

# FODOR & ASSOCIATES<sup>LLC</sup>

Community  
Planning Consulting

## Appeal Testimony

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Appeal of Planning Director's decision to approve Amazon Corner, TIA 16-007

Presented March 1, 2017

On behalf of Southeast Neighbors and Friends of Amazon Creek

By Eben Fodor, Principal, Fodor & Associates LLC

This appeal testimony restates our appeal issues from the Appeal Statement and adds supporting arguments based on the applicable code language and additional evidence provided by our professional traffic engineer. This testimony includes a PDF version of the PowerPoint presentation that accompanies our written and oral testimony and includes graphic and photographic representations of the traffic issues involved.

### Open Record Request

Given that we have had only 14 business days before this hearing to retain a traffic engineer and commission a study, we anticipate that the traffic engineering work will not be completed in time for the hearing and request that the record be kept open for one week to allow for completion and submission of the engineer's work.

### Issues Summary

The proposed Amazon Corner development would be the largest development built in South Eugene in more than 30 years. At 122,000 square feet of floor area, with 117 residential units and 14,000 square feet of commercial space, this project will have an unprecedented traffic impact on the area. Since traffic in the

area is already highly congested, this development would generate a critical mass of traffic pushing nearby intersections beyond capacity and causing traffic from main streets to overflow onto neighborhood streets, resulting in widespread traffic and safety problems.

We are requesting that the scope of the TIA be expanded to consider impacts on a somewhat larger area to reflect the full impacts this proposed development would have. There are also some deficiencies in the Applicant's TIA, which need to be corrected. Any traffic or safety problems that are identified through an expanded TIA could be addressed by either further mitigation, or a reduction in the scale of the project to avoid exceeding traffic standards or creating unsafe conditions, as required by **Eugene Code**.

Applicable rules include those for *Traffic Impact Analysis Review* found in **Eugene Code 9.8650 through 9.8680**, which invoke the "Standards for Traffic Impact Analyses" found in **Administrative Rule R-9.8650** (Administrative Order No. 58-02-02-F, Adoption of Standards for Traffic Impact Analyses).

## **Specific Appeal Issues**

The following appeal issues are presented in the same order as they were in our Appeal Statement.

### **First Assignment of Error**

- 1) Failure by the City Traffic Engineer and the Applicant to establish an adequately large scope, or study area, for the traffic impact analysis that captures and reflects the traffic impacts that a very large development like the proposed Amazon Corner would have, as required in the purpose statement for the *Traffic Impact Analysis Review* in *Eugene Code 9.8650*, which is directly referred to in the *Approval Criteria* in *EC 9.8680(1)* and is therefore a requirement. This is also a violation of *Administrative Rule R-9.8650-F(8)*, which lists the minimum transportation system that must be included in the TIA.**

The scope for the TIA did not meet the minimum standards, and should have been expanded beyond the minimum in this case to include likely impacts on residential neighborhood streets, which are already overloaded with traffic.

The City has maintained that the TIA only needs to include roadways and intersections that will receive 50 or more trips during a peak hour. While it is true that the TIA must include such intersections, that is not the only requirement for inclusion in the traffic study. The City's reference apparently refers to Administrative Rule R-9.8650-F(2), cited below:

***R-9.8650-F Traffic Impact Analysis (TIA) - Report Requirements.***

*Unless an exception is granted pursuant to R-9. 8650-E, the following items are required as part of a TIA:*

*2. **Extent of Study Area.** The applicant and the City Traffic Engineer, or designee shall agree on the defined study area prior to commencement of the preparation of the TIA. The analysis must include an examination of all site access drives, adjacent roadways, and other roadways and intersections that will receive 50 or more additional peak hour trips as a result of completion of the proposed development or land use application.*

However, to achieve its stated purpose, a TIA has additional study requirements which have not been met. Administrative Rule R-9.8650-F(8) states:

***8. Transportation Systems and Level of Service Requirements.*** *The TIA shall include:*

*8. 1 Roadway and Intersection Capacity.*

*8. 1. 1 All streets and intersections contiguous to the development;*

*8. 1. 2 All streets and intersections that provide direct access to or from the development, regardless of the generated volume of traffic;*

*8. 1.3 All streets and intersections off site from the development that will receive 50 or more additional peak-hour vehicular trips upon completion of any phase of the development;*

The Applicant has only included the following three intersections in their TIA:

- Hilyard and 32<sup>nd</sup>
- Hilyard and 31<sup>st</sup>
- Hilyard and 30<sup>th</sup>

As cited above, the code requires that ***“The TIA shall include: ... All streets and intersections that provide direct access to or from the development, regardless of the generated volume of traffic:”***

At a minimum, this must include the following intersections which provide direct access to the proposed development:

- Hilyard Street and E 33<sup>rd</sup> Avenue/E Amazon Drive
- Alder Street and E 32nd

Furthermore, the *Purpose Statement* for the *Traffic Impact Analysis Review* in Eugene Code 9.8650 (cited below) clearly states that **significant amounts of traffic** and **traffic problems** are included in the scope of a TIA. This purpose statement is also directly referred to in the Approval Criteria in 9.8680(1), and is therefore a requirement.

***9.8650 Purpose of Traffic Impact Analysis Review.*** *The purpose of Traffic Impact Analysis Review is to ensure that developments which will generate a significant amount of traffic, cause an increase in traffic that will contribute to traffic problems in the area, or result in levels of service of the roadway system in the vicinity of the development that do not meet adopted level of service standards provide the facilities necessary to accommodate the traffic impact of the proposed development.*

We believe that this purpose statement requires a broader scope for the TIA when a very large project, like the proposed Amazon Corner, is under consideration. In addition to requiring that two additional intersections be included in the analysis, the purpose statement requires that additional traffic impacts be evaluated, as described in the following Assignments of Error. With proper data and analysis, we believe the TIA will show a cascading series of traffic problems and safety issues spilling over onto neighborhood streets and requiring additional mitigation and traffic calming.

A final issue regarding the scope of the TIA is the failure to address parking requirements for the proposed development, as required.

**Administrative Rule Section R-9.8650-G** states:

**Traffic Impact Analysis (TIA) - Compliance with Other Standards.**

*The applicant shall include in the TIA sufficient information to show the proposed development is in compliance with applicable development standards of the Eugene Code, 1971, including, but not limited to:*

1. *Parking. Adequate parking will be provided to meet site-generated demands, in accordance with the specific dimensions, parking angles, and parking ratio requirements that are contained in the Eugene Code, 1971.*

Parking impacts are a major concern of the nearby neighbors, as indicated in the public comments on the record. Failure to provide adequate onsite parking for the residents, visitors, employees, delivery trucks, and customers of the proposed development could cause the loss of on-street parking for all nearby residential neighborhoods. Inadequate parking can also generate additional travel and safety problems on neighborhood streets, as people drive around searching for available on-street parking. Clearly the Applicant must demonstrate that adequate on-site parking will be provided within the development. We would also ask that the Applicant provide sufficient, designated "employee parking" to avoid the common problem where commercial tenants ask their employees to park in the neighborhood to "free up" parking for their customers.

## **Second Assignment of Error**

### **2) Failure to provide adequate baseline traffic data for existing conditions, including full-day hourly traffic counts (to accurately establish AM and PM peak periods) and AM peak traffic counts as required by the minimum standards for the TIA established in *Administrative Rule Sections R-9.8650-F(4.1) and F(5)*.**

The Applicant and the City both argue, for different reasons, that AM peak traffic analysis is not required. They both fail to cite appropriate code language and both arguments are incorrect. The Applicant claims that fewer than 100 trips would be generated during the AM peak, and therefore no analysis is required. While we dispute the low trip generation estimate provided by the Applicant, the issue here is that "100 trips" is not a threshold for AM peak analysis. It is rather one of the thresholds for determining if a TIA is required (See EC 9.870(1)). The TIA has been determined to be "applicable" and is required. As we show below, traffic counts and analysis of AM peak is a requirement of a TIA in the applicable Administrative Rule.

Similarly, the City argues in their Decision document that:<sup>1</sup>

*Based on projected traffic to the adjacent street, the applicant's evidence shows that the development is not projected to add 50 or more vehicle trips to any intersection during the AM peak hour, and therefore an AM intersection analysis is not required. In turn, this means that analyses of AM level of service is not required.*

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<sup>1</sup> Page 5 of the City decision document labelled "Traffic Impact Analysis Review."

The City is apparently referencing the part of the Administrative Rule (Section R-9.8650-F(2)) that we have previously cited, which sets the initial minimum for streets and intersections that must be included in the study area. This section does not establish what data, analysis, or peak periods must be included in the study. Instead, these requirements are found elsewhere, as we show below.

Data requirements for the study area are partly addressed in **Administrative Rule Section R-9.8650-F(4.1)**, which states:

*4. **Study Area Data.** The TIA must include the following data. The information is available from the City, other impacted jurisdictions, or may be obtained in the field.*

*4. 1 Traffic Volumes.*

*4. 1. 1 Daily and hourly traffic counts that verify traffic growth and peak hour times for the year prior to application on each street within the study area that carries traffic directly to or from the proposed development.*

*4. 1. 2 Intersection turning movement counts at all intersections within the study area to quantify existing traffic volumes and patterns.*

*4. 1. 3 Percentage of traffic that consists of heavy vehicles, including trucks and buses; for daily and peak periods.*

*4. 1.4 Pedestrian and bicyclist counts.*

*4. 1. 5 Daily and peak hour volumes for the intersections identified in 4. 1. 2, and the proposed access points.*

*4. 1. 6 A determination of the need for YIELD, STOP, Traffic Signals, or other traffic control devices at any horizon year, based on warrants in the current edition of the " Manual on Uniform Traffic Control Devices" (MUTCD).*

As stated in Section F(4.1.1) and F(4.1.5) above, daily, hourly, and peak-hour traffic counts are required. Applicant's TIA has provided only PM peak hour traffic data. At a minimum, this needs to be expanded to include AM peak traffic data and total daily traffic counts.

Further requirements are specified in **Administrative Rule Section R-9.8650-F(5)**, which states:

*5. **Peak Traffic Hours.** The TIA shall include peak hour traffic counts for all*

streets within the study area at the time of application. Existing traffic counts (less than 2 years old) may be factored by an average 2% per year growth rate to establish the forecasted background traffic volumes. Growth rates less than this amount may be used for those roadways that are already approaching their theoretical capacity during peak periods if the lower growth rates are justified by a different methodology presented by a professional traffic engineer. **Traffic counts shall be provided for:**

5.1 The weekday a.m. peak-traffic period (a one-hour peak in morning traffic volumes occurring between 7:00 a.m. and 9:00 a.m.).

5.2 The weekday p.m. peak-traffic period (a one-hour peak in afternoon traffic volumes occurring between 4:00 p.m. and 6:00 p.m.).

5.3 The weekday midday peak-traffic period (a one-hour peak in traffic volumes between 11:30 a.m. and 12:30 p.m.).

5.4 The peak-traffic period on Saturday (a one-hour peak in traffic volumes between 1:30 p.m. and 2:30 p.m.).

According to Section F(5.1) above, AM peak traffic counts "**shall be provided**" in the TIA. The Applicant's TIA has failed to provide traffic counts for the AM peak traffic periods. The TIA is also missing traffic data for weekday midday peaks and the Saturday peak period, as required in Sections F(5.3) and (5.4).

### **Third Assignment of Error**

**3) Failure to evaluate the impacts of the proposed development during the AM peak traffic period, which is widely known to be an especially congested period in this area. Analysis and traffic counts for the morning peak periods are required by *Administrative Rule Section R-9.8650-F(5.1)*.**

We recognize that this assignment of error overlaps with the previous assignment of error. However, we wish to emphasize the need to analyze morning peak traffic impacts. As we have stated in our previous comments on the record, analysis of AM peak traffic impacts are necessary because the area includes a number of schools that generate considerable morning traffic that coincides with the morning rush hour in the 7am to 9am peak period. These schools include four public elementary schools and a middle school: Charlemagne, Ridgeline Montessori, Camas Ridge, and Edgewood elementary schools, and Spencer Butte middle school. In addition to the morning traffic generated by these schools in

the form of automobile trips, there is also traffic generated by school children with and without parents travelling by bike and on foot. Alder and E 32<sup>nd</sup> are part of the city's "safe routes to schools" and should receive special attention in the TIA to assure that pedestrian and bike safety are maintained, if not improved.

While the burden of proof is on the Applicant, we have retained a traffic engineer and evaluate certain AM peak traffic issues in order to help clearly demonstrate that the AM peak is a concern that needs to be addressed. This material will be submitted separately as soon as it is available.

#### Fourth Assignment of Error

- 4) Failure to properly evaluate the contribution to AM peak traffic of trip generation from the 14,000 square feet of proposed commercial development. Applicant has claimed only "specialty retail" will locate at this development, whereas a wide range of commercial uses are possible. Applicant has made the arbitrary claim that this development will add zero trips to the AM peak without any factual evidence, as required in Administrative Rule Section R-9.8650-F(6).**

There are really two issues here: the first is the assumption by the Applicant that the commercial space as "specialty retail," a designation that has far lower trip generation than other possible commercial uses; and the second is that the 14,000 square feet of commercial space is claimed by the Applicant to have zero trip generation during the AM peak. Neither of these are realistic assumptions, and the TIA needs to be modified to assume a reasonable mix of commercial uses that operate in a normal manner and contribute to morning traffic peaks in a conventional way.

**Administrative Rule Section R-9.8650-F(6)** states:

**6. *Estimation of Trips Generated.*** *The TIA shall include an estimate of the trips the proposal will generate. Project trip generation rates shall be estimated using the most current version of the Institute of Transportation Engineers' Trip Generation Manual. Where available, equations may be used rather than average trip generation rates, but only if there are at least 20 data points in the sample and the Coefficient of Determination (R<sup>2</sup>) for the sample is greater than 0.75.*



As indicated in the Administrative Rule, the ITE trip generation rates must be used to estimate the AM peak trip generation of the commercial uses. The Rule does not allow the Applicant to assume that these trips will be "zero."

The typical rule in evaluating undesigned commercial uses, such as the 14,000 square feet of commercial space in the proposed Amazon Corner development, is to assume that they could potentially be occupied by uses with the highest likely trip generation. Instead, the applicant has selected a use category of "specialty retail" which has a low trip generation. This fails to produce a conservative scenario that would accurately reflect the potential uses of the proposed facility. For example, a Starbucks could be located here, but would not meet the definition of "specialty retail" and would generate far more trips. Fast food restaurants and other possible uses would also not fit the "specialty retail" designation.

The alternative to making these corrections in the TIA is to add enforceable conditions of approval that would restrict all future commercial tenants to meeting the terms described in the Applicant's TIA. Only uses strictly meeting the ITE definition of "specialty retail" would be allowed. No commercial tenants would be allowed to open, operate, or accept any deliveries, before 10am on weekdays. If these conditions are not applied, the Applicant needs to calculate trip generation based on standard ITE engineering methods that reflect the allowable commercial uses.

### Fifth Assignment of Error

**5) Failure to adequately evaluate the impacts of southbound trips from the proposed development, as well as the impacts of westbound and eastbound trips. Trips are merely allocated to the north and south directions on Hilyard and are not allocated to the east or west. Allocated trips are not evaluated in terms of their impacts on the next immediate intersection. A more-rigorous trip allocation should reasonably be required under *Administrative Rule Section R-9.8650-F(7) and -F(8)*.**

Due to the limited scope of the Applicant's TIA, southbound trips from the proposed development are merely allocated to Hilyard Street and are not followed to the next immediate intersection at Hilyard and E 33<sup>rd</sup> Avenue/E Amazon Drive to see what the impact will be, as required in **Administrative Rule Section R-9.8650-F(8.1.2)**, cited previously. This intersection must be analyzed for both the AM and PM peak conditions and trips must be allocated to the

various possible destinations. The intersection analysis will show whether the intersection can continue to meet traffic standards and safety requirements under post-development conditions. It will also show how many new trips will be generated on E 33<sup>rd</sup> Avenue, an already overloaded neighborhood street.

The Hilyard and E 33<sup>rd</sup> Avenue/E Amazon Drive intersection is widely known to be highly congested and to represent safety concerns for pedestrians and bicyclists seeking to cross Hilyard. East 33<sup>rd</sup> Avenue is widely known to be an overloaded neighborhood collector street which has traffic levels exceeding its street classification. This is particularly crucial in the TIA because during the AM peak this one intersection funnels traffic from four feeder streets (E 33<sup>rd</sup>, E Amazon, W Amazon, and S Hilyard) directly into the one stretch going north between 32<sup>nd</sup> and 30<sup>th</sup>, in front of the proposed development.

Traffic calming measures have been in place on E 33<sup>rd</sup> Avenue for about two decades, but traffic remains excessive. Overflow east-west traffic has affected all the parallel streets nearby and required traffic calming on these streets as well. Therefore, there is an existing, documented traffic problem that must be addressed under R-9.8650-B(2), cited below:

**R-9.8650-B Traffic Impact Analysis (TIA) - Applicability.**

As provided in EC 9.8670, a TIA Review is required when one of the following conditions exist:

2. The increased traffic resulting from the development will contribute to traffic problems in the area based on current accident rates, traffic volumes or speeds that warrant action under the city's traffic calming program, and identified locations where the City's concern for pedestrian and/or bicyclist safety is documented.

**Administrative Rule Section R-9.8650-F(7)** states:

*7. **Site Traffic Distribution and Assignment.** The TIA shall include manual traffic distribution and assignment based on the gravity model principle. The distribution and assignment may be accomplished using experience, judgment, and knowledge of local conditions.*

The "gravity model principal" is based on the assumption that traffic will flow to wherever there is the shortest travel time. If a busy intersection is congested, traffic will seek alternate routes to avoid the congestion and delay. If a main road like Hilyard Street is congested, traffic will use alternate streets.

Clearly there are neighborhood streets that could become alternate routes for traffic under the conditions created by the proposed development. However, the Applicant's TIA has assumed that all trips will occur on Hilyard Street, and no trips will occur on neighborhood streets. We believe this is unreasonable and unrealistic.

Two obvious examples of how neighborhood streets would be used under the "gravity model principal" are:

1. Eastbound traffic from the proposed development could take E 32<sup>nd</sup> east to Alder Street (or any of the other cross streets), and go north to E 30<sup>th</sup> Avenue. This would provide an expedient route to all major eastbound destinations via E 30<sup>th</sup> Avenue.
2. Westbound traffic from the proposed development could exit onto Hilyard and take an immediate left turn onto E 31<sup>st</sup> Avenue. This would provide a virtual direct western route to Willamette Street and all other western destinations.

There are a number of other examples of how neighborhood streets will be impacted by the proposed development, as described later in this testimony. The Applicant has failed to properly address the "gravity model principal" and needs to consider possible traffic impacts and safety concern for alternate travel routes.

With the additional traffic movements described here, and the expanded scope for the TIA (addressed under the First Assignment of Error), there will be additional traffic and safety data required under **Administrative Rule Section R-9.8650-F(8)** to address likely eastbound and westbound traffic generation on neighborhood streets. The Applicant must produce a reasonable trip distribution that shows how neighborhood streets will be impacted under the "gravity model principal" and must address traffic calming requirements.

### Sixth Assignment of Error

- 6) **Failure to adequately consider the spillover of traffic onto neighborhood residential streets that would result from this proposed development under increased traffic conditions, as required in Eugene Code 9.8650 and Administrative Rule Section R-9.8650-F(7) and F(8).**

As we have already indicated under the *Fifth Assignment of Error*, the Applicant's TIA has not evaluated any of the likely impacts on neighborhood streets. This issue will be compounded by problems discussed under the *Seventh Assignment of Error*, which will drive traffic onto E 31<sup>st</sup> Avenue and from there onto Ferry Street. East 31<sup>st</sup> Avenue is already part of the City's traffic calming program and is a very busy neighborhood street. Ferry Street is a low-volume residential street that also serves as the main north-south route for pedestrians and bicyclists seeking to avoid busy and dangerous travel on either Willamette Street or Hilyard Street. Ferry Street lacks sidewalks on either side of the street for several blocks, forcing pedestrians and bicyclists into the street. This creates especially hazardous conditions for children, elderly, parents with baby strollers, and handicapped individuals. Additional traffic on Ferry Street must be addressed and mitigated to maintain safety for all users.

### Seventh Assignment of Error

**7) Failure to address the obvious conflict between increased southbound left turns from Hilyard onto E 32nd and increased westbound left turns from E 32nd onto Hilyard (southbound) that would occur under developed conditions, as noted in testimony from Friends of Eugene. The TIA has noted that current problems exist making left turns from 32<sup>nd</sup> onto Hilyard. This is the only route identified in the TIA for southbound trips from the proposed development. Therefore, this is a critical movement that must be analyzed in sufficient detail to establish safety and efficacy. Applicable rules include *Eugene Code 9.8650* and *Administrative Rule Sections R-9.8650-F(8.1), -F(9), and -(10)*.**

We have previously raised concerns in our comments on the record about the matter of problematic southbound turns from E 32<sup>nd</sup> onto Hilyard. This is a critical movement because it is the only route for southbound site trips identified in the Applicant's TIA. The City's response is that further study of this intersection is not required. We strongly disagree.

The City's response in the *Decision, Attachment A- Staff Response to Public Comment*, reads:<sup>2</sup>

*The traffic analysis studied the intersection of Hilyard Street and East 32nd*

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<sup>2</sup> See page 21 of 26 of the City decision document labelled "Traffic Impact Analysis Review."

*Avenue, and followed all industry standards and best practices. As a result of the study, the applicant's engineer found that minimum level of service standards were met with the addition of the proposed development (and therefore no mitigation is required).*

*Traffic impact analyses are not required to determine the maximum number of turns or the theoretical capacity of any particular turning movement, lane group or approach. The analyses indicated that 17 additional southbound left turns will not degrade the level of service below adopted minimum standards. The TIA (specifically the Highway Capacity Manual level of service analyses) does consider all turning movement conflicts (i.e. conflict between left turns), and the report did not identify any significant queuing that would affect left and right turns. The dedicated left turn lane on Hilyard at East 32<sup>nd</sup> Avenue must be maintained, but the analyses did not predict queuing that warranted elongation. And as noted previously, a vehicular median refuge at an intersection will have a negative effect on operations and safety, and a two-stage turn at an intersection is prohibited by law. The analyses did not identify a refuge as a mitigation, and the City of Eugene would not support a refuge in this case even if proposed by an applicant.*

The City's comments seem to indicate that the actual performance of the intersection is not what matters. All southbound travel from the proposed development is shown in the Applicant's TIA to occur from E 32<sup>nd</sup> via a left turn onto Hilyard. Vehicles are already having difficulty making this left turn, as noted in the TIA. The recommendation of the TIA is to prune hedges to 12 inches to improve visibility. This is completely inadequate and fails to recognize the magnitude of the problem. This is not a matter of "theoretical capacity," as suggested in the City Decision, it is a matter of practical functionality. The question is: Will this intersection function safely under post-development conditions? If the "Highway Capacity Manual" does not happen to have this particular situation listed in a table, then, it is still not acceptable for the TIA to ignore the potential problems that could be created.

The limiting factor for this southbound maneuver is the need to have traffic in both directions of Hilyard be clear before attempting the left turn (4 lanes clear of traffic). The TIA indicates that 17 additional southbound left turns from E 32<sup>nd</sup> would be added during the PM peak to the existing level, for a total of 58 turns during the PM peak. The TIA fails to consider the fact that these left turns from E 32<sup>nd</sup> will also directly conflict with the 118 left turns from southbound traffic on Hilyard onto E 32<sup>nd</sup> (52 of which are generated by the development). The 58

southbound left turns from E 32<sup>nd</sup> onto Hilyard will be obliged to yield to the 118 left turns into E 32<sup>nd</sup> from Hilyard southbound traffic.

There is no median refuge available to the left turns from E 32<sup>nd</sup>, so these turns must have clear lanes on both sides of Hilyard (four lanes of traffic) in order to make the turn safely. Further analysis in the TIA is required to determine how many such turns could possibly be accomplished in a peak hour.

As a simple analysis reveals, with the proposed site traffic, there will be almost one left turn from E 32<sup>nd</sup> per minute during the peak hour (58 turns in 60 minutes). These left turns will require that there be a gap between traffic on Hilyard in both the northbound and southbound lanes in order to be successful. However, they will also need to yield to the 118 southbound left turns from Hilyard. This means that they will have to yield the gaps in traffic on Hilyard roughly two times per minute to the southbound left turns from Hilyard. To function, there would have to be at least three gaps in traffic on Hilyard per minute during the peak hours in both the north and south directions. We believe this movement is extremely unlikely to function safely, if at all.

The inability of vehicles to make this left turn from E 32<sup>nd</sup> during peak hours will force site traffic to seek alternative southbound routes. This will cause a cascading series of serious problems on neighborhood streets. The most likely alternative southbound route for site traffic is to exit directly onto Hilyard from the north egress and take an immediate left onto E 31<sup>st</sup> Avenue. From there, the site traffic can go directly south on Ferry Street. This only takes a vehicle one block out of its way. However, more problems are generated, as described below.

The TIA has already identified left turns out of E 31<sup>st</sup> onto Hilyard as not meeting traffic standards and requiring mitigation (left turn striping). If site traffic cannot travel south successfully at E 32<sup>nd</sup>, and instead takes Hilyard to make a left E 31<sup>st</sup> to Ferry, then these left turns will directly conflict with the left turns out of E 31<sup>st</sup> onto Hilyard that currently don't meet standards. The left turns from E 31<sup>st</sup> will have to yield to the left turns from Hilyard onto 31<sup>st</sup>, making this movement virtually impossible during peak periods. Since this is a vital turn for local residents, it would have severe impacts on neighborhood traffic movement.

This cascading series of problems stemming from the inability to make a southbound trip from the site via E 32<sup>nd</sup> is the reason why site traffic will end up on Ferry Street, a low-volume residential street lacking sidewalks and already carrying a high volume of pedestrians and bicyclists, as described previously. It is

also the reason site traffic may seek other southbound routes, including taking E 32<sup>nd</sup> east to Kincaid Street in order to go south to E Amazon Drive. Southbound drivers will then have to turn right at Kincaid and 35th to access E Amazon Drive, and then wait for heavy northbound traffic to pass during AM peak to cross over and head south.

We have herein explain the potential traffic and safety problems in sufficient detail that they should be clear to anyone, regardless of their professional background. For these reasons, additional evaluation of the efficacy and safety of the southbound site traffic via E 32<sup>nd</sup> should be required in the TIA. This could involve actual observation and “gap analysis” by a traffic professional during the AM and PM peak hours to determine if there would be sufficient gaps in traffic to allow the necessary turn movements (at least three per minute throughout the peak period). If not, there would be extensive queuing, which would force site traffic (and neighborhood traffic) to seek alternative routes on neighborhood streets, as described above.

### **Eighth Assignment of Error**

**8) Failure to adequately recognize and evaluate pedestrian and bicycle traffic and safety, including the adjacent Amazon Bike Path, the nearby Alder Street Bike Route, and Safe Routes to School which uses E 32<sup>nd</sup> Avenue and borders the southern property line of the proposed development, as required in *Eugene Code 9.8650, EC 9.8670(2), and Administrative Rule Sections R-9.8650-F(10) and -G(2)*.**

We were extremely disappointed that the TIA failed to address the significance of the Amazon Bike Path, directly across the street from the proposed site; and failed to mention that Alder Street (just behind the site) is a designated Bike Route; and failed to mention that there is an LTD bus stop directly in front of the proposed site which blocks traffic in one lane. The TIA also failed to mention that E 32<sup>nd</sup> Avenue represents the closest link between the two bike routes (Amazon and Alder) and is therefore the most logical route for bicyclists.

**Administrative Rule Sections R-9.8650-F(10)** states:

**10. On-Site Planning and Parking Principles.**

10. 1 *The TIA shall show:*

10. 1.3 **Pedestrian linkages to transit stops, parking facilities, building**

*entrances, and between buildings.*

The applicable Administrative Rule further states:

***R-9.8650-G Traffic Impact Analysis (TIA) - Compliance with Other Standards.*** *The applicant shall include in the TIA sufficient information to show the proposed development is in compliance with applicable development standards of the Eugene Code, 1971, including, but not limited to:*

***2. Pedestrian, Transit, Bicycle, and Handicapped Facilities.*** *The site plans for the development proposal must reflect that applicable provisions have been incorporated to ensure compliance with design standards for the provision of public transportation, pedestrian, and bicycle facilities as required by provisions of the Eugene Code, 1971 and other adopted design standards.*

Therefore, planning, analysis and code compliance must be demonstrated in the TIA for pedestrian, bicycle, and transit facilities. The Applicant's TIA has failed to provide this information. We do not see anywhere in the record where the City has made a referral to Lane Transit District to determine if changes are needed to the bus stop, such as a pull-out lane to prevent buses from blocking traffic. This is the time to consider such changes.

The condition added by the City to include a bike/pedestrian crossing of Hilyard somewhere between 31<sup>st</sup> and 32<sup>nd</sup> Avenues helps to recognize some of these issues. We believe that such a crossing could be part of the solution. However, we believe that more-specific information about the crossing is needed in order to determine if it could function properly.

For example, in the case of a mid-block crossing, what route would bike and pedestrian traffic take on the east side of Hilyard? There is a five-foot wide sidewalk along Hilyard that is barely adequate for pedestrians. Would this be widened? What about conflicts with the bus stop and the fact that the existing bus shelter now blocks part of the sidewalk? And once the bike and pedestrian traffic gets to E 32<sup>nd</sup>, how does it connect with the Alder Street Bike Route? The sidewalks on E 32<sup>nd</sup> are also only five feet wide and are too narrow for both bike and pedestrian use. Will they be widened? Would bike lanes be needed on E 32<sup>nd</sup> to avoid conflict with vehicles? And how would any widening affect the positioning of the structure to be built?

In short, there needs to be a preliminary design of the crossing to demonstrate



that it can potentially function in a safe and effective manner and is not merely a condition intended to placate concerns about bike and pedestrian connectivity, movement, and safety. By far, pedestrians and cyclists bear the greatest risks of injury in such congested scenarios.

### Ninth Assignment of Error

**9) Failure by the Applicant to propose, and by the City Traffic Engineer to require, adequate mitigation to protect and preserve the integrity of the transportation system, to maintain public safety, and to protect the quality of neighborhoods in the area by limiting excessive through traffic, as required in Eugene Code 9.8650 and 9.8680(1) and Administrative Rule R-9.8650-F(9).**

The actual impacts of the proposed development on the integrity and safety of the transportation system remain largely unknown, due to the arbitrarily and inappropriately limited scope of the TIA, and due to a number of unreasonable and unsubstantiated assumptions in the TIA (such as claiming that all commercial will be “specialty retail” and will have zero trips during AM peak). Without a proper TIA that accurately and completely reports impacts of the proposed development on the transportation system, it is impossible to know if the **Approval Criteria** in **EC 9.8680(1)** have been met, or if additional mitigation is required.

#### **EC 9.8680 Approval Criteria.**

*The planning director shall approve, conditionally approve, or deny an application for Traffic Impact Analysis Review following a Type II process, or as part of a Type III process when in conjunction with a CUP or PUD. Approval or conditional approval shall be based on compliance with the following criteria:*

*(1) Traffic control devices and public or private improvements as necessary to achieve the purposes listed in this section will be implemented. These improvements may include, but are not limited to, street and intersection improvements, sidewalks, bike lanes, traffic control signs and signals, parking regulation, driveway location, and street lighting.*

#### **EC 9.8650 Purpose of Traffic Impact Analysis Review.**

*The purpose of Traffic Impact Analysis Review is to ensure that developments which will generate a significant amount of traffic, cause an increase in traffic*

*that will contribute to traffic problems in the area, or result in levels of service of the roadway system in the vicinity of the development that do not meet adopted level of service standards provide the facilities necessary to accommodate the traffic impact of the proposed development.*

We believe that a proper TIA will show that additional mitigation is needed to address traffic impacts on neighborhood streets and for pedestrian and bicycle safety and connectivity.

## **Conclusions**

The Applicant has argued that every piece of information listed in the Administrative Rule is not required in the TIA. And they have argued that the specifications in the Administrative Rule do not constitute decision criteria.

We, on the other hand, believe that the TIA Administrative Rule provides the technical guidelines for generating the information which is both necessary and required to determine whether or not the approval criteria have been met. This information constitutes the required burden of proof that the Applicant is required to meet. Without sufficient information, such as an AM peak traffic analysis, it is impossible to know if traffic standards will be met and if safety will be maintained.

The Applicant's further argument that the Administrative Rule may not apply to this decision would render the Eugene Code useless and meaningless, and therefore would deprive the Code of any practical value. We believe the Administrative Rule clearly applies to this decision.

The City has needlessly and unnecessarily allowed the Applicant to forego providing critical information required by their own Administrative Rule. There was no rationale or justification provided for constraining the TIA scope at the time the study was done. Both the City and the Applicant have now expended more effort defending their position that more information is not needed, than would have been required to provide the full and complete TIA we are asking for.

For the reasons explained in this testimony, we believe that the Applicant's TIA is inadequate and fails to provide the required information. The TIA must be expanded in scope to address the critical issues identified herein and in testimony submitted into the record. Because there are so many deficiencies in

the Applicant's TIA, we believe that the application should be denied. The Applicant can re-submit a new application with a complete TIA.

