

CAROL J. PRAUSE LAW OFFICE, LLC

ATTORNEY AT LAW

408 SE Baker Street P.O. Box 827

McMinnville, Oregon 97128

CAROL J. PRAUSE*
JOSEPH M. STRUNK

Phone: (503) 434-5575
Fax: (503) 435-4897

*Admitted to the Oregon
and Washington State Bars

December 7, 2023

City of McMinnville Planning
231 NE 5th Street
McMinnville, OR 97128
Tom.Schauer@mcminnvilleoregon.gov

Re: PDA 1-23
S 1-23
TML 5-23

To those concerned:

I am filing this objection on behalf of my client Mike Full, who I understand has filed an objection and submitted evidence of the history of slope instability and failure in the area proposed to be developed pursuant to the above-referenced applications. I make the following objections and observations based upon the record made available on the City of McMinnville website. The observations and arguments made by Mike Full are also incorporated herein.

The application cannot be approved on this record. There is substantial evidence in the record that the subject site is not stable enough for the proposed development, and the evidence relied upon by the application is incomplete and out-dated.

William Orr, a licensed geologist who indicated he has studied this particular portion of the river bank for 20 years, submitted two letters (copies attached) stating that the proposed development endangers neighboring properties and that the setback from the river bank should be "100 feet or more", not the 60 feet herein proposed. Dr. Orr also disagreed with the only recent, minimal field observation of the property by Branch of engineering. Dr. Orr concluded that Branch engineering incorrectly determined that no recent mass wasting or sliding is observable; to the contrary, he said there is "clear and present evidence that a given slope is failing and in motion."

There is also substantial evidence in the record from Mike Full (summary attached), who has extensive knowledge of the river, that there is a long history of slumping and sliding in this area of a magnitude that would make a 60 feet setback inadequate and dangerous. The evidence submitted by Mike Full includes a LIDAR image of a large slide not far from the proposed site that does not appear to be detailed in the 2005 Geotech report or its successors. Evidence in the record from Mike Full also indicates that the applicant has expressed disregard for the potential for erosion and slumping and the impacts of it on neighboring properties. This evidence does not

support a finding of compliance with the relevant code and plan provisions.

The application instead relies on incomplete and out-dated evidence regarding slope stability. In addition, there is no indication of the top of the slope or the river edge were calculated, areas that naturally migrate, so a setback recommendation of any size is uncertain based upon these reports.

The most recent minimal engineering analysis relies too heavily upon incomplete reports and studies ranging between 9-18 years old and prepared by two different engineering firms who did not appear to work together. The application relies heavily upon a Preliminary Geotechnical Site Evaluation prepared by Geodesign, Inc. in 2005 for an 11-lot subdivision ("2005 Geotech Report"). The Geotech Report makes the only determination of the factor of safety for the river bank in question, using what appears to be an incomplete computer model from 2005.

It is improper to rely on such old, incomplete information compiled by separate firms, especially when the City of McMinnville is currently engaged in Natural Hazards planning based upon data of natural hazards that has emerged in the last ten years (see city website print out, attached). The statements regarding the surface conditions of the property made in the 2005 reports are most certainly not entirely the same 18 years later. As shown on the attached, the property that is the subject of this application has been identified by the city for consideration of a natural hazard overlay zone, further evidence of the potential for natural disaster on the river bank. There is no evidence in the record that the 2005 Geotech Report which was prepared in contemplation of an 11-lot subdivision can be applied to the 21-lot subdivision now proposed.

The 2005 Geotech Report estimated a .96 factor of safety for the slope, with the report indicating that a range of 1.3 to 1.5 is considered the minimum standard for safety. However, the report acknowledges that the slope was determined not by borings, but only by a computer model. The report details the input parameters that were used in the model, and there is no mention of the possibility of mass waste due to historical human activity being considered, yet there is substantial evidence of that being present in the subject are. There is also no mention that the model takes into account the location of the property in the extreme bend of the river. There is no evidence that this model took into account the unique character of this property as a previous landfill and its location at an extreme bend in the river, and that important information can't be assumed. With these unknowns, it's quite possible the bank is even less stable than estimated in 2005.

Presumably because the developer wished to build closer than the 80 feet setback recommended in the 2005 Geotech Report, GeoDesign performed a subsequent Slope Stability analysis in 2005 ("Slope Study"). The Slope Study also relied upon the old and incomplete computer model for a factor of safety on the river bank. The Slope Study performed two borings, the closest of which to the slope being approximately 30 feet away from the slope, so no additional information on the true factor safety of the actual slope was determined through the borings in 2005.

The geotechnical engineer who prepared the 2005 Geotech and Slope Report acknowledges communicating with Mike Full about the property, yet the report does not fully detail the hazards and history of human waste that he described. Because the Geotech report does not consider these matters, it is not reasonable for subsequent engineers to assume they were considered.

In 2014, Strata Design LLC prepared a Geotechnical Site Investigation ("2104 Investigation) for

development of a memory care facility. The 2014 Investigation again relies heavily on the 2005 Geotech Report and assumes the factor of safety determined in the 2005 Geotech Report. The 2014 investigation was prepared in contemplation of a memory care facility, and there is no evidence in the record indicating it can also be applied to the current proposed use as a 21 lot subdivision. The 2014 study also used cone penetrometer testing, but the test sites for this test were farther away from the bank than the borings that were done in 2005, so no new information on the true factor of safety for the bank was determined by this Investigation.

The 2005 Slope Study, whose factors of safety were incorporated by the 2014 geotech study, reported that with a 60-foot setback “the [factor of safety] increases to 1.4 or greater. During short-term flood conditions, the [factor of safety] is 1.2 or greater.” The same slope stability report indicated that the standard of care is “a minimum of 1.3 or greater for static conditions.” The slope stability report itself indicates that the factor of safety decreases below the standard of care during short term flood conditions if the setback is 60 feet. This is further evidence that 60 feet is not a safe setback, much less for development that is twice as intensive as the developed proposed in the original slope stability report.

The only recent engineering submission, by Branch Engineering, was prepared after two site visits during the driest part of the year, July and August of 2023. Branch Engineering’s Evaluation again heavily relies on the incomplete and out-dated reports mentioned above, and therefore incorporates their problems. There is no indication that any invasive testing, or any testing beyond visual observations was made by Branch Engineering, and Dr. Orr disagreed with the observations made by Branch Engineering, as detailed above. Such a cursory examination performed during the driest part of the year that relies heavily upon old and incomplete reports prepared by other individuals is not evidence that supports these applications.

A major change such as the amendment to the plan overlay, which allows twice of the concentration of development, cannot be supported by this record for the reasons stated above. Substantial evidence in the record indicates that the slope adjacent to the subject property is unstable to an unknown extent. This evidence does not support an overlay amendment to allow even more intense development.

Since the 2005 and 2014 reports were prepared, evidence in the record indicates that bank conditions have changed. Because the latest engineer to weigh in on this project was not involved in the preparation of the old reports, he has no way of knowing how conditions have changed since they were prepared.

There is no evidence from the preparers of the 2005 Geotech Report or 2005 Slope Study indicating its is still accurate and appropriate for the new development.

Because of substantial evidence demonstrating that the site is not safe for the proposed development, and because there is not sufficient evidence to demonstrate slope safety for the proposed developed, the application does not demonstrate compliance with the applicable laws, rules, and regulations. For these same reasons, evidence in the record does not support findings of compliance with the applicable goals and policies.

More specifically, because substantial evidence in the record indicates the property is not safe for the proposed development, the evidence does not support findings of compliance with relevant code and goals, including but not limited to the following:

PDA 1-23

-The application cannot support a finding of compliance with 17.74.070 (B), (D), or (G):

B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;

Because substantial evidence demonstrates that the property is not safe for the proposed development, findings cannot be made to support this criteria, namely for the Comprehensive Plan objectives invoked for a subdivision with the potential to slide into a river.

D. The plan can be completed within a reasonable period of time. With so many unknowns, the applicant cannot accurately estimate how long it will take to complete the project. The geotechnical reports on which applicant relies discusses many precautions and potential actions to be taken in development of this property, including but not limited to excavation of historic landfills, and the application does not provide detail for complying with those possibilities or how long they might require. Without knowing the true danger of the slope, it's impossible to tell how long it would take to develop.

G. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole. Evidence from Dr. Orr indicates the proposed development could have an impact on the surrounding properties, and the geotechnical data relied upon by applicant does not discuss impact to surrounding properties.

-The application cannot support a finding of compliance with 17.74.070 (B), (D), or (G): 17.53.120 because substantial evidence in the record indicates a 60-foot setback is not safe considering the unstable slope.

-The requirements of 17.53.150, 17.53.151, 17.53.153 cannot be satisfied because the proposed development is too large and encroaches into an area of unsafe bank stability.

-Riparian corridors and adjacent native landscape shall be protected. FINDING: (Policies 2 and 3): SATISFIED. The proposed plan preserves the riparian area and the majority of the mature trees in the proposed 60-foot setback from top of streambank. This criteria is not satisfied because substantial evidence in the record indicates a 60-foot setback is not safe on the unstable bank.

- Significant natural features shall be inventoried and protected as much as possible within new development plans. FINDING: SATISFIED WITH CONDITIONS. The plans show the heavily treed riparian area and floodplain and trees above the top of bank. The majority of those trees are to be retained, and a 60-foot setback is proposed from top of bank. This finding is not supported by evidence in the record and is refuted by evidence showing 60-feet is not a safe setback.

-Chapter 17.21. R-4 Zone. FINDING (Chapter 17.21): SATISFIED. The property is subject to the provisions of the R-4 zone, as modified by the provisions of the Planned Development Overlay Ordinances. Townhouses are a permitted use in the R-4 zone. The R-4 zone specifies that density maximum may not apply to permitted housing types other than single attached dwellings, which shall not exceed four units per 5,000 square feet, with minimum lot size for

townhouses averaging no less than 1,500 square feet per lot. average no more than 1,500 square feet in area.

To the extent the 2005 Geotech Report, 2005 Slope Study, and 2014 Evaluation can be relied upon, their cautions and recommendations regarding the slope should be made conditions of approval.

Because of the evidence indicated above, the application does not and can not support a finding of compliance with the following Goals and polices, as well as others regarding public safety and well being which the safety of the slope could impact: Goal II Policy 2.00, Goal III Policies 15.00; Goal V2 Policy 80.00.

We now request that the Planning Commission deny the three applications referenced above. In the alternative, we request that the record be held open so that the commissioners have an opportunity to visit the site, review the reports in light of these objections, and require appropriate, current evaluations of a dangerous slope.

Sincerely,

CAROL J. PRAUSE LAW OFFICE, LLC



Joseph M. Strunk

ENC: letters, summary, city of McMinnville website

November 28, 2023

To: McMinnville Planning Commission
Re: Celtic Homes I.I.C Proposal to build 21+ units @ N.E. Dunn Place, McMinnville
& Branch Engineering report on above parcel by R.J. Derrick Sept. 7th 2023
From: William N. Orr RPG (credentials below)

Because of my association with an adjacent property owner (Mike Full), I have regularly and carefully monitored ongoing slope failure on and near the proposed building site at N.E. Dunn for the past 20 years including 2023. Proposed construction site is on the outside (cutbank) of a large meander bend of the Yamhill River. The river here is deeply incised with an 80-foot (eight story) drop from the valley floor to the water surface. The slope between the valley floor and the stream is on average a 45 degree angle or 100% in engineering terms. There are numerous active springs issuing from the slope roughly 30 feet below the upper edge all along the cutbank.

The current proposal seeks to use old site assessments of an active slump going back 2 decades. This new proposal further seeks to increase the construction footprint from the original single dwelling and single residential lot to two-story, 21 or more residential units. This would clearly threaten properties on both margins of the proposed site.

The outer curving face of a meandering stream cutbank can be compared to a wall. If any portion or segment of the wall fails, the margins will also soon fail. Thus, adjacent property owners have a legitimate and urgent concern.

The September 7, 2023, Derrick site report has a serious error. It states (Lines 11 & 12) that while the slope below the proposed construction site ... "is heavily vegetated with leaning and pistol-butted trees but no apparent recent mass wasting or sliding was observed in the slope" I will tell you emphatically that leaning and pistol-butted (curved tree trunks) are clear and present evidence that a given slope is failing and in motion.

If I may be permitted to present an analogy to this situation it would be like heavy smoke pouring out of a building, but fire is not yet visible.
Thank You

Credentials: I am licensed as an Oregon Registered Professional Geologist (#G147) with a consulting and academic career going back 45 years. I hold a PhD in Geology from Michigan State University and served 8 years under two governors on the Oregon State Board of Geologic Examiners with three of those years as board chair.



20 October 2004

To: Doug Montgomery, McMinnville City Planner
From: William Orr, Registered Professional Geologist
Reference: "Bend-O-River Village, 1st Addition"

Doug,

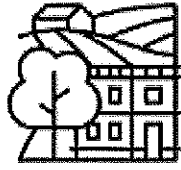
With regard to the proposed development referred to in plan as "Bend-O-River Village, 1st Addition" I can offer the following remarks.

The property is on the outside of a meander bend of the South Yamhill River. The stream at this locality is deeply incised in a rejuvenated state, actively eroding particularly on the outer (convex) sides of meanders. Upon examining the subject property as well as walking the adjacent upstream and downstream properties, I was able to see clear evidence of mass movement in the vegetation (poor drainage and tree trunks) as well as slump blocks and a series of resultant stair-step terraces all the way down to the stream's edge. These distinct slump terraces reflect the presence of failure surfaces beneath the property that are near vertical at the surface, becoming almost horizontal where they extend out toward the stream in the subsurface.

Two serious geologic hazards to development exist here. First, the normal vicissitudes of stream meandering and erosion are elementary geology and these speak clearly to the imprudence of construction on convex (outer) sides of meander bends. Slump structures and failure surfaces are clearly visible on the Full property as well as the subject (proposed development) property and the Otte and Siegfried properties to the north. Comments by adjacent owner, Full and the vegetation on the slope clearly show the slumps are presently active. Water plays a key role in these types of mass movements by lubricating the slip surfaces, and adding weight to the slump as well as other processes.

It is not my role or expertise to suggest detailed mitigation measures for this hazard, but at a bare minimum it would seem advisable to order a setback of 100 feet or more from the slope edge or the first slump surface.

William Orr,
Registered Professional Geologist

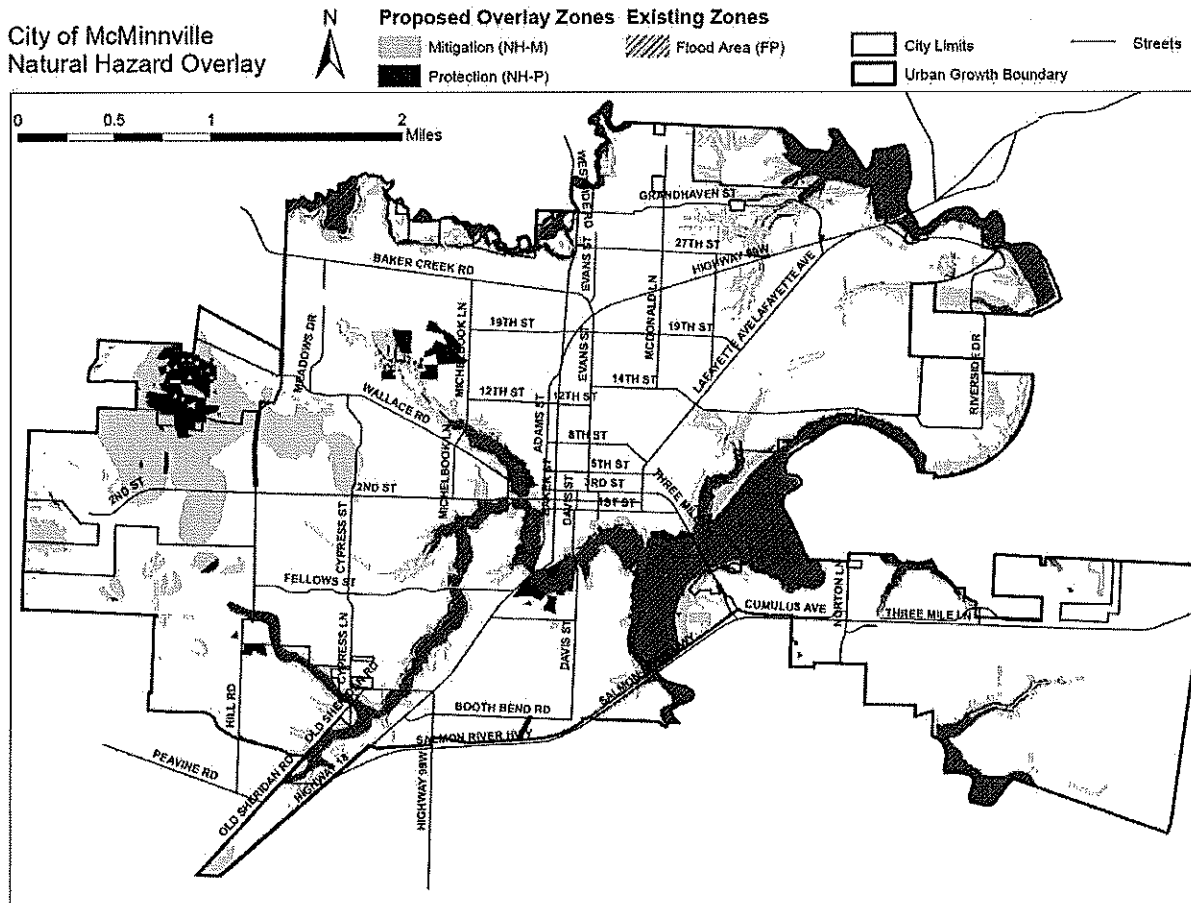


City of McMinnville

How can we help you?

COMMUNITY DEVELOPMENT

Natural Hazards



The City is currently engaged in Natural Hazards planning to identify potential natural hazards to people and property within the boundaries of McMinnville's city limits and urban growth boundary, and then to identify ways to mitigate those hazards so that development can occur safely. This is a requirement of the Oregon Land Use System (Goal 7). The state, counties and cities are required to do this type of planning.

In McMinnville's program, we are focused on the following hazards: Wildfire, Landslides, Steep Slopes, Soil Conditions - Liquefaction and Shaking, and Floods (click the links to see the individual maps). New data has emerged in the past ten years that indicates that there are areas within McMinnville that are impacted by these hazards, and as a result after two years of study and consultant recommendations, two zones are being proposed to help development occur safely in these areas - 1) Natural Hazard Mitigation Zone; and 2) Natural Hazard Protection Zone.

Find your property on our interactive map. This map will show you if your property is impacted and by which zone it is impacted. Then review the proposed zones below to see what it means for your property. Call us if you have questions. We are here to help you understand the proposed program.

Proposed Zoning

- Natural Hazards Overlay Zone - Proposed code language for the Natural Hazard Mitigation Zone and the Natural Hazard Protection Zone. This chapter will indicate what you can and cannot do in these two zones.
- Flood Area Zone - This zone already exists and does not allow any development in the Flood Area. However there are some proposed amendments to the existing zone.

Upcoming Events - Learn More and Participate in the Dialogue

07 December, 2023

To: the McMinnville Planning Commission

From: Michael E. Full

Re: Proposed Development at 235 NE Dunn Place

Members of the Planning Commission:

The property in question has been in my family's possession since the late 1930's until my grandparents' death and I still live on the contiguous parcel to the west. As such, I have an oral family and actual history of this piece of property that spans nearly a century. I have undoubtedly spent more time on the South Yamhill River than any other living person, studying the geology of the river and annual effects of mass wasting on riverfront properties over a period of time that spans more than five decades.

Each summer, even prior to my retirement from the McMinnville Police Department, I spend my days taking community members, researchers, students and interested individuals down the South Yamhill River in search of Pleistocene fossils, glacial erratics, and cultural artifacts.

From this unique perspective, I bring to you my opinion and conclusion as to the inadvisability of any high-density residential housing being built on the property at 235 NE Dunn Place.

Historically, this piece of property and the adjacent pieces both upstream and downstream are subject to small to large sized sometimes catastrophic events of mass wasting. Issues stemming from bank creep, bank slippage and bank collapse have been triggered by floods, earthquakes, ground water saturation and scarification (human induced mass-wasting).

ANY development of the property at 235 NE Dunn Place should take into account factors occurring not only above the arbitrarily marked top of the bank delineated by a roughly approximate dotted line on a map, to the river course, surrounding properties, and the general area.

I speak in adamant opposition to the proposed development and bring to your attention:

Historical data relevant to this specific piece of property

Historical data relevant to this specific piece of property suggests that a high-density development of the property is ill advised and would possibly actually endanger inhabitants of this and nearby properties.

Lacking the environmental conscience we possess today; it was common practice in the past to dump raw garbage into a convenient creek or river and let nature and winter floods take over. McMinnville shows ample evidence of this practice:

The first city dump was into Cozine Creek at a location which is now Upper City Park, directly behind the city aquatic center. Bottles and artifacts which were excavated from the site dated back to the mid to late 19th century. As the town grew, the dump shifted to the South Yamhill River downstream from Dayton Avenue (which at the time bridged the river and continued as "Three Mile Lane"). Dumping raw

garbage into the South Yamhill River at this site continued for several decades at what is now the Kiwanis Marine Park.

Sometime in the last decade of the nineteenth century to the early years of the twentieth century, the garbage dump once again moved, this time out Three Mile Lane and down an approximately 450-yard gravel road which came to be known as "The Old Dump Road" and is now named Dunn Place. This dump was in continuous use until sometime in the mid to late 1930's and the area of compacted rubbish is quite apparent today with the naked eye. It is contiguous to the proposed property development and perhaps even overlapping onto it.

The abandoned city garbage dump on the South Yamhill River located off of Dunn Place should be of great concern in the proposed development at 235 NE Dunn Place. Collapse of the bank associated with the dump or properties adjoining it could have catastrophic consequences both in property and loss of life. I have in the past met with previous city engineers and planners and brought to their attention the existence of the dump. On each initial contact, ignorance was expressed of the very existence of the dump. This is my third time appearing in front of the planning commission and I have found no documentation carried over of the existence of the dump or its possible effect on the stability of the properties adjacent to it, even though an original geo-tech study indicated the presence of buried garbage and debris on the property at a location which confirms my recollections of the extent of the garbage dump. The site has been subject to continuous instability, slumping and erosion; processes that are ongoing to this day:

- **165 NE Dunn Place:** During short term flood events, adjacent properties are already stressed by surface water runoff. When we installed our driveway, rain water caused surface ponding which went from the front door of our home to the frontage road at the front of our property, covering all of the front of our property, as well as well as most of the property now being eyed for development. We (myself, uncle, father, and grandmother) determined the only way to avoid catastrophic bank failure was to ditch between her property and mine from the driveway to the river bank. This ditch has saved both properties from flooding for many years, with me doing yearly cleaning and maintenance. Past surveys of the property show the ditch to be slightly on the property proposed for being developed. If the ditch is filled in by development, my property immediately has a substantial danger of surface ponding and collapse. The Geo-Tech reports before you address the issue of ponding and say that it should not be allowed to occur under any circumstances.

Additionally, during the same time period of the operation of the "Old City Dump", local slaughterhouses and processing plants disposed of offal, bones, sawdust, feathers and waste nearby, dumping it directly off a concrete slab located at what is now the west border of the adjacent property (165 NE Dunn Place) directly over the riverbank and into the South Yamhill River. As a young boy, playing on this part of the river bank, the ground was so soft and unstable that one would sink ankle deep just walking over it. This undoubtedly contributed and may still contribute to the intermittent bank slumping and slippage along the property.

Intermittent bank slumping, slippage, creep and washouts have continuously occurred on the property in question and adjoining properties for at least as long as my family has owned the

properties. My family's oral history and my personal knowledge supply ample evidence of that:

Both my grandfather and my father related to me an event occurring in the early 1940's, prior to my father going into the army 1943 to serve in World War II. The "whole bank of the Yamhill washed out at the old dump". So severe was the event that the family farm was, for weeks, absolutely inundated with thousands of rats that had been residing in the dump when it was washed out.

In the flood of 1964, the bank collapsed at the location of the offal dump site, carrying away much of the concrete slab that had been the dump truck platform. The collapse resulted in trees from the top of the bank washing all the way into the river and measured approximately 80 feet wide, taking perhaps thirty feet in width from the top of the bank.

In response to bank slippage in the mid to late 1960's directly behind her house off Dunn Place (the property of the planned development) my grandmother planted ivy to stabilize the ground. The ivy flourished, covering the ground and also climbing the trees, killing many in the process which may serve to further destabilize the bank.

In 1996 the bank again collapsed, on my property. This time the collapse took away a good portion of my back yard, including a large and mature old growth maple tree. The collapse was extensive enough to drive material, dirt, trees, debris from the top of the bank all the way into the river and partway across it. (Photo attached)

- **235 NE Dunn Place:** The address of the proposed development shows leaning and gunstock trees over its entire course. During the course of my lifetime, the bank has slowly and inexorably eroded. This is the property we accessed the river below 301 NE Dunn Place from as children, to play. It is unlikely to be able to make that trip now due to erosion and bank movement, and the location below 301 NE Dunn Place where we played is perhaps mid river and maybe even the other side of the river now. The huge spreading maple tree where dad made my first tree fort for me has long since slid over the bank, into the river and oblivion. An active, year-round spring comes out of the bank, and a thick wedge of bull rushes reaches all the way to the top of the bank, indicating the path of constant surface water runoff. No trace remains of the cat trail that once lead across what is now 265 NE Dunn Place, 275 NE Dunn Place and onto a wide flat below 301 NE Dunn Place that extended past the lot located at "O NE Chalmers Way". (Photos attached)
- **265 NE Dunn Place:** George and JoAnn Otte expressed concerns over bank slippage on their property over the years. They experience bank loss and trees sliding into the river which they associated with heavy rainfall, surface water accumulation and flood erosion. Dave Tracey (sp) and his family now reside there. He could not be at the meeting because of other plans, but contributed a letter of concern dealing with overall congestion because of the development. He showed me his property and commented on the loss of trees and his concerns over flood, bank erosion and slippage. He has been attempting to stabilize his bank with sensible terracing and water abatement. (Photos attached)
- **275 NE Dunn Place:** I am not acquainted with the owner and have not spoken to her. This is the newest house in the area, being built AFTER 2004/5 and therefore AFTER City had become

aware of the Old City Dump, knew of the 80 (or 60 if you wish) foot setback and AFTER I had been told the City had placed the same setback on my property "since you brought it to our attention" as the then City Engineer Don Skutt (sp) advised me. Its proximity to the riverbank without respect to any setback from the City speaks to either a lack of attention, disregard for the information that had been accepted, or duplicity. As one would expect, the construction lead to an immediate speeding up of the bank movement, and pronounced slump has occurred, with many trees lost and obvious bank failures in evidence. (Photos attached)

- **301 NE Dunn Place:** Dr. George Dunn built his house and practice on top of the bank and experienced significant bank erosion, coupled with bank slippage and slumping especially during heavy rainfall and flood events. Over the years, the entire flat which had constituted much of the Old City Garbage Dump eroded out and that) erosion continues. He planted willow trees to mitigate bank slump and erosion. These trees have all died or slid into the river over the years. George and Becky Siegfried now reside on the property and have had significant and alarming bank slippage as a result of band slump from liquefaction of the soil, flood erosion and a minor earthquake. He will offer much more detailed and eloquent testimony to his situation than I can. He has also seen dangerous bank movement on both sides of his property. He reported to me that heavy rains cause such a surge in the storm drain right-of-way across his property that it "roars" and he fears associated bank erosion and collapse. This is the same storm drain that the past city engineer advised me was over capacity, and that now the proposed development will drain to. (Photos attached)
- **Chalmers Court:** "0 Chalmers Court" is a lot offered for sale stating specifically "buyer must do own due diligence" for rather obvious reasons: what had been a wide lot and used as a playground for children is now barely walkway wide and plunges into the river at approximately a 45 degree angle. The next house down shows bank erosion/movement which is close enough to endanger the house which looks to have taken a slight tilt. (Photos attached)

Letters and testimony from a preeminent Registered Geologist who has personal first-hand observation of this piece of property that spans over three decades.

Dr. William Norton Orr PhD speaks to the inadvisability of a high-density development of this property and the danger to area properties if it occurs. He offered in-person testimony during the 2004 property development proposal, and both in writing and verbally stated that a 100-foot setback would be prudent, at a minimum if a high-density project was to be contemplated. Instead of focusing on the buildable area at the top of the slope to the near exclusion of all other evidence, Dr. Orr's analysis was based on his first-hand observations of the property and the surrounding area and his vast knowledge of the processes of mass wasting, a subject which he taught at University level.

It bears comment that Dr. Orr, Professor emeritus at the University of Oregon, actually did "write the definitive book on Oregon Geology." He and his wife have authored specifically relevant books such as: *Oregon Geology, Geology of Oregon, Geology of the Pacific Northwest, Rivers of the West: A Guide to the Geology and History and An Environmental History of the Willamette Valley.*

Unfortunately, a current health issue keeps Dr. Orr from appearing personally before the Planning Commission, but his letters have been provided.

The inadequacy of the site proposal's planning: Attorney Joe Strunk will offer detailed rebuttal to the proposed high-density development. Briefly, it relies on past geo-tech studies which were developed for different proposals, not this proposal, with this footprint and this level of impact. In 2004, the first time I appeared before the planning commission, I spoke in opposition to the 14 residences being proposed in that development, for the same reasons I am outlining today. A geo-tech study was ordered by the City, which suggested a minimum 80 foot setback. The development did not go through and the property was sold.

In 2014 another development was proposed, this one for a memory care unit which was a much lighter footprint on the property. A second geo-tech study was commissioned which concluded that a minimum 60-foot setback would work for this proposal. We gave it tentative support based on assurances from the city planner that only this use would be permitted, not a "bait and switch" as well as assurances from the owner/developer that they had no intention of deviating from the proffered plans. However, another memory care unit was built in McMinnville, and the owner/developer decided that the market was saturated, and pulled out. The property was again sold.

Now, development for the property is again proposed, and in spite of past assurances from the city planner, the development seeks to use the 2014 geo-tech study's concluded 60 foot minimum setback which was conducted for the much lighter footprint memory care facility, and construct an even more densely packed project than the original 2004 proposal.

- Once again, the project fails to account for river, flood, earthquake, natural ground movement or scarification occurring on adjacent properties.
- No mention is made of the Old City Dump contiguous to and perhaps intrusive onto the property. The Geo-Tech in 2005 by GeoDesign after the City had been made aware of the Old City Dump; drilled into garbage during testing. Instead of investigating the extent of the garbage and whether or not it was part of the Old City Dump, they referred to it as "buried trash pit" and moved to another location. The report states "the depth and lateral extent of the trash pit were not determined during our investigation".
- The Geo-Tech 2005 study refers to slope stability. Slope stability is measured as FS, a factor of forces resisting slope movement to the forces driving slope movement. While the Pacific Northwest "industry standard" if you will, for slope stability is a **minimum** of 1.3 for safety. They conclude that "Our analysis confirms that the slope is essentially unstable with a critical FS value of under 1.1". The study also acknowledges that during short term flood events the FS at the 60 foot setback drops to 1.2, which is below industry safety standards! Flood events are, of course, the most critical times of bank collapse.
- Year-round springs seeping out of the bank at this and adjacent properties also speak to bank instability, especially during short term flood duration. Surface water and runoff which is not captured can and will find its way to adjacent properties such as mine.

The storm drain and water containment proposal were touted at the public meeting associated with this development as handling monthly average rainfall reports "for the past 25 years". A convenient length of

time, considering the last previous major storm event had occurred 26 years previously. (Just as convenient was the timing of the public meeting, held the busiest travel day of the year: the day before Thanksgiving, 2022 during typical dinner hours, with a strict one-hour maximum scheduled duration. If you don't want to hear from folks, that's how/when to hold a meeting.)

The unique conditions of the site and surrounding local have not been taken into account: The City of McMinnville is in the process of adopting a disaster preparedness plan that identifies earthquake, flood and landslide dangers. All three of these dangers occur on the property in question and in fact occur in the area the developers chose not to examine. The issue of scarification was not even brought up and was apparently completely unknown or overlooked by the City, the disaster plan, and the developer. The properties at this location have year-round springs and seeps which exacerbate the danger of mass wasting. The property in question in fact has bull rushes all the way to the top of the slope; a situation that I have not seen duplicated anywhere along the river and a sure indicator of wet soil.

One needs only to examine a LIDAR image for compelling evidence of mass wasting both upstream and downstream from this site. Astonishingly, approximately six hundred feet upstream from the proposed development is what appears to be a very large slump block or ground failure, the size of which if imposed over the development would more than completely cover it.

LIDAR images clearly confirm what Dr. Orr refers to in his testimony: that the bank is "failing and in motion". LIDAR shows the bank beneath the property to be scoured by annual floods and the area of the abandoned garbage dump to be in active failure. The Branch Engineering letter of September 2023 acknowledges leaning and pistol butted trees (which are indisputable evidence of ground movement), but concludes "...no apparent recent mass wasting or sliding was observed on site." The "off site" evidence of mass wasting is explained as "erosion and a fence leaning and out of alignment". Compare these observations to the photographs of the area taken that December and decide for yourself!

Any decision to develop this property should have to take into account flood erosion danger, liquefaction due to earthquakes and all mass wasting dangers on the property, adjacent to the property, or dangers to adjacent properties posed by ill-conceived high-density or high footprint development of this property. At a bare minimum, the City should include in its Disaster Preparedness Plan the location of the Old City Dump and figure in the hazard its presence represents to any high density development in the immediate vicinity. Then, perhaps, there will be a record, a memory, so that ignorance of the conditions cannot be claimed in the future.

Conclusions and Take-Aways: I readily admit that the property can and will be developed, and will strongly advocate for the low impact development of the parcel north of the proposed new city street (my driveway). When I found out about plans to develop the property, I talked with Jason Flores and was assured the property would be low impact, combination of single residences and duplexes, single story and townhouses which would fit well with the existing neighborhood. He stated that he was aware of the issues of setbacks, the concerns of bank erosion and mass wasting. He assured me he would be in contact with me.

When it became obvious that the area north of the driveway would be common wall townhouses spaced as close together as could be allowed, I again approached him and sought compromise. I went so far as to discuss with my neighbors to the west considering allowing development of the front of our properties in exchange, trade, sale; any compromise that would work; in order to safeguard the property closest to the river bank or ensure it was developed with a light footprint. (Two, perhaps three residences with adequate drainage, setback, and space would definitely have been acceptable. Jason Flores expressed great interest in this and again, would be in contact with me.

At the public meeting in November of 2022, Dr. Siegfried rose to speak and addressed the issue of his concerns that a heavy footprint, high density development could endanger result in conditions worsening for him and his property. Jason Flores cut him off in mid-sentence and responded in a very terse manner: **"Erosion on your property is not our concern. If you have a problem, you should contact the Army Corps of Engineers, the State of Oregon or Yamhill County!"** This attitude and his tone deeply alarmed and offended me!

Coincidental to his remark I can only add this: as Head Firearms Instructor and Rangemaster for the McMinnville Police Department, I designed; and with the finest team of volunteers, officers, city employees and members of our community; built the McMinnville Police Department Firearms Training Facility on city property. As such, I had contacted all three entities Jason Flores named: The Corp of Engineers ceded all control of the South Yamhill River back to local control in the late '50's. State Wetlands only deals with areas defined as flood plains and floodways. Yamhill County deals with county land, not areas in the city limits. Then as now, the City Planning Commission held sway.

At best, the sixty foot setback is an approximation, which has been taken by the developer to be an absolute: look at the tentative layout, a unit is built right up to the setback line, even though the "top of the bank" is arbitrary. The sixty foot setback is of course the closest to the bank of the three opinions in front of you: the original 80 foot setback which does not acknowledge the presence of a "trash pit" as possibly evidence to the extent of The Old City Dump, the revised 60 foot setback which acknowledges that in times of "short term flood events" the setback falls below the accepted industry safety standard, or the 100 foot setback suggested by Dr. Orr which takes into account not just the subject property, but the surrounding area and the effect the development can and will have on the adjacent properties.

It seems unconscionable to me that the conclusion has be made that it is safe to build so densely on this piece of property while acknowledging the instability of surrounding properties. But then, my attitude has never been **"Erosion on your property is not our concern."** I ask you to carefully consider if ~~it~~ cramming a few more housing units on a tiny piece of property in McMinnville is worth the risk of property and perhaps even life, if the wrong decision is made. You can ensure the safe development of the property and assure that surrounding properties and people are safeguarded as well. There must be common ground here. Please help us find it!

Thank you for your attention and consideration,