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January 4, 2024

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

Commissioners:

This office represents Mike Full, who objects to the above-referenced applications, for the following, as well as previously stated, reasons.

The subject property is located adjacent to one of the most unique and unstable geologic areas in the City of McMinnville: an extreme bend in the Yamhill River that is actively moving with a history of bank failure and slumpage. The subject property and surrounding area were used as a landfill, dating back to the 1800s, further contributing to the unpredictability of the property's stability.

There is substantial evidence in the record, including statements from University of Oregon Geologist William Orr, that the river bank adjacent to the subject property is unstable and actively in motion, with a history of slumpage, human contribution to instability, and heavy drainage and seepage. He indicated that the applications' proposed setback is too close to the river and too intense to be safe. Mike Full and Dr. George Siegfried, testified to decades of personally witnessing bank slumpage and seepage that would make the proposed development unsafe in this location.

This evidence is compared to the geotechnical information submitted by the applicant, which is too dated, incomplete, and piecemeal to support approval of the applications. Applicant's geotechnical information is limited to the subject parcel and does not examine the unstable river bank abutting the property or the ongoing movement and slumpage of the bank or how that could impact the subject parcel or neighboring parcels. Applicant's geotechnical information does not adequately examine seepage and underground water flow. Applicant's geotechnical information makes no subsurface evaluation of the river bank, slope, or any area reasonably near the areas of concern, which abut and support the subject property and neighboring properties. The 2014 Geotechnical report on which applicant relies says: "[w]e have made observations based on our explorations that indicate the soil conditions at only those specific locations and only to the depths penetrated. These observations do not necessarily reflect soil types, strata thickness, or water level variations that may exist between or away from

our explorations.” [emphasis mine]. The only substantial evidence regarding the condition of the river bank and the surrounding properties indicates the proposed application is not safe and does not satisfy applicable criteria.

In light of the substantial evidence in the record of bank failure and instability, approving the requested application would violate applicable goals and policies, including but not limited to the following: 2.00, 9.00, 71.06(3), 71.06 (4), 74.00, 79.00, 80.00, 92.01, 143.00, and 187.50(1).

In addition to the foregoing, there is not substantial evidence in the record to support a finding of compliance with 17.74.070(A). Applicant has not demonstrated how the physical conditions or objectives of the development are “special”, as required by the statute.

It would be error for the city to approve the application with conditions that require later proof of compliance with applicable criteria. The applicant should provide that evidence now and present it to the planning commission, and the public, for decision.

The exact location of the 60-foot setback is also unclear based upon the application materials.

Mike Full raises and preserves for appeal all of those matters raised above and in previous written and verbal submissions in this matter. Mike Full objects to and preserves for appeal all findings of fact and findings that applicable criteria have been satisfied to the extent those findings conclude, assume, or depend upon the conclusion that there is no history of slumpage in the slope and/or riverbank in the area adjacent to the subject property. Mike Full objects to and preserves for appeal all findings of fact and findings that applicable criteria have been satisfied to the extent those findings conclude, assume, or depend upon the conclusion that the subject property, surrounding properties, and riverbank are stable and safe for the development requested. Mike Full objects to and preserves for appeal all findings of fact and findings that applicable criteria have been satisfied to the extent those findings conclude, assume, or depend upon the conclusion that the Geotechnical reports submitted in support of this application examine all of the necessary and/or reasonable geologic factors, including without limitation an examination of the subject property’s proximity to an extreme bend in the river with a history of slumpage, seepage, and earth movement. The foregoing, include but are not limited to, findings related to the following applicable provisions: MC 17.74.070(B), 17.74.070(F), 17.74.070(G).

The planning commission should hold the record open and require the applicant to perform geotechnical studies of the river bank and surrounding properties, including subsurface examination of soils and water flow to address the concerns raised regarding instability. In the alternative, the planning commission should close the hearing and deny the applications.

Sincerely,

CAROL J. PRAUSE LAW OFFICE, LLC



Joseph M. Strunk



McMINNVILLE POLICE DEPARTMENT

130 N. Baker Street • McMinnville, Oregon 97128 • (503) 434-7307

February 13, 1996

To: Sheriff Lee Vasquez
From: Sergeant Mike Full
Reference: Commendations

Sir:

During the recent major flooding event I was involved in a water rescue involving a family of five trapped in their residence by rapidly rising flood waters. Assisting me in this effort was Deputy Bruce Distler of the Patrol Section, and Deputy Kay Full of Dog Control, both of the Yamhill County Sheriff's Office.

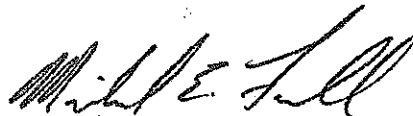
The rescue involved traversing approximately 75 to 100 yards of flooded road to reach a small bridge which had been submerged by flood waters and was being buffeted by strong currents and the impact of floating debris. The residence was fifty yards further through strong currents and entanglements.

Deputies Distler and Full unloaded and brought the boat forward while I deployed the rope rescue line from the bridge to the residence. Both Deputies then assisted in attaching the boat to the line, and remained on station on the flooded bridge.

The evacuation took three trips, and despite the rising waters, dangerous current, and debris, the Deputies successfully evacuated the family from the boat. The youngest had to be carried to safety through the water on the back of one of the Deputies.

Not satisfied with a successful rescue, your Deputies then provided transportation for the family, their few belongings, and dog, to McMinnville for safe lodging.

I wish to commend the efforts of Deputy Distler and Deputy Full for their selfless actions in the face of a very dangerous situation. Without their actions, the event could have resulted in a very tragic loss of life.


Michael E. Full, Sergeant
McMinnville Police

cc: Chief Rod Brown

To: City Planner and The McMinnville Planning Commission
Reference: Proposed addition, 235 NE Dunn Place

Dr. William Norton Orr, PhD, extends his sincere regrets that he can not be here to talk to you tonight. He is undergoing medical evaluations today and tomorrow that necessitate his being in hospital at this time. I am forwarding to you our email communication:

From: Mike Full <pancho_mef@comcast.net>
Sent: Wednesday, January 3, 2024 3:25 PM
To: William Orr <worr@uoregon.edu>
Cc: Joe Strunk <jstrunk@pplp.net>
Subject: Planning Committee Evidence

Howdy Bill,

Thanks so much for the conversation, and Kay and I are both worried for you, so keep us in the loop on tomorrow and the heart monitoring, please!

Also so sorry you could not be here for the Planning Commission Meeting, your presence will be missed, but thanks for agreeing to forward an email in response to our concerns. As per our telephone conversation, "geologist versus geotech" our contention that the bank is in motion versus the geotech saying that there was no evidence of recent movement in spite of the gunstock trees, slump blocks, seeps, etc indicating a bank in failure. We hope the planning commission will look at the entire connected system, not just the small piece of land of the geotech report, to recognize that:

- The presence of the abandoned City Dump adjacent to the development affects erosion and bank failure;
- The extremely acute bend in the river accelerates erosion;
- It is a grievous error to assume groundwater to be constant across the property at 10 to 12 feet deep when a gully filled with bull-rushes runs clear to the top of the bank.

Based on these issues, I am hoping that you still believe that a high density housing project at this location is still very inadvisable unless the 100 foot setback that you initially suggested is implemented.

(I'm attaching three illustrations to refresh your memory, showing the acute bend in the river, the city dump downstream, and the gully filled with bull-rushes.)

Thank you so very much, Bill

Mike

Hello Mike

I thought we put this issue to bed but I'm happy to add additional comments here. The main fact we need to make it that there *is* an over steepened slope at the site and it *is* in motion.

The report by the engineer states that he could SEE gunstocked (curved main brush stems) as well as leaning tree trunks. BOTH of these are clear signs of an active landslide (mass wasting). Incredibly he followed that observation saying he was: *unable to see evidence for slope instability*. To me this means he lacks even a glancing knowledge of landslides. For my professional career it has been my pleasure to teach engineering geology courses on several occasions and recognition of slopes in motion (mass wasting) by vegetation is elementary to the extreme.

Another issue I would bring up is the suggested setbacks for construction. Looking back some decades at previous site reports I note that at one time a setback of 100 feet for the site was suggested and even agreed to by me. In later reports, setbacks of first 80 feet and later 60 feet were suggested so the construction footprint seems to be creeping to the edge of the cliff that forms the northern boundary of the site. As a general rule, construction setbacks bordering an active landslide increase (not decrease) with time.

What is most vexing to me about this whole process is that a site visit by even a couple of planning committee members has not taken place. In my professional career I learned early on that a simple field trip is the most powerful persuasion tactic.

Bill

Summary:

I would like to see the residential development of 235 NE Dunn Place. My objection to the proposed development is based on the density of the development close to the bend of the river which has unique challenges, and must be considered cumulatively, not in a “check the box” fashion using data furnished by the developer whose response to concerns of the impact this development will have on adjacent properties, has stated “erosion on your property is not our concern” (public meeting, October 2022, to Dr. George Siegfried) and “that is not our problem” to you, the Planning Commission, November 2023. Nothing that the developer has presented should lead you to believe his attitude has changed in 2024.

To be sure, our safety is not the developer’s concern: his focus is to make as much money as possible off of property he owns, and that is understandable. The City Planning Staff is limited in its focus to just the present proposed addition, to assure that all the boxes are checked in accordance to State laws, city ordinances and planned development strategies, and that is understandable. It is you, the Planning Commission, who are charged with looking at the cumulative effect and make the right decision. When doing so, please consider:

- **The totality of the geology, not the narrow focus of the information provided by the developer, determines the actual safety of the project:** Remember what the developer said: he was glad they had a Geotech engineer instead of a geologist. Of course he would! A geologist told them there should be a 100-foot setback, there was an original setback of 80-feet, figures were crunched and reexamined to support a 60-foot setback and if he could find a Geotech firm willing to say no setback was needed, he would undoubtedly use them!

- **The Geotech studies are inherently flawed:** The developer had information of an adjacent old city dump which bordered the proposed development. The first test hole drilled hit buried trash, but instead of determining the extent or even if it constituted a part of the old city dump, it was labeled “an isolated trash pit”, the drilling was moved, all further testing was done away from it, and the presence of was ignored, forgotten. Given the history of this property the City should require individual, site-specific Geotechnical and Geologic Hazard Reports for each building lot overlain with the setback line.
- **The storm water abatement system uses insufficient data and is located within the setback area:** During the November 2023 public meeting we were advised that the storm water abatement system used average rainfall data for the “past twenty-five years”. Averages do not consider events, which is how it rains here in Oregon. Most importantly, the last flood event was twenty-six years ago at that time. Additionally, the plot map indicates that the underground storm water catchment basin is located partially within the designated setback area where no construction should occur, (and that setback line is defined as approximate; the problem could be even worse.) It is also dangerously close to the section of the bank that has erosion and bullrushes all the way to the top of the bank. Any overcapacity water discharge through an overflow onto the street endangers downstream adjacent properties, any overflow elsewhere endangers the development itself and/or all adjacent properties. Again, please consider the totality and cumulative effect in making your decision.

I have tried to communicate these issues to the developer, along with efforts to reach an agreement or compromise. On first contact the developer indicated the development would blend seamlessly in to the existing neighborhood, with a combination of single-story residences,

townhouses with an acceptably light development footprint that would assuage my concerns. When the density of the development became apparent on the section bordering the river, I suggested a property swap or sale: to keep the footprint light next to the river build townhouses across the front of my property. Again the developer expressed great interest and “I will get back to you” and again no further communication was received.

The McMinnville Planning Commission is faced with a difficult decision: You must choose between accepting the recommendations of the McMinnville Planning Department, based on the information provided by the developer, which is a comprehensive volume of data but addresses concerns piece-meal in a “check the box” manner; or consider the totality of the information; the cumulative, interconnected evidence which forms quite a different conclusion.

Thank you for your attention and consideration,

Mike Full

165 NE Dunn Place

McMinnville, Oregon