses and a new industrial use at the subject property. The encroachment may actually hinder commercial growth experienced in the commercial area. The timing of the proposal is not good. This property was designated and zoned Industrial up until about 2002. The following year the property designation and zoning was changed to Commercial and General Business. This change was at the request of the property owner at that time. Residents and developers have relied on this new designation as commercial development was planned and constructed. Commercial development continues, to occur in the surrounding area. A change in the land use designation would not offer the predictability in land use that is expected from an adopted comprehensive plan. This proposal is inconsistent with the land use pattern of the surrounding commercial neighborhood. Current trends are for more commercial development, as sales of additional property continue to occur. The proponent has offered no documented change in circumstances that warrant the requested change.

Based on this analysis, staff recommends Denial of the proposed comprehensive land use designation change and rezone request.

Chairman Munson asked if there were questions from the Commissioners.

Commissioner Quinnell asked if we would have obtained SIED money if it was going to be industrial?

Mr. Hordan responded that with his limited experience with SIED money, it can be used both for industrial and commercial purposes.

Commissioner Quinnell responded that this response helped clear up the issue.

Commissioner Eagles asked looking at our inventory of commercial (i.e., grocery stores, hardware, kind of thing) what kinds of things would we expect or want to locate near the railroad property.

Mr. Hordan said that generally railroad was associated with industrial type properties. But that was a difficult call because that railroad line skirts the entire east side of the city limits. And there's a substantial amount of commercial property in the northern sector of the city and industrial down in the southern sector. And at some point, through the public process, a line was drawn that said almost everything north of here would be commercial and everything south would be industrial. That's what the land use map shows.

Commissioner Eagles said that looking at land purchases, the city sold quite a bit of their property. Was it concentrated on North Wenas Road.

Mr. Davison stated he was not involved with the land purchases but it is being the lots along North Wenas were being developed for commercial use first.

Commissioner Eagles stated the properties to the east would be the least desirable properties for commercial.

Mr. Hordan stated that you definitely don't get the automobile traffic in front of this easterly property as you will on the westerly property. A storage facility would be an example of a commercial type use that could locate there verses a fast food facility.

Chairman Munson stated that the Commission heard this proposal in late 2006 and the recommendation to the Council was for approval. The City Council denied the proposal and their decision was appealed to Superior Court. Judge Elofson sent it back to the Commission because the tapes were lost.

Mr. Noe stated that the judge sent the proposal back to the Commission as the City could not produce tapes to the meeting as they were lost. The judge sent it back to have the Commissioner create a record. He asked Mr. Shinn if that was his understanding.

Mr. Shinn stated he would make additional comments when he gave his presentation.

Mr. Noe stated the Council's holds a closed session and the Commission is the ones who take testimony.

Chairman Munson stated that the Commission is a recommending body and the Council made the decision on the proposal.

Mr. Noe stated that the Commission created the first record and they needed to create a new tape.

Commissioner Roberts asked what acreage does the City have and need by 2025 in industrial?

Commissioner Eagles wanted to expand on that question. He asked what percentage was in use right now for both commercial and industrial?

Mr. Hordan stated that the City's Comprehensive Plan states that the City has 79.1 acres in industrial. The City has 61.7 commercial that is developed but by the year 2025 the City needs 100.2 acres for commercial so they will need 38.5 for commercial and they have 210.4 acres for industrial so they will need 100 additional for industrial.

Chairman Munson opened the item for the audience.

Mr. Shinn, represents Matson Fruit, stated he would answer some of the questions the Commissioners asked first. The reason this hearing is happening is a lack of a transcribed record for Superior Court to consider the land use appeal. There is no record of fact finding for Superior Court to render a decision. They addressed the merits conjunctionly argument and the Judge did make comments on the record and some of them made it into the order. One in particular was the appearance of fairness docturne. The proceedings must not only be fair but also appear to be fair. There were some things through discovery that were disconcerting to them. A lot of the material was discovered after the Council made their decision. Some of the information was about the adjoining property and the way it was marketed and how it was marketed. This was not disclosed to them. They wanted to get this on the record so it could be discussed and not used as one of the criteria to make a decision on. The fears, speculation and concerns about what may or may not be happening between the City or prospective third party purchaser of land in this area

are not relative to the examination of the criteria. He felt that this Commission did an excellent job the first time this proposal was heard. There is nothing new in the application. It is the same application as before. This is the same application the Development Committee of the City of Selah. They asked the Development Committee if the plan fit into the vision of the City and how could the plan change to fit the Cities needs. They developed a site plan that showing the desired locations for the an office for Matson and where the rest of the buildings would be. It also shows a big lot on the north side of the lot for commercial with three lots on South Park Drive for commercial. They were trying to preserve as much commercial as they could. Staff recommended approval of the proposal in 2007 and he was wondering what the change was in the recommendation of denial now. They knew that Helms Hardware Store would build a new store and there would be a Les Schwab Tire Store there also. The only thing that has changed is the property has been purchased. They bought the property to the north as it is the only property available for them to expand. He then gave a history of the property. There is only one land owner that is opposed to the proposal. Most of the land owners next to the proposal are in favor so how can the staff report that it is inconsistent with land use in the area when the users are going to be here to testify that it is consistent. There will be people here tonight from the industry to testify that the as a proposal it satisfies many aspects of the Comprehensive Plan. It is located adjacent to the Railroad property. It will support the City's economy and will create jobs. This proposal is satisfying an inventory deficit of 100 acres for industrial property. Interestingly General Business is adjacent to industrial property. There is a marriage between general business and industrial. How can you say they are not compatible when Selah's zoning map shows general business next to industrial. When you need 100 more acres of industrial property and the Comp Plan says it has to be along truck routes and railroads where are you going to get 100 acres.

Chairman Munson called for questions of Mr. Shinn from the Planning Commissioners. There were not questions from the Commissioners.

Mr. Shinn stated there would be testimony from Tree Top people and that they know the suitability of this type of property for their business and others in favor of the proposal.

Chairman Munson asked why was this the only opportunity of expansion for Matson? Matson has property near Fred Redmond Bridge that they could use?

Mr. Shinn asked if the property in question was in the Pomona area? I prefer to defer that to Rod Matson would answer that.

Rod Matson gave a brief history of the Matson Fruit Company. The family moved here in 1908 and purchased land and planted orchards. In 1920 they built the packing house at the present location. We are in our fifth generation of ownership for Matson Fruit Company. We have been a decent corporate citizen and wish to continue into the future. Production has increased over the years by 150% from 1990 to 2000. We started down size in 2008 to 2009 because they have max out the facilities at their present location. We have to maintain several types of packaging materials for the diverse market. We need a much more efficient and larger packed fruit storage and loading facility. We have been hauling a portion of our produce to the Pomona facility even though that is an inefficient procedure. We have needed more space for years and have been trying to purchase the property from Mr. Harlan. When Mr. Harlan contacted Matson Fruit in 2007 we decided to purchase the property. To survive and prosper Matson needs to expand the present facility. At present we want to build an office and then more long-term another packing facility.

Chairman Munson called for questions from the Commissioners.

Commissioner Roberts asked Mr. Matson about the down sizing?

Mr. Matson stated they are not packing as much fruit as they could because they could not handle it with the facilities at present. So yes they are turning fruit away.

Commissioner Roberts asked why it would decrease the amount of traffic?

Mr. Matson stated he would let Jordan Matson answer that question.

Chairman Munson called for a 5 minute recess. After the recess he called for further testimony.

Jordan Matson handed out drawings of the proposal to the Commissioners. He stated they purchased the Pomona property mainly for CA storage only. Bulk fruit, no packing. The reason we can not do packing out there is it has no water to run a packing house. The lease property can not have any structures on so there will be parking, storage, and staging. This plan gives us the room to grow for the future. There was a question about truck traffic. We have around seventy-five to one hundred truck a day. He explained the map showing the office and parking would be on South Park Drive and the packing house would be behind commercial lots. The land near the railroad property would be set aside for parking. There will be site screening with trees for the packing house.

Commissioner Quinnell asked with the expansion how many jobs would be created?

Jordan Matson stated for the immediate time they would just maintain with present employees.

Commissioner Eagles asked how many employees at full build out?

Jordan Matson stated 150 to 350 depending upon the time of year now and it would double or triple in the future.

Chairman Munson asked about the property owned by Burlington Northern and whether there would be a 120 foot buffer zone they own along this site?

Jordan Matson stated you can not build anything within 200 feet from the center line. You can not do anything within 50 feet of center line.

Chairman Munson asked if they had already received approval from the railroad to utilize the property?

Jordan Matson stated yes, from here back to Hi-County Foods. He could get a copy of the document on the lease.

Commissioner Roberts asked if this proposal would eliminate storage at the other facility?

Jordan Matson stated that currently we store about 120,000 boxes of inventory at that current site and at peak season around 220,000 boxes of packed fruit. Which translates into lots of trucks and a lot of extra labor. This proposal would eliminate that completely.

Commissioner Quinnell asked what the trucking hours are?

Jordan Matson stated 7:00 am to 7:00 pm during the normal periods of the year and 7:00 am to 9:00 pm for the peak season.

Commissioner Roberts asked if there will be CA storage or cold storage on site?

Jordan Matson stated the new structure will store an estimated 250,000 boxes.

Tom Stokes, Tree Top Inc., stated they were in favor of the proposal. He thought that there was a mistake made in 2002 changing the designation from industrial to commercial. In the Comprehensive Plan on page 34 it says that much of the land west of the railroad tracks and central and southeastern sections of the City is already in industrial use. The Comp Plan states that vacant land exists in the northeast portion in the City adjacent to the railroad tracks. The Comp Plan identified this property as future industrial growth property. The goals of the Comprehensive Plan need to be met and it is hard to understand how this property got designated commercial. This property has access to other industrial sites and next to the railroad facilities. This proposal compliments the City of Selah. There is a shortage of industrial land and this property should be redesignated industrial. Commercial growth relies on industrial growth in a community. Matson has provided that for 100 years. There has been some good influx of commercial growth in the past year.

Gerald Kobes handed out a power point plan of the Matson rezone request. There is a uniqueness of this agricultural based company to the community. This is an agricultural based economy that produces fruit. It produces very good outlets. This Company is one of those companies that do that. This Company has a very good history in support of the state and region. This Company will be here today and tomorrow. This is the best use of the site of industrial vs commercial. The property is located next to the railroad tracks not North Wenas frontage. The frontage is obviously very good area for commercial. This would also act as a buffer to the railroad. If they need to start shipping by rail this would be the opportunity to put a rail spur in. The area has both industrial and commercial and they work together. With the present depressed work economic conditions, there exists an even greater need for a stable industrial base. The timing is right for expansion of this type of endeavor. People are in need of healthier food, they want more fruit and vegetables. As outlined in the Selah Comprehensive Plan there is a greater need for industrial sites than commercial sites. Present commercial sites are available, also vacancies of prime downtown sites. There is a potential expansion of South Wenas coming up soon and it will remove a large amount of industrial property, probably forcing it to commercial zoning. This request is congruent with all eight points outlined in Rezoning Criteria of the Selah Municipal Code 10.40.050 Major Rezone Review Process specifically: (1) It is consistent with goals of comprehensive plan, (2) There are adequate public facilities and infrastructure, (3) The public and community will be favorably impacted, (4) The property is very suitable for the rezone, (5) It is compatible with adjacent land use. SIED funds are funds, which support investment and economic diversification. These funds are available from the tourism area and are available for job enhancement. It is not just for commercial, it also includes industrial jobs and other type of jobs. I sit on the SIED committee and have been there for about 10 years. One of the considerations in approving the money for some of the infrastructure was sort of a resolution on the rezone, but not specifically for commercial investment. The Comprehensive Plan should be a living document and reflect the needs of the community. The rezone would not reflect disorderly growth.

Keith Mathews stated he was in favor of the proposal. The fruit industry has contributed economic value for more than 100 years to the growth of the City of Selah. I manage the trade

association that represents all packing companies across the southern portion of the state. Collectively these packing companies deliver 60 million pounds of fresh and wholesome tree fruits to people across the world each week. That is about \$35 million of revenue for sales and nearly \$10 million in paychecks. The fruit industry is the only significant industrial ventures in the City today. You Comprehensive Plan establishes a commission to promote industrial development and business retention and that is what this is.

Troy Helms read Brad Helms statement for the record: Matson Fruit and the Matson family are and always will be a great asset to the Selah community. They area major employer both directly and indirectly. People who work with the Matsons will tell you, they are just good people. Agriculture is the backbone of Selah and Central Washington. Working together is very important. The proposal that Matson Fruit has put together for their property is a good one, it will produce an additional 5 or 6 retail lots in the south park area which otherwise will not exist. The proposal shows compatibility with the surrounding property and will fit nicely on their property. This plan is progressive and will no doubt be good for creating new jobs and widen our tax base. The City's insight to start the south park development was very smart and it worked. I think we should continue the progress and help the Matson Fruit Co. with their progressive thinking. They are willing to invest in Selah and that is good. I would like to add that Matson Fruit is not an incompatible neighbor for Helms Hardware.

Chairman Munson asked where the location of his new store was.

Mr. Helms stated on North Wenas in front of Matson's proposal.

Bill Almon stated he knew the property in question and has been doing commercial real estate in the valley. In 2006 I undertook marketing of acreage then owned by Mr. Harlan and his family. He had to come up with a price for the property as commercial. The challenges for the property is one lack of visibility from the arterial, with the City's property in between. Mr. Harlan's property and the City's would be competing against each other. Our firm also employs the agents which administers the leases and railroad right-of-way for Burlington Northern Santa Fe. Burlington Northern does not like commercial or residential uses next to railroad right-of-way. Factoring in all the information a blended price (commercial/industrial) was reached. There were no offers received for the entire property except for small lots. This land will remain vacant for many years if it remains commercial. In my judgement there is no better use than industrial.

David Taylor, 15th District State Representative, but I am here in my capacity as the owner and senior consultant of Taylor Consulting Group. I'm here to just give my perceptive on the proposal. He feels that this seems a no-brainer. It's next to the railroad, it's next to existing industrial development, it's a logical extension, there's public services available, and there's adequate streets. In his 15 years of experience dealing directly with planning issues he feels this is a good fit. Growth Management includes 13 goals and they must be balanced. There will be a buffer of commercial and screening for this industrial proposal.

Bill Huibregtse stated he has worked as a civil engineer for almost 30 years and has property in the City of Selah. He was appointed for Wenas property development committee and SIED board. The SIED funds are for supporting investment in economic diversification and funding public infrastructure to encourage private investment in development and to create or retain jobs. The SIED funds were for South Park Drive to enhance economic growth and Matson Fruit office was identified in the City's application. The property in question was purchased 20 years ago for the express purpose to expand Hi-Country Foods processing facility. He asked who prepared the staff report?

Mr. Davison stated Mr. Hordan prepared the report along with his help for the City.

Chairman Munson called for a 5 minute break. He reconvened the meeting.

Charlie Eglin stated he owned Tri-Ply Construction for over 32 years, is a co-owner and manage over 160,00 square feet of commercial warehouse, and owns a small parcel just south of Les Schwab and plan to build a 4000 sq ft retail building on that parcel. He stated growth of industrial property in Selah is just important as retail and commercial spaces. Commercial is dependent upon the workforce from the industrial businesses. You will find other cities with industrial and commercial next to each other.

Preston Shephard stated he is on the SIED board like Mr. Huibregtse. There are three members of the board here tonight. There was discussion of Matson expansion at their meeting. South Park Drive was designed, proposed to be designed and has now been constructed extending straight down to the edge of Matson property, at which point it's dead-ended, no turnaround, and obviously the intent is to extend it.

Marvin Sundquist stated that his family has known the Matsons for many years and his family has been in orchard business for years. He feels Selah will loose if they do not approve this proposal.

Chairman Munson thanked all the speakers at the meeting and called for comments against the proposal. He asked Mr. Shinn if he would like to speak again?

Mr. Shinn stated no, but asked if the record was closed at this time.

Chairman Munson declared the record closed after some discussion. He stated the Commission needed to review all the information presented tonight

Commissioner Eagles stated he agreed with the Chairman and asked if the Commissioners could be given a transcript of the meeting when the court recorder was finished.

Mr. Noe stated that could be arranged.

Commissioner Eagles asked for information on COGs employment numbers and the multiplier numbers for the economy.

Mr. Davison stated okay.

Chairman Munson called for motion to continue

Commissioner Eagles moved to continue the public hearing to August 4, 2009, Commissioner Roberts seconded. Vote 4/0 unanimously.

2. New Business None

G: General Business

1. Old Business - None
2. New Business - None

H. Reports/Announcements

1. Chairman - None
2. Commissioners - None
3. Staff - None

I. Adjournment

Chairman Munson moved to adjourn the meeting, Commissioner Roberts seconded the motion. The meeting was adjourned the meeting at 9:50 pm.



Chairman