

July 15, 2019

City of McMinnville Planning Department
Attn: Jamie Fleckenstein, Associate Planner
231 NE Fifth St. – McMinnville OR 97128

RECEIVED

JUL 15 2019

COMMUNITY DEVELOPMENT
CENTER

RE: July 23, 2019 City Council Hearing
City Council Review of Two (2) Major Amendments to Planned Development Overlay Ordinances
and 108 Lot Subdivision Request
Oak Ridge Meadows

The following are submitted to the Planning Department by Friends of Baker Creek for inclusion in the public record for the above referenced hearing.

#1 - Testimony to the Planning Department.

#2 - Eight binders of testimony addressed to the seven council members and City Manager. They contain the same information as the testimony hereby submitted to the Planning Department.

They are designation for:

- City Manager, Jeff Towery
- McMinnville Mayor, Scott Hill
- Council President Kellie Menke, Ward 2
- Councilor Sal Peralta, Ward 1
- Councilor Wendy Stassens, Ward 1
- Councilor Zack Geary, Ward 2
- Councilor Remy Drabkin, Ward 3
- Councilor Adam Garvin, Ward 3

After you have done your due diligence to ensure the original testimony submitted to the Planning Department matches the testimony in the seven binders of testimony addressed to the City Manager and City Council members, we ask those binders be submitted, in their entirety, to the members as addressed.

Friends of Baker Creek

Cc: Melissa Bisset, City Recorder
Melissa.Bisset@mcminnvilleoregon.gov

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City Councilors,

We want to thank you for allowing our group to present our recommendations to the city council.

Our Friends of Baker Creek group went into the first hearing with two simple recommendations to make Oak Ridge Meadows a safer and better development for both its residents, and the four hundred or so residents and our three neighborhoods. The two recommendations were:

1. To have Shadden street named the primary access to Oak Ridge Meadows instead of a dead-end, no legal access Pinehurst Street.
2. To notify the commissioners that after almost 40 years of directing new storm drainage into the Baker Creek basin (policy #142) – that most of the basin now floods to the brim a couple of times per year. So, an updated FEMA LOMR study is needed to determine if it is still safe to build in the basin or not.

That sounded simple at the time. But in the first meeting we were educated on the goal post rule. And in the second hearing, we had to watch in dismay as commissioners questions to staff about the availability of Shadden street as an access – received a series on non-answers by planning staff (not official yet, working on it, etc) who had been involved in meetings with Premier and Stafford on that very subject that had led to the letter on Exhibit 27 – that contains answers to all the “availability” questions the Planning Commissioners asked. So, as it stands now, the commissioners voted to leave Oak Ridge Meadows residents with just ONE access road for up to five years.

But, the most frustrating part of the first two hearings was that after we completed our three-minute testimonies – the applicants attorney (and planning staff) were allowed unlimited time to denounce our testimony as false and misleading (which it wasn't). And again, we weren't given any opportunity to challenge what we feel were their false claims.

Rather than put the city councilors or, ourselves through that again, we have decided to put together presentation manuals to hand in to the city councilors a week before the hearing. We apologize for all the reading. But it was the only way we could figure out to get our complete story to you councilors. And, also to include all the pictures, facts, and information that show our claims are true, not false misrepresentations.

We feel strongly that the facts and evidence we are supplying clearly shows that in spite of goal posts that are 36 years out of date, the Oak Ridge Meadows application doesn't meet Comprehensive Plan goals and policies in several other non-flood related areas (mitigation, legal access, environmental, etc). So, should be denied on those facts alone. We are also hoping that our flooding pictures and hydrology summary will make the council aware that the flooding issue could become a serious liability issue if an updated FEMA LOMR report is not ordered soon. That report will let commissioners know if the current FEMA flood classifications are 60-70 per cent inaccurate as our hydrology report claims. Or, if the basin is perfectly safe to build in as the applicant and the city planning staff are claiming.

We still think that our recommendations benefit Oak Ridge Meadows residents and the city as much as our three developments. Please vote to keep the 4722 property separate until a FEMA LOMR report (on the whole basin, not just 4722 property) can determine how much capacity is left in the basin.

Thank you for allowing us to present our full information,

WHY PINEHURST SHOULD NO LONGER QUALIFY AS THE PRIMARY ACCESS TO OAK RIDGE MEADOWS

YES, PINEHURST STREET DID LEGALLY QUALIFY AS AN ACCESS STREET IN 2005

Pinehurst street lies a full 3/4 miles east of the main portion of Oak Ridge Meadows development. And, requires developing a road that will be an environmental challenge through areas that were identified as wetlands and 500 year floodplain areas in a 1983 FEMA study. – There were three reasons that forced this approval in 2005:

1. IT WAS THE ONLY LEGAL AND QUALIFIED CHOICE AVAILABLE – There were no other streets that qualified to the north, south, or west. So, even though Pinehurst street was in the third development to the east of Oak Ridge Meadows (Oak Ridge, Compton Crest, Crestbrook) – it was the 1st “thru” street that qualified.
2. PREMIER DEVELOPMENT POSSESSED LEGAL ROADWAY RIGHTS TO BUILD A ROAD CONNECTING PINEHURST TO OAK RIDGE MEADOWS IN 2005. – Premier development did not own the 15 acre piece that connected their property to Pinehurst street in 2005. But, they did possess an option to purchase the property at the time 4822 was approved.
3. PINEHURST STREET AND MUCH OF THE 15 ACRES INCLUDED IN THE PURCHASE OPTION DID FIT INTO SEVERAL CITY LONG TERM DEVELOPMENT PLANS IN 2005 – So it was thought that this connecting road would eventually tie in with further housing down in the basin. So, since it met future UGB, TSP, and a few other long term plans – a low road connecting Oak Ridge Meadows to Pinehurst street was approved.

Even though Pinehurst was an environmental challenge and not efficient access to Oak Ridge Meadows, it was approved because it was the only option. And, as importantly because it fit into future UGB and TSP plans. – BUT, the city council must have recognized what an environmental challenge the connecting road would be. The April 18, 2005 letter from then Planning Director, Doug Montgomery, to Premier Development listed the 25 requirements that Premier had to accomplish before the city would approve the connecting road (letter attached). Today, Premier claims it was the economy that kept them from buying the 15 acre piece of property and building the connecting road. But the economy was going full tilt in 2005. Maybe the reason they did not go through with the property purchase and build the road was because they realized they couldn't meet those 25 requirements?

THE THREE MAJOR FACTORS THAT HAVE CHANGED IN FOURTEEN YEARS THAT SHOULD DISQUALIFY PINEHURST STREET AS AN ACCESS TO OAK RIDGE MEADOWS IN 2019?

Changes in three different areas have occurred since 2005 that should have disqualified Pinehurst as an access:

1. LEGAL – Premier no longer possesses legal roadway access to Pinehurst street. – Premier gave up their purchase option to the 15 acres of property needed to connect their property to Pinehurst street. Les and Kathleen Toth purchased the property. Les has entered two letters (attached) into testimony stating that he is not willing to grant a roadway easement to Premier Development. Doesn't the lack of legal access to Pinehurst disqualify Pinehurst street as a legal access street?

2. ENVIRONMENTAL – The Baker Creek Basin has been used to accomplish a totally different Comprehensive Plan policy for about forty years. Policy #142 – recommends directing the storm drainage along creek and river corridors into those drainage ways. The amount of storm drainage directed to the Baker Creek basin has continued to increase for over 36 years as new infrastructure projects have extended westward. In recent years, the volume of runoff has increased to the point where the majority of the basin now floods once or twice annually. Our group understands that a “goal post rule” prevents this fact from being considered on the Oak Ridge Meadows application. BUT – we have entered pictures of 2015 and 2018 into testimony (with accurate dates and photographers names) that clearly prove that the section of the proposed Pinehurst connection that lies on Toth’s property now floods yearly (it is classified as 500 year floodplain in 2010 FEMA map). As soon as a FEMA LOMR hydrology update is done, that proposed connecting road, and the whole acreage listed as “buildable inventory” in the UGB, should become classified as floodplain property. Hopefully at that time, the city will revise their long term UGB, TSP, and other long term plans to recognize that after 36 years of added drainage, policy #142 has made further development to the north of Oak Ridge, Compton Crest, and Crestbrook developments unfeasible.
3. COMPREHENSIVE CODE REASON – Development along Baker Creek Road has progressed enough since 2005 that a far superior access street to Oak Ridge Meadows has now become available. In 2018, Shadden and Cottonwood streets were connected on the south side of Baker Creek Road. In the letter from Stafford Development to Premier (Exhibit 27 attached), Stafford development stated that:
 - A. Stafford will be developing their property to the south of Oak Ridge Meadows this year.
 - B. Stafford will be developing Shadden street on the north side of Baker Creek Road in phase 1.
And;
 - C. Stafford is willing to give Premier usage of a temporary Shadden street until they fully pave and develop Shadden. They will then turn the right of way over to the city of McMinnville.Since Shadden street is available, and is by far the best access street for future Oak Ridge Meadows residents in several major comprehensive code areas (efficiency, circulation, environmental, habitat protection, and especially connectivity), doesn’t the comprehensive plan require that it be named the primary access street (and Pinot the secondary access)? And that the dead-end road that the commissioners approved – THAT HAS NO LEGAL ACCESS TO PINEHURST. AND, WOULD LEAVE OAK RIDGE MEADOWS RESIDENTS WITH ONLY ONE ACCESS FOR UP TO FIVE YEARS – SHOULD NOT EVEN QUALIFY AS AN ACCESS STREET?

CONCLUSION: Pinehurst street was approved in 2005 because it was the only option. And because developing the 1980’s wetlands area did match up with long term UGB and TSP goals. In the fourteen years since, a much better access street has become available. PLUS, the continued increases in storm drainage has converted the whole lower basin to a floodplain area. Building in a floodplain is not feasible. And would not be allowed under comprehensive plan policies – IF the planning goal posts were current. Please order an updated FEMA LOMR. That report will allow the city to update their long term UGB and TSP plans. And also get planning goal posts moved forward 36 years. Once that is done, the city can determine just how much volume of storm drainage capacity is remaining. Please do not make the same mistake the City of Portland made with Johnson Creek. See nrssolutions.org/johnson-creek-restoration-portland-oregon/

Pictures showing that proposed Pinckney
connecting Road now floods regularly



PROPOSED ROAD CONNECTING TO PINEHURST

Note:

Yellow line is approximate route of road connecting to Pinehurst

All the road route on Toth's property, until about 15' west of the white barn has flooded several feet deep three times in the past five years (Dec. 8, 2015, Dec. 18, 2018, Feb. 2019)

All of the 500 year flood plain area on Toth's property has also flooded at the same times, as has the basin on 4722.

The proposed fill/dike area on 4722 will likely be classified a 100 year flood plain if FEMA gets updated with a LOMR.



December 18, 2018 Flood picture from Lot #40, Exhibit 26

- *After less than 2" of rain in 24 hours (a.m. 17th - a.m. 18th)
- *Pinehurst route on Toth's property flooded
- *500 year flood plain and 80's UGB area of Toth's property flooded
- * 3-4 acres of 1983 "Wetlands" on 4722 property flooded (mitigation failed)
- *Standing water in bottom/right area is where filling/diking/road are proposed. It is likely 100 year flood plain now.
- * Water in far left corner is where proposed road comes down to basin. It is also likely flood plain or 100 year flood plain today.

2005 LETTER FROM PLANNING DIRECTOR
TO PREMIER DEVELOPMENT OUTLINING 25
CONDITIONS FOR APPROVAL

And

TWO LESTOTH LETTERS DENYING ROADWAY
ACCESS TO PINOCHUEST STREET



230 NE Second Street • McMinnville, Oregon 97128 • www.ci.mcminnville.or.us

April 18, 2005

Premier Development LLC
1312 NE Highway 99W
McMinnville, OR 97128

RE: ZC 12-04/S14-04

Dear Jeff & Lori:

This is to advise you that, at a meeting of the McMinnville City Council on Tuesday, April 12, 2005, they took action to approve the attached ordinance and findings relative to your application for approval of a zone change from a County EF-80 (Exclusive Farm Use – 80 acre minimum) zone to a City R-2 PD (Single-Family Residential, Planned Development) zone on approximately 23 acres of land. The subject property is located north of Pinot Noir Drive and the Oak Ridge residential development and is more specifically described as a portion of Tax Lot 600, Section 7 and Tax Lot 200, Section 8, T. 4 S., R. 4 W., W.M.

As you may be aware, the Council took separate action on March 8, 2005, to approve your tentative subdivision plan for the same property. The conditions of approval for this subdivision are as follows:

1. That the subdivision approval does not take effect until and unless the companion zone change request is approved by the City Council.
2. That a detailed storm drainage plan, which incorporates the requirements of the City's Storm Drainage Master Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat. If the final storm drainage plan incorporates the use of backyard collection systems and easements, such must be private rather than public and private maintenance agreements must be approved by the City for them.
3. That a detailed sanitary sewage collection plan which incorporates the requirements of the City's Collection System Facilities Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
4. That the applicant secures from the Oregon Department of Environmental Quality (DEQ) applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.

Community Development Department
Planning Department (503) 434-7311 FAX (503) 472-4104

5. That the developer enter into a construction permit agreement with the City Engineering Department for all public improvements and gain a fill and grading permit for lot fill and grading from the City Building Division.
6. That restrictive covenants shall be prepared for the development. At a minimum, the covenants shall address planting and maintenance of trees within the curbside planting strip, and requirements for tree removal, consistent with the planned development approved for this subdivision. The proposed covenants must meet with the approval of the Planning Director.
7. That the applicant plant street trees within curbside planting strips along all proposed streets in accordance with a street tree plan to be prepared by the applicant and submitted to the Landscape Review Committee for their review and approval. All street trees shall have a two-inch minimum caliper, exhibit size and growing characteristics appropriate for the particular planting strip, and be spaced as appropriate for the selected species and as may be required for the location of above-ground utility vaults, transformers, light poles, and hydrants. In addition, street trees shall not be planted within 30 feet of street intersections. All street trees shall be of good quality and shall conform to American Standard for Nursery Stock (ANSI Z60.1). The Planning Director reserves the right to reject any plant material that does not meet this standard.

Each year the applicant shall install street trees, from November 1 to March 1, adjacent to those properties on which a structure has been constructed and received final occupancy. This planting schedule shall continue until all platted lots have been planted with street trees. All required trees shall be installed by the applicant prior to final platting, or security equal to 120 percent of the cost of installing the required street trees shall be posted with the City. The amount and form of such security shall be as required by the Planning Director.

It shall be the applicant's responsibility to relocate trees as may be necessary to accommodate individual building plans. The applicant shall also be responsible for the maintenance of the street trees, and for the replacement of any trees that may die due to neglect or vandalism, for two years from the date of planting.

8. That all fill placed in the areas where building sites are expected shall be engineered and shall meet with the approval of the City Building Division and the City Engineering Department.
9. That prior to the submittal of the final plat, the names of all proposed streets shall be reviewed and approved by the Planning Director.
10. That 10-foot utility easements shall be provided along both sides of all public rights-of-way for the placement and maintenance of required utilities.
11. That cross sections for the entire street system shall be prepared which show utility location, street improvement elevation and grade, park strips, sidewalk location, and sidewalk elevation and grade.

12. Said cross sections shall be submitted to the Community Development Director for review and approval prior to submittal of the final plat. If the submitted information so indicates, the Planning Director may require the tentative subdivision plan be revised in order to provide for a more practical configuration of lots, utilities, and streets. All such submittals must comply with the requirements of 13A of the Land Division Ordinance and must meet with the approval of the City Engineer.
13. That all streets within the subdivision shall be improved with a 26-foot-wide paved section, curbside planting strips, and five-foot-wide sidewalks placed one foot from the property line within a 50-foot right-of-way, as required by the McMinnville Land Division Ordinance for local residential streets.
14. That the applicant extend water service to the subject site in accordance with McMinnville Water and Light requirements. Easements as may be required for the extension of water shall also be provided.
15. That approved, working fire hydrants must be installed prior to the issuance of building permits for the subject site.
16. ~~That if the property owner wishes a one-year extension of the Commission approval of this tentative plan under the provisions of Section 16 of Ordinance No. 3702, a request for such extension must be filed in writing with the Planning Department a minimum of 30 days prior to the expiration date of this approval.~~
17. That a plan for the provision of secondary emergency access to the subject site shall be submitted to the McMinnville Fire Department for review and approval. At a minimum the required secondary emergency access must be constructed to include a 12-foot-wide paved travel lane with 20 feet of vertical clearance. All improvements required by this approved plan shall be constructed by the applicant prior to the filing of a final plat for the proposed subdivision.
18. ~~That prior to construction of the proposed subdivision, the applicant shall secure all required state and federal permits, including, if applicable, those related to the federal Endangered Species Act (if applicable), Federal Emergency Management Act, and those required by the Oregon Division of State Lands, and U.S. Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.~~
19. That barricades shall be installed by the applicant at the terminus of all public streets, consistent with City standards. The barricades shall include text stating: "This street is planned for extension in the future to serve proposed development."
20. That the submitted tentative plan shall be revised to include a public street extending south from "A" Street to serve future development of adjacent land. The street shall be centered approximately 225 feet east of the easterly right-of-way line of Pinehurst Drive so as to allow the future platting of lots some 100 feet in depth within the adjacent property to the south. In addition, the proposed cul-de-sac street ("C" Court) shall be redesigned as a through street connecting "B" Street and "A" Street. Adjustment of the submitted tentative plan is authorized as may be necessary to accommodate the provision of these streets.

21. That direct access to Lots 1-20, and 81-84 from Pinehurst Drive shall be prohibited. Access shall be provided by private joint access easements adjacent to and recorded on each lot. Such easements are required to be a minimum of 15 feet in width and otherwise dimensioned as proposed by the applicant (see Driveway and Easement Detail of the submitted Oak Ridge Meadows tentative plan).
22. That the applicant provide information to the City Engineer as to the design capacity of the existing downstream sanitary sewer pump station located in the Crestbrook subdivision, First Addition. If the information and studies provided by the applicant indicate that adequate capacity does not exist to support the proposed development of the Oak Ridge Meadows subdivision, then the applicant shall make improvements to the system as may be necessary and required by the City Engineer. Such improvements shall be at the expense of the applicant and shall be completed prior to release of the final plat.
23. That plat and construction phasing as described on the tentative plan is approved.
24. That the applicant provide to the Planning Department a mapped inventory of all trees greater than nine inches DBH (diameter at breast height) located within those areas of the subject site which may be impacted by the construction of streets, utilities, and future residences. This inventory shall be provided prior to construction of the proposed Oak Ridge Meadows subdivision.
25. That park fees shall be paid for each housing unit at the time of building permit application as required by McMinnville Ordinance 4282, as amended.

Please be advised that if no appeal is submitted to the Land Use Board of Appeals (LUBA) by May 9, 2005, the decision of the City Council as regards the subdivision and the zone change will become final.

If you have any questions or comments about this, please call me at (503) 434-7311.

Sincerely,



Doug Montgomery, AICP
Planning Director

DRM:pja
Encl.

c: Norm Hill, Webb, Martinis & Hill, 1114 - 12th St. SE, Salem, OR 97302
Dan Kizer, WesTech Engineering, 3841 Fairview Industrial Dr. SE, Ste. 100, Salem 97302
Jerry Hart, Craig, Brand, Lake & Hart, 330 N. Evans St., McMinnville
John Boskett, DKS Associates, 1400 SW Fifth Ave., Ste. 500, Portland 97201
Andrew Mortensen, The Transpo Group, 309 NE 3rd St., Ste. #5, McMinnville
Jeff Parr, 2718 NW Pinot Noir Drive, McMinnville

2700 NW Pinehurst Dr.
McMinnville, OR 97128
(503) 472-2302



March 20, 2019

To Whom it May Concern:

I have owned the property adjacent to the development where Premier Homes is planning to build a sub-division. My 15 acres is made up of flood plain and wetland areas. My property floods numerous times during the year when Baker Creek rises over the banks.

I have had multiple questions from concerned residents concerning rumors that Pinehurst Dr is going to extend through my property. I have not given an easement for a road to go across my property, nor do I intend to do so. I also have no interest in selling my property or any part of it.

If you have any questions please see my contact information above.

Sincerely,

A handwritten signature in black ink that reads "Les Toth". The signature is written in a cursive, slightly slanted style.

Les Toth

.....

2700 NW PINEHURST DRIVE
MCMINNVILLE, OR 97128

LESTOTH LETTER DENYING ACCESS TO PINEHURST STREET
5/6/2019

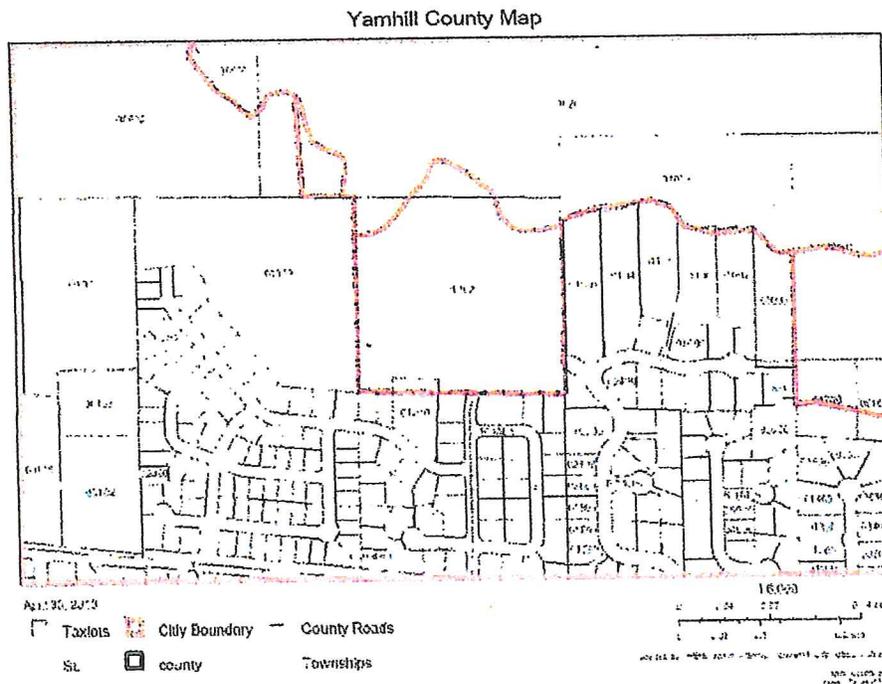
McMinnville Planning Commission
c/o Planning Department
230 NE 2nd Street
McMinnville, OR 97128

Re: Premier Development Applications
PDA 3-18/PDA 4-18/S 3-18 (Planned Development Amendments and
Subdivision)

Dear Planning Commission:

My name is Leslie Toth and I own the property that is immediately to the east of the property that Premier Development is trying to develop – the road extension would dead end on my western boundary. I write this letter to you asking that the Planning Commission either deny the applications of Premier Development or, at the very least, remove the development of the road in the wetland.

My property is located at 2700 NW Pinehurst Drive and is marked on the map below as Tax Lot 01202:



My property is south of Baker Creek and immediately to the east of the property currently in the Oak Ridge Planned Development that Premier Development wishes to transfer to the Pine Ridge Meadows Planned Development. Although my property is inside the McMinnville Urban Growth Boundary, it is not within the City of McMinnville – it is in Yamhill County and is zoned EF-80, an exclusive farm use zone.

Even though the property is within an exclusive farm use zone, I use it mainly for ball fields for family and friends, as it is not realistically farmable because it floods regularly. Most importantly, I do not want the property annexed to the City and I have no intention or desire to develop the property and it will not be developed in my lifetime. Accordingly, I am adamantly opposed to having a road dead-end into my property.

I believe the construction of the road labelled “Pinehurst” on Premier Development’s plans makes no sense; it dead ends at the city limits – and my backyard. It is the definition of a road to nowhere.

The construction of such a road will also destroy valuable wetlands. Wetlands serve many valuable purposes, including improved water quality, flood control, and wildlife and fisheries habitat. Keeping them healthy is critical to maintain clean water and to support wildlife and fish populations. This is recognized in the City’s policies, including the following:

- Planned Development Policy 74.00 – requires planned developments to “Distinctive natural, topographic, and aesthetic features.” Destroying over one-third of the natural wetlands on the site does not “retain” the natural wetland features. The fact that the state allows mitigation of this destruction elsewhere does not affect whether the applicant has met this standard.
- Planned Development Policy 80.00 – requires the preservation of “distinctive or unique natural features such as wooded areas, isolated preservable trees, and drainage swales” to the extent feasible. It is feasible to preserve all of the wetlands on the site and that should be done.
- Streets Policy 118.00(1) – requires roads to be designed to have “minimal adverse effects on . . . natural features of the land.” Destroying one-third of the wetlands on the property is not a “minimal” effect on the natural wetland

5/6/2019

and, again, mitigation elsewhere does not make up for the destruction of this land.

Beyond the destruction of the wetland, placing the roadway and additional homes on the wetlands will almost certainly have significant impacts to my property. When the wetlands are destroyed, that water will have to go somewhere else and that somewhere else will almost certainly include my property. Although my fields regularly flood, my house does not, at this point. When the wetlands are replaced by upland, including a road that will act as a dike, it will funnel the water from the wetlands onto my field and likely into my home. I can assure you that I will look to the city for any flooding that I suffer.

Moreover, I am very concerned by what I have heard regarding Pinehurst Drive. I understand that the City's Planning Director has indicated that the proposed new section of Pinehurst Drive would be connected to the currently existing Pinehurst Drive sometime in the next 5-7 years. I can tell you, as the current owner of the property that would be required to connect those two roadways, that it will not happen. As I stated above, I have no intent to develop my property and this connection simply will not happen.

In conclusion, I ask you to stop and consider the impact your actions will have on my property. Would you want a brand new dike destroying wetlands and causing additional flooding built next door to you? Would you like a brand new road dead ending into your backyard? I urge you to deny the application of Premier Development or, at least, require the elimination of the new road in the wetland.

Very truly yours,

Leslie Toth

cc: City Manager

WHY SHADDEN STREET SHOULD BE NAMED THE PRIMARY ACCESS STREET TO OAK RIDGE MEADOWS

COMPREHENSIVE PLAN GOALS/POLICIES CLEARLY SHOW THAT SHADDEN STREET IS A FAR SUPERIOR PRIMARY ACCESS STREET TO THE OAK RIDGE MEADOWS DEVELOPMENT – THAN A DEAD-END STREET WITH NO LEGAL ACCESS TO THE STREET IT IS NAMED FOR (PINEHURST).

THERE WERE THREE REASONS THE PLANNING COMMISSIONERS DID NOT CHOOSE SHADDEN – A LACK OF KNOWLEDGE WAS THE REASON FOR ALL THREE.

1. The Oak Ridge Meadows application stated that Stafford had given Premier a temporary access easement – for emergency fire vehicles only. With locked gates, etc. And the commissioners obviously believed that statement.
2. The Commissioners had apparently not read Stafford's letter to Premier in exhibit 27 where Stafford stated their plans to develop Shadden in their phase 1. And clearly gave Premier permission to use Shadden in their phase 1 development too. – with no fire/emergency vehicle limitation. And;
3. In the commissioner hearings – When the Planning Commissioners asked staff several questions about Stafford's willingness to allow Premier to use Shadden as an access street to Oak Ridge Meadows, when Staffords development would start, etc. – EVEN THOUGH STAFF HAD BEEN INVOLVED IN THE MEETINGS THAT LED TO GORDON ROOTS LETTER IN EXHIBIT 27, the planning staff apparently developed a case of amnesia, and answered the commissioners questions with some form of, "nothing official yet", "nothing official", "working on it", etc. In Stafford's letter to Premier in exhibit 27, Mr. Root had made it clear to Premier that:
 - A. Stafford would be developing their property this summer.
 - B. Stafford would be developing a gravel, temporary Shadden in phase 1.
 - C. That Premier was welcome to use Shadden in their phase 1 also.
 - D. That according to planning staff request, the temporary road would be strong enough to support a fire truck in the rain – But there was NO limitation to emergency vehicles only.
 - E. The only limitation was that if Premier did choose to use Shadden as an access in their phase 1, that Stafford would then only develop the road halfway from Baker Creek road to the Oak Ridge Meadows property. – And, Premier would be responsible for the cost of developing that gravel road the rest of the way to the Oak Ridge Meadows property.

THE RESULT OF THE ABOVE ACTIONS WAS THAT THE PLANNING COMMISSIONERS NEVER LEARNED ABOUT THE AVAILABILITY OF SHADDEN STREET AS AN ACCESS! SO, SUPPORTING THE ONLY CHOICE LEFT TO THEM:

- PINOT NOIR AS THE "ONLY" ACCESS STREET TO OAK RIDGE MEADOWS FOR UP TO FIVE YEARS. AND;
- A DEAD-END STREET WITH NO LEGAL ACCESS TO PINEHURST THAT PLANNING STAFF PROMISED WOULD BE CONNECTED "SOMEDAY" WAS NAMED THE EVENTUAL PRIMARY ACCESS. WOW!!!

In reading Comprehensive plan, Shadden street is the "poster boy" of what the goals/policies the plan calls for in an access street. It has by far the shortest, most direct access to Baker Creek road. It also offers the best connectivity (with Stafford's Baker Creek north), circulation, bike/trail access, easiest

emergency vehicles access, no environmental issues, etc, etc, etc. IF COMMISSIONERS HAD BEEN MADE AWARE THAT SHADDEN STREET WAS AVAILABLE, WE ARE CONFIDENT THAT THEY WOULD HAVE NAMED IT THE PRIMARY ACCESS. – WE INVITE CITY COUNCILORS TO ASK THEM THAT QUESTION.

Two other events where Stafford's representatives stated they were willing to make Shadden street available to Premier was at the separate neighborhood meetings for both Oak Ridge Meadows and Baker Creek North. The Stafford rep's were asked the question about the availability of Shadden street by citizens at both meetings. The reps actually seemed to perk up when asked this question (like they'd hoped someone would ask). And responded that they would be happy to make Shadden available to Premier.

There was one other opportunity where the commissioners had an opportunity to discover that Shadden street was available. – It was after the staff presentation in the first hearing, where in response to a commissioner asking about, "the road in Stafford development. When will they start?" At approximately 1:34:05, staff answered, "nothing submitted", "working on it", "no time frame". Well, my wife and I had attended Stafford's neighborhood meeting about a month before that. And in my three minute presentation after the staff presentation was over, I showed a slide of Stafford's preliminary layout of their Baker Creek north development superimposed on Premier's Exhibit 26 development map THAT CLEARLY SHOWED THAT STAFFORD IS PLANNING TO DEVELOP THEIR PROPERTY THIS SUMMER. AND THAT THEY ARE DEVELOPING SHADDEN AS AN ACCESS TO THAT PROJECT. (picture attached). I used that picture again in the second hearing. And pointed out that Stafford was only 90 days or so behind Premier in their development plans at that point. And again, I received no questions. It seemed they did not want to broach that subject in public.

In conclusion, it seems to us that gaining access to the Baker Creek basin (via a dead-end Pinehurst) was more important to the applicant, and the planning staff than providing Oak Ridge Meadows residents with a better access street that would be available on day 1, not five years from now. The letter in Exhibit 27 makes it clear that Stafford is willing to make Shadden street available to Premier. Since it is available, it clearly meets far more comprehensive plan goals/policies than a dead-end road that no longer has legal access to the real Pinehurst street.

We are asking the city council to give Oak Ridge Meadows residents a legitimate 2nd access street immediately, not five years from now by naming Shadden street the primary access street to Oak Ridge Meadows. If Premier is not willing to meet Stafford's request to pay to develop 50% of the roadway from Baker Creek road to the Oak Ridge Meadows property – then please have Premier wait until 2020 to develop Oak Ridge Meadows. It sounds like Stafford will have developed 100% of north Shadden developed to Premier's property line by then.

EXHIBIT 27 letter from STAFFORD to Premier
granting a temporary Access easement

AND

Preliminary STAFFORD NORTH Layout
superimposed onto OAK Ridge Meadows
EXHIBIT 26 MAP

STAFFORD'S Access Plan letter to Premier

Exhibit 27

From: gordonroot@aol.com

Subject: Re: Baker Creek North and Oak Ridge Meadows connection

Date: July 9, 2018 at 3:03:24 PM PDT

To: loriz.premier@gmail.com, gordon@staffordlandcompany.com

Cc: morgan@staffordlandcompany.com, ryanobrien1@frontier.com

Hi Lori:

In our pre-app meeting for Baker Creek North, in which all departments were represented, we told them that we have are preparing to grant you a temporary secondary access easement over our property in order for you to proceed. We discussed the possible alignment and they preferred an alignment which follows the future alignment of Shadden Drive.

Basically, they would like to see a road base laid down that can support a fire truck in the rain. Depending upon your timing, the length of such will vary, as if you develop concurrent with our first phase, the temporary access road will be shorter, as we would be putting in the portion from Baker Creek Road to a point about 50% of the way to your project.

We have made many revisions to our site plan since I last sent you one based upon City Planning Staff input, and attached is a more recent version. Our final version is now being drawn in CAD. I will forward it to you once we have the plan back.

Morgan/Ryan, please confirm and make adjustments as necessary.

From what I can see, it looks as if we miss the tree.

Thank you,

Gordon Root | Principal

STAFFORD
LAND COMPANY
INC

StaffordLandCompany.com

503.720.0914 | Cell

gordon@staffordlandcompany.com

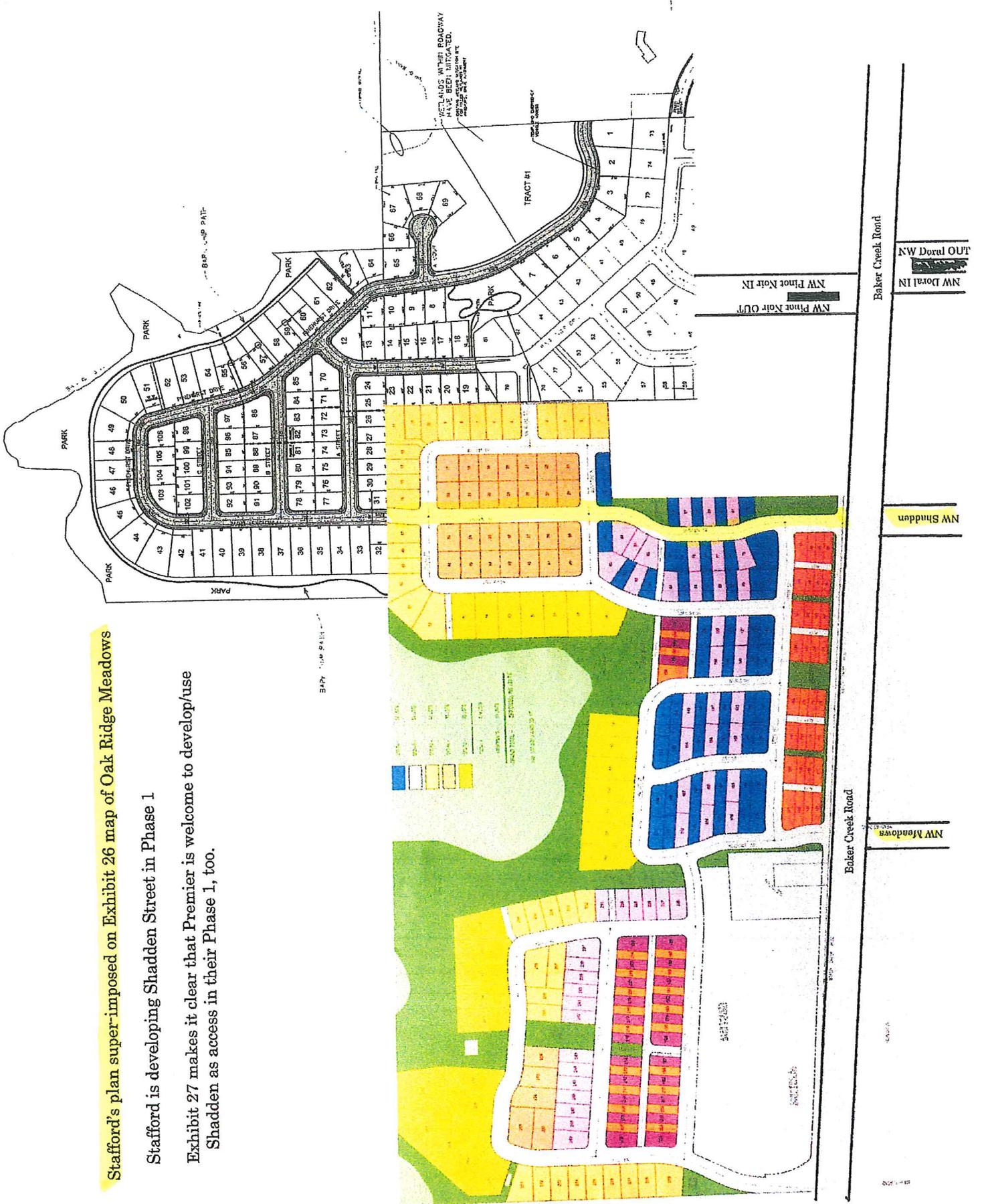
[485 South State Street, Lake Oswego, OR 97034](https://www.staffordlandcompany.com)



Stafford's plan super-imposed on Exhibit 26 map of Oak Ridge Meadows

Stafford is developing Shadden Street in Phase 1

Exhibit 27 makes it clear that Premier is welcome to develop/use Shadden as access in their Phase 1, too.



IS THE HYDROLOGY/FLOODPLAIN CLASSIFICATION ON THE 2010 FEMA MAP ACCURATE? OR WAS THE MAP JUST AN UPDATED SATELLITE PICTURE – THAT JUST TRANSFERRED 1983 FEMA FLOODPLAIN LOCATIONS?

- THE APPLICANT AND PLANNING STAFFS POSITION – is that the 2010 map is accurate. A year or two before the 2010 FEMA update that the planning staff worked with both FEMA and some state water agency on hydrology related topics. And apparently determined in-house that the FEMA flood classifications in the Baker Creek basin are accurate. But, planning staff clearly skirts around answering the question of, “do the floodplain classifications on the 2010 map reflect 1983 or 2010 hydrology/storm drainage information?”
- THE FRIENDS OF BAKER CREEK’S POSITION ON FLOODPLAIN CLASSIFICATIONS ON THE 2010 FEMA MAP is that it was FEMA who updated their entire national mapping program to a digital format in the 2010 time period. All cities in the U.S.A. apparently received a FEMA map update that included: 1) a satellite flyover picture, and 2) digitized and colorized mapping of identified flood zones based on each city’s previous hydrology update (1983 in McMinnville’s case). – BUT FEMA does not change floodplain locations or classifications – unless a city chose to send them updated hydrology information.
- Our group contends that that McMinnville’s 2010 planning department DID NOT send FEMA information on the 27 years of hydrology changes between 1983 and 2010. So, the 2010 map actually shows 1983 floodplain locations, not 2010 locations. Letters from our two sources confirming our claim are included: 1) a letter from Justin Maynard stating that the FEMA site shows that WEST Consultants were contracted by FEMA to do McMinnville’s modernization program (to a digital format). – and that NO updated statistical analysis was done. And, 2) Also, a 2010 letter from FEMA to Kathy George (county commissioner) – that listed all the FEMA updates in Yamhill County between 1979 and 2010. There were no updates of the Baker Creek basin listed.
- WHY ARE ACCURATE FLOODPLAIN LOCATIONS IMPORTANT. We have found that at least two long term planning goals made in the late 70’s or early 80’s are based on FEMA’s location of 100 and 500 year floodplains (UGB buildable inventory and TSP). That would work fine “if” any of those plans were checked and updated periodically. But, what we are finding in this case is that the FEMA floodplain locations have not updated for 36 years. That has caused three very unfortunate things can happen: 1) A development that shouldn’t qualify can hide behind a 36 year old goal post. 2) unbeknownst to the city, their UGB and TSP plans have become unfeasible too. And worst of all; 3) The applicants can hide behind all of those outdated/inaccurate city plans – AND CLAIM THAT IT IS OUR GROUP MISREPRESENTING FACTS! What makes us even sadder, is that it is the city’s own comp plan policy #142 (directing storm drainage into the Baker Creek basin for over 36 years) – that has caused what was a buildable wetlands area in 1983 into a 2019 floodplain. PLEASE ORDER A NEW LOMR UPDATE – so Toth’s property can be updated and reclassified before more innocent neighborhoods are unfairly penalized.

7/8/2019



FEMA update questions

Thu, Jun 6, 2019 at 4:03 PM

Justin Maynard <Justin.Maynard@pbsusa.com>

To: Mike Colvin <mikecolvin49@gmail.com>

Cc: Catherine & Steve Olsen <cdolesen@earthlink.net>, Cathy Goekler <cathy@cannonbeachconstruction.com>, "sandicolvin@gmail.com" <sandicolvin@gmail.com>

IA update questions
Gmail
Justin Maynard email contains with terms map
contains 1983 floodplain locations - NOT 2010
Mike Colvin <mikecolvin49@gmail.com>

Ah! I understand what you meant. Sorry about that. I just double checked the 2010 publication of the Flood Insurance Study, and it turns out the modernization was actually performed under a FEMA contract by WEST Consultants. I thought it had been Yamhill County that initiated it, but I was mistaken (I'm glad I checked). The effective FIS is attached, but to summarize:

Page 54 is the start of the full description of the Countywide Update process. This section essentially says that floodplain boundaries for most creeks were simply digitized from the previous effective FIRM and Floodway panels from the 1980s (plus any LOMRs that may have been done between then and 2010).

Floodplain boundaries were adjusted based on aerial images and USGS topographic maps with a 2-foot contour interval at certain creeks (including Baker). It was assumed that the channel geometry, flood elevations, and flows from the old study were still applicable.

What this essentially amounts to is that no actual statistical analysis or modeling went into redefining the floodplains. Which means that the statistically derived flows from the 1980s study are still considered effective today. I can send you the 1983 FIS as well if you'd like to have it.

Representatives from all communities in the County had the opportunity to comment on and review the countywide update in 2006 and 2009 (page 2 of the 2010 FIS). I'd guess that ultimately, the FEMA contract was simply intended to modernize the maps to the new flood zone designations, and it was likely left up to the Cities and County to do restudies if that was something they wanted to do.

Justin Maynard, P.E. | Civil Engineer III | PBS Vancouver | 360.567.2105 (direct)

From: Mike Colvin <mikecolvin49@gmail.com>

Sent: Thursday, June 6, 2019 3:40 PM

To: Justin Maynard <Justin.Maynard@pbsusa.com>

Cc: Catherine & Steve Olsen <cdolesen@earthlink.net>; Cathy Goekler <cathy@cannonbeachconstruction.com>; sandicolvin@gmail.com

Subject: Re: FEMA update questions

Justin,

[Quoted text hidden]

[Quoted text hidden]

41071C V000A - Yamhill County FIS.pdf

3241K

FEMA updates in Yamhill County between 1979 - 2010
NO Baker Creek basin ENTRIES



Federal Emergency Management Agency

Washington, D.C. 20472

MARCH 4, 2010

Ms. Kathy George, Chairperson
Yamhill County Board of Commissioners
535 NE 5th Street
McMinnville, OR 97128

Case No: 07-10-0716V
Community: Yamhill County
Community No.: 410249
Effective Date: March 03, 2010
LOMC-VALID

Dear Ms. George:

This letter revalidates the determinations for properties and/or structures in the referenced community as described in the Letters of Map Change (LOMCs) previously issued by the Department of Homeland Security's Federal Emergency Management Agency (FEMA) on the dates listed on the enclosed table. As of the effective date shown above, these LOMCs will revise the effective National Flood Insurance Program (NFIP) map dated March 02, 2010 for the referenced community, and will remain in effect until superseded by a revision to the NFIP map panel on which the property is located. The FEMA case number, property identifier, NFIP map panel number, and current flood insurance zone for the revalidated LOMCs are listed on the enclosed table.

Because these LOMCs will not be printed or distributed to primary map users, such as local insurance agents and mortgage lenders, your community will serve as a repository for this new data. We encourage you to disseminate the information reflected by this letter throughout your community so that interested persons, such as property owners, local insurance agents, and mortgage lenders, may benefit from the information.

For information relating to LOMCs not listed on the enclosed table or to obtain copies of previously issued LOMR-Fs and LOMAs, if needed, please contact our Map Assistance Center, toll free, at 1-877-FEMA-MAP (1-877-336-2627).

Sincerely,

A handwritten signature in cursive script that reads "Kevin C. Long".

Kevin C. Long, Acting Chief
Engineering Management Branch
Mitigation Directorate

Enclosure

cc: Community Map Repository
Mile Brandt, Director of Planning & Development, Floodplain Administrator

REVALIDATED LETTERS OF MAP CHANGE FOR YAMHILL COUNTY , OR
Case No: 07-10-0716V **Community No.: 410249**

March 03, 2010

Case No.	Date Issued	Identifier	Map Panel No.	Zone
199531324MBJ	05/24/1979	20055 NE DOPP ROAD, COUNTY ROAD 111 -- PORTION OF SECTION 28, T2S, R3W, W.M.	41071C0225D	X
96-R10-114	02/07/1996	11650 NW OLD RAILROAD GRADE ROAD -- PORTION OF SECTION 6, T3S, R4W	41071C0178D	X
96-10-100A	05/07/1996	12797 MW PIKE ROAD-- PORTIONS OF THOMAS HARRIS DLC, SECTION 25,T2S, R5W, W.M.	41071C0176D	X
96-10-113A	05/17/1996	19545 BISHOP SCOTT ROAD -- PORTION OF SECTION 32, T2N, R4W, W.M.	41071C0177D	X
96-10-148A	06/17/1996	PORTION OF SECTION 25, T2S, R6W, W.M.	41071C0175D	X
97-10-044A	11/19/1996	23029 NW FLYING M RD-- A PORTION OF SECTION 30,TOWNSHIP 2 SOUTH,RANGE 5 WEST	41071C0175D	X
97-10-107A	01/22/1997	HEATHER GLEN, BLOCK 2, LOT 15-- 1684 BONNIE JEAN PLACE	41071C0404D	X
97-10-193A	05/01/1997	29851 NW OLSON ROAD-- PORTION OF SECTION 2, T2S, R4W, W.M.	41071C0075D	X
97-10-206A	05/22/1997	17900 NORTH VALLEY ROAD-- PORTION OF SECTION 9, T3S, R3W, W.M.	41071C0208D	X
97-10-364A	10/10/1997	F.C. GRAHAM'S COVE ORCHARD, A PORTION OF TRACT NO. 155-- 21880 HIGHWAY 47	41071C0182D	X
98-10-415A	10/09/1998	8250 GOPHER VALLEY ROAD -- A PORTION OF SECTIONS 24 & 25, T4S, R6W, W.M.	41071C0400D	X
99-10-167A	01/28/1999	20380 GOPHER VALLEY ROAD; A PORTION OF SECTION 25, T5S, R6W, W.M.	41071C0580D	X
01-10-203A	02/26/2001	17920 NORTH VALLEY ROAD -- PORTION OF SECTION 9, T3S, R3W, W.M.	41071C0208D	X
01-10-223A	03/07/2001	20055 NE DOPP ROAD -- PORTION OF SECTION 28, T2S, R3W, W.M.	41071C0225D	X
02-10-028A	11/07/2001	28805 NE WILSONVILLE ROAD -- PORTION OF LUKE MCKERN D.L.C., SECTION 21, T3S, R2W, W.M.	41071C0237D	X

REVALIDATED LETTERS OF MAP CHANGE FOR YAMHILL COUNTY , OR
Case No: 07-10-0716V **Community No.: 410249**

March 03, 2010

<u>Case No.</u>	<u>Date Issued</u>	<u>Identifier</u>	<u>Map Panel No.</u>	<u>Zone</u>
02-10-202A	02/06/2002	7007 NE HIGHWAY 240 -- PORTION OF ROBINSON DLC NO. 85, SECTION 3, T3S, R4W, W.M.	41071C0183D	X
02-10-042A	02/15/2002	26730 SMITHVILLE ROAD -- PORTION OF SECTION 14, T5S, R6W, W.M.	41071C0375D	X
02-10-266A	04/10/2002	3705 SE PATTY LANE -- PORTION OF CLAYTON RICHARDSON DLC NO. 46, SECTION 32, T5S, R4W, W.M.	41071C0605D	X
02-10-269A	04/10/2002	23400 WILLAMINA CREEK ROAD -- PORTION OF JEREMIAH LAMSON DLC, SECTION 36, T5S, R7W, W.M.	41071C0553D	X
02-10-560A	07/24/2002	HIDDEN HILLS, BLOCK 1, LOT 6 -- 14575 BAKER CREEK ROAD	41071C0400D	X
02-10-731A	10/16/2002	11771 NW OAK RIDGE ROAD -- PORTION OF SECTION 6, T3S, R4W, WM	41071C0178D	X
02-10-690A	10/30/2002	17924 GOPHER VALLEY ROAD -- PORTION OF SECTIONS 13 & 24, T5S, R6W, W.M.	41071C0375D	X
03-10-0518A	06/27/2003	HIDDEN HILLS, BLOCK 1, LOT 5 -- 14605 SW BAKER CREEK ROAD	41071C0400D	X
03-10-0562A	07/24/2003	8620 & 8628 SW RIVERBEND ROAD -- PORTION OF SECTION 8, T5S, R4W, W.M. (TL: 300 & 301)	41071C0414D	X
04-10-0511A	06/14/2004	8160 NW MEADOW LAKE ROAD	41071C0187D	X
05-10-0237A	03/28/2005	10170 NORTH HIGHWAY 99 WEST	41071C0184D	X
05-10-0753A	10/20/2005	22740 SW LOGANBERRY LANE	41071C0580D	X
06-10-B070A	02/02/2006	8200 MEADOW LAKE ROAD - PARCEL 1, PARTITION PLAT NO. 1992-84	41071C0187D	X
06-10-B212A	07/05/2006	7465 NE HIGHWAY 240	41071C0183D	X
07-10-0024A	02/06/2007	18670 SW GOPHER VALLEY ROAD -- PORTION OF SECTION 24, T5S, R6W, W.M. (OR)	41071C0400D	X
07-10-0144A	02/08/2007	Creekside Meadows No. 2, Lot 96 -- 2380 SW Taylor Drive	41071C0403D	X
07-10-0782A	10/23/2007	20900 GRAND ISLAND LOOP ROAD --LOTS 3 AND 4, PORTION OF SECTION 24, T5S, R3W, W.M.	41071C0635D	X

REVALIDATED LETTERS OF MAP CHANGE FOR YAMHILL COUNTY , OR
Case No: 07-10-0716V **Community No.: 410249**

March 03, 2010

Case No.	Date Issued	Identifier	Map Panel No.	Zone
09-10-0085A	12/18/2008	8975 SE MORGAN LANE -- A PORTION OF SECTION 28, T4S, R4W, W.M.	41071C0408D	X
09-10-0204A	01/27/2009	A PORTION OF SECTION 14, T4S, R5W, W.M.	41071C0400D	X
09-10-0274A	02/17/2009	A PORTION OF PARCEL 2, SECTION 2, T4S, R4W, W.M. -- 4800 NE HAWN CREEK ROAD	41071C0195D	X
09-10-0193A	03/26/2009	PORTION OF SECTION 24, T5S, R7W, W.M., PARCEL 1 & 2	41071C0551D	X
09-10-0397A	04/07/2009	6155 SW GOPHER VALLEY ROAD -- PORTION OF SECTION 24, T4S, R6W, W.M.	41071C0551D	X
09-10-0482A	04/23/2009	17750 SW WILLAMINA CREEK ROAD -- Sec 13, T5S, R7W, W.M.	41071C0375D	X
09-10-0529A	05/21/2009	7609 SE WALLACE ROAD	41071C0435D	X
09-10-0595A	06/23/2009	18701 NE LAUGHLIN ROAD -- A PORTION OF SECTION 35, T2S, R4W, W.M.	41071C0182D	X

WHAT HAS CAUSED THE INCREASED FLOODING IN THE BAKER CREEK BASIN – AND WHY
IT IS TAKING A DECREASED AMOUNT OF RAIN TO CAUSE THESE FLOODS

We have found that the hydrology/flooding issue involves math and science levels well over our heads. So, for our part, we will be sticking to high school math and our flooding pictures. We think it is clear that, over time, a 1983 wetland became a 2019 floodplain. And since the FEMA map and city long term plans weren't adjusted, the current city council is faced with a big problem!

- The large increase of flooding in the Baker Creek basin in the last 5-6 years has been caused by the city's following of its own policy. – Comp plan policy #142 that states: "The City of McMinnville shall insure that adequate storm water drainage is provided in urban developments through review and approval of storm drainage systems, and through requirements for connection to natural drainage ways, where required."
- Besides the natural drainage off the coast range 4-5 miles to the west of the Baker Creek basin also includes the Berry Creek drainage – (FEMA map attached).
- There is also an in-town Baker Creek storm drainage system that is one of the 6-7 river/creek drainages in town that surface storm drainage is directed to (drainage map attached).
- The Baker Creek drainage area runs from approximately Hill Street on the west to Evans street on the east. But it also runs quite a way north around westside road to the Hembree/Grandhaven area.
- We think directing storm flow to the basin started over 40 years ago when most of the area west of Michelbook Lane was still country and open fields. The north was undeveloped too.
- So, storm flows to the basin have been increasing yearly for over 36 years. The additional volume did not cause any problems until about 2010 or so. That seems to be when people living on the edges of the basin started recognizing increased flooding in fields and 100 year floodplain areas after only average rainfalls.
- 2015 seems to be the year where the cumulative storm flow volume from increased infrastructure and building projects in all three areas (rural, west of Michelbook Lane, and in the northern section around Hembree/Grandhaven). See the flooding timeline included, but December 8th, 2015 was the first major flood since 1996 (when record rainfalls 10-13 inches almost flooded homes in the lower Crestbrook neighborhood).
- Even though the 2015 flood that was approximately equal to the 1996 floods – the difference was that it only took 3.5 inches of rain to cause this flood. This demonstrates that storm flows are now coming from a much larger area. Several more infrastructure projects took place between 2015 and 2018 – AND, one rural project that surprised us after the fact, was that in 2018, approximately 1,000 – 1,200 acres of field drain tile was installed on both sides of Baker Creek road from 1-3 miles west under new filbert orchards.
- We think the major flood that happened on December 18th, 2018 – was the "canary in the coal mine" event. After the driest summer and fall on record, about a half an inch of rain fell on December 16th. And the Mac airport recorded 1.25 inches on December 17th. Which wouldn't have caused much excitement even ten years ago. But on the morning of the 18th, everyone was amazed to see that the whole basin was flooded to similar levels that 3.5 inches had caused only three years previous with less than 2 inches of rain!
- Our point is that the flooding we are experiencing is not from large storms, or one-time events. They are from cumulative amounts of storm volume that have added up for over 36 years of replacing fields with roads and roofs. And, also from draining a much larger area.
- That is why wetlands that were buildable in 1983, are now 2019 floodplains that we think are unsafe to build in. Our hydrology study, and flooding pictures are pretty clear evidence of that.

Flood ZONE Map

MAP of FEMA 1983 ZONE locations
(100 year and 500 year)

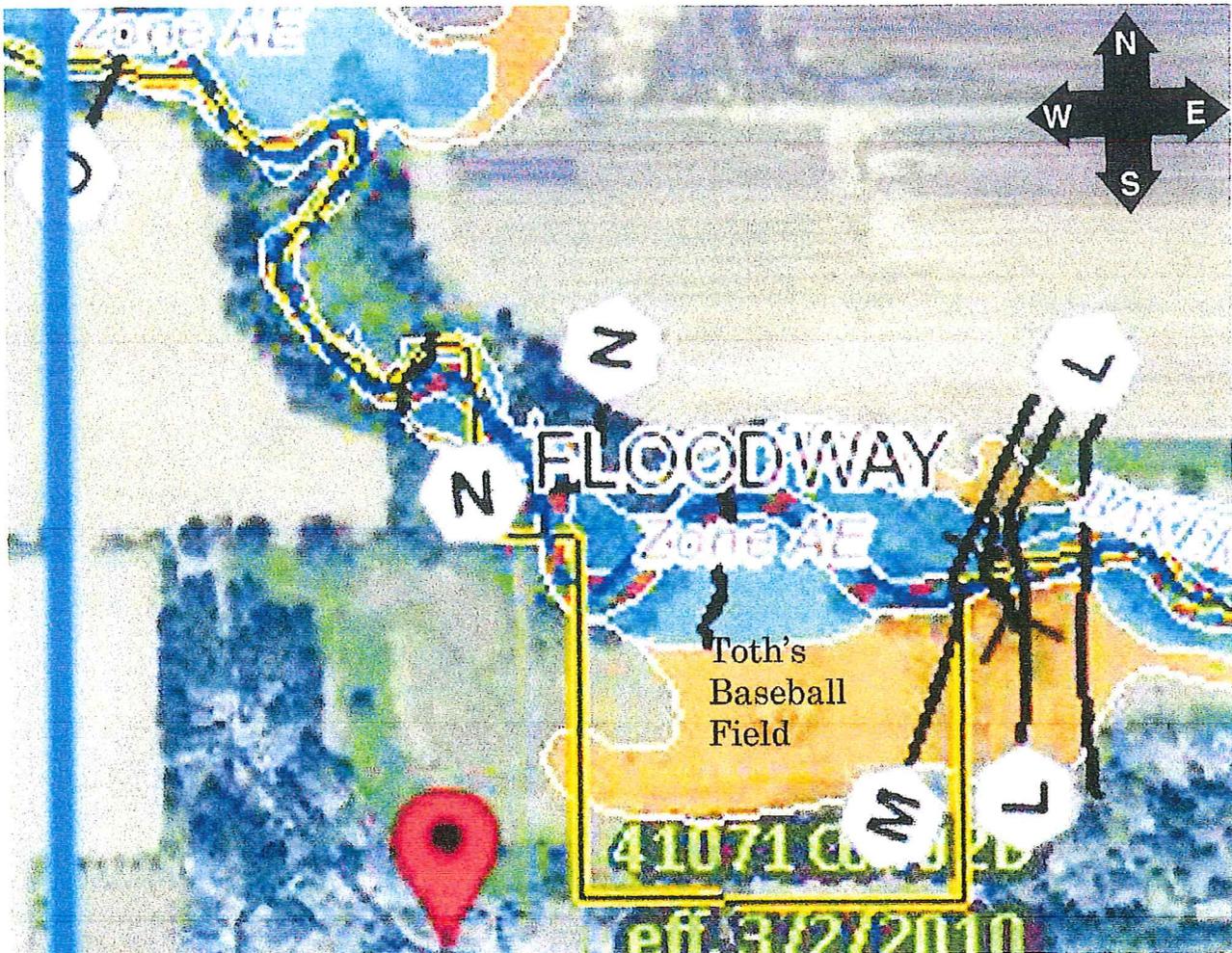
Expanded FEMA Map showing the BERRY CREEK and BAKER CREEK drainages coming off the Coast Range Hills

Timeline of MAJOR Flooding EVENTS AND the SMALLER Amounts of Rain Required to cause the Floods

THEN

Several flooding pictures with dates and locations and directions we neglected to supply originally

Exhibit #1 1983 Wetland/Flood Plain Locations



1983/2010 FEMA Map shows the brown area surrounding Toth's baseball diamond has only a .2% chance of flooding.

AND the "wetland" field west of the 500 year flood plain has a ZERO percent chance of flooding

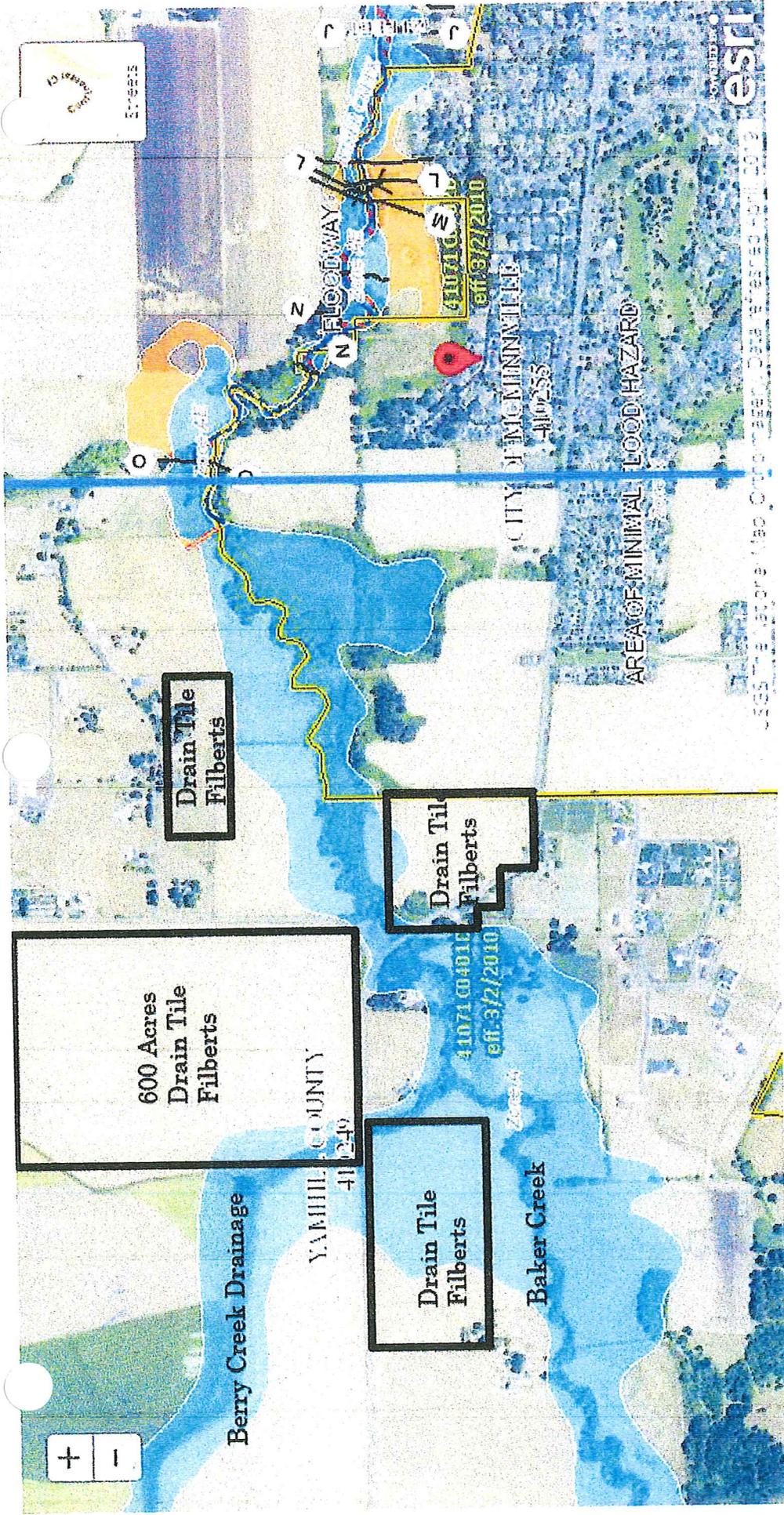
This view from several thousand feet in the air and 36 years into the past, looks very non-threatening.

Compare these 1983 flood plain locations with 2015/18 pictures:

Toth's 500 year flood plain (that 80's UGB identifies as buildable property), now floods 1-2 times per year.

3-4 acres of 4722 property claimed to be mitigated wetlands, also floods 1-2 times per year.

PBS Hydrology report states that an updated FEMA report will likely classify part of the fill/dike area on 4722 property as 100 year flood plain.



2010 Satellite picture with 1983 flood plain locations

Shows that both Baker Creek and Berry Creek drainages come off coast range hills. So, drains a large area

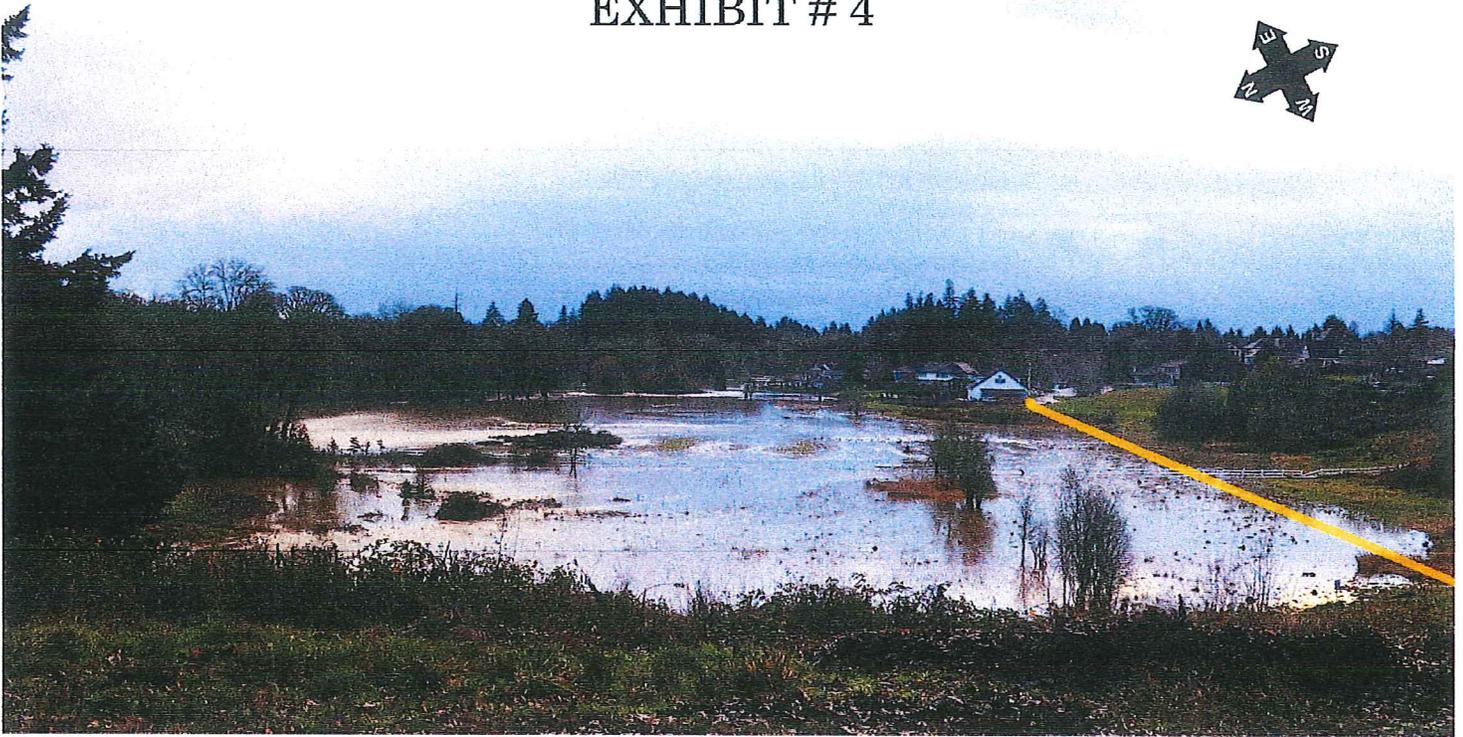
Filbert orchards with drainage tile identified

Future projects out Baker Creek Road will add additional storm flow volume in the future - Abrams Property? Alan Rudden?

EXHIBIT #3 Timeline of Major Flooding

Year	Date of Flood	Amount of Precipitation	Time between Major Floods
1996		12"-14"	?
1997			
1998			
1999			
2000			
2001			
2002	NOTE: We agree that the risk of flooding was very low until 2015 - when enough storm run-off had been directed to the basin in 19 years - that it only took 3.52 inches of rain to flood the basin equal to what 12-14 inches did in 1996.		
2003			
2004			
2005			
2006			
2007			
2008			
2009			
2010			
2011			
2012			
2013			
2014			
2015	Dec. 8, 2015	3.52"	19 Years
2016			
2017			
2018	Dec. 18, 2018	2"	3 Years
2019	Feb 12, 2019	2"	2 Months
2020			
2021			
2022			

EXHIBIT # 4



By 2015 there was enough additional storm drainage from road and new housing developments in the Baker Creek Hydrology area, that as little as 3.52 inches over a three day period was enough to flood:

All of the 500 year flood plain
Most of the basin and wetlands
AND almost flooding the homes in Crestbrook

NOTE: East of fence = 500 year flood plain
West of fence = Wetlands and basin on 1983 and 2010
FEMA maps

Proposed route to Pinehurst is flooded in 2015 after only 3.15" of rain, (in 2018 & 2019, only 2" of rain)

This photo was taken by Norma Brott on December 8, 2015 from her back deck (Lot #41 on Exhibit #26 map)

- * Fence is over 3 feet deep in most areas
- * Proposed Pinehurst Route flooded
- * Much of proposed fill/dike area close to being flooded
- * All "Buildable Inventory" in 80s UGB - several feet under water.



December 2015 Flood from Lot #41 EX: 26 Map

* This is another picture from Norma Brott's deck aimed more northward that shows just how much of the 1983 wetlands and basin floods regularly.

NOTE: The western tip of flood water is just under the proposed cul-de-sac in the Oak Ridge Meadows proposal.

ALSO: X = Shows an island of approximately one acre of fill five to six feet in depth that we couldn't find any permit for. It appears that applicant has already narrowed the drainage way at least once.



December 18, 2018 Flood picture from Lot #40, Exhibit 26

- *After less than 2" of rain in 24 hours (a.m. 17th - a.m. 18th)
- *Pinehurst route on Toth's property flooded
- *500 year flood plain and 80's UGB area of Toth's property flooded
- * 3-4 acres of 1983 "Wetlands" on 4722 property flooded (mitigation failed)
- *Standing water in bottom/right area is where filling/diking/road are proposed. It is likely 100 year flood plain now.
- * Water in far left corner is where proposed road comes down to basin. It is also likely flood plain or 100 year flood plain today.



Tim Roberts Property 12/18/18 looking NW from Crestbrook

- * Shows how close 2" of rain came to flooding Crestbrook homes
- * Water 2-3 feet high on Toth's Goal Post - the REAL GOAL POST - makes it clear that 36 year old UGB and TSP Plans for building in the basin are no longer realistic.



Tim Roberts Property 12/18/18 looking North from Crestbrook

Tim Roberts gate where he stated that the water was the highest in 25 years after less than 2" of rain in a 24 hour period.

PLEASE order an updated FEMA LOMR report. It will:

- * Reset outdated planning goal posts along Baker Creek
- * Give the city updated information needed to make more accurate long-term UGB and TSP master plans
- * It should make it easier to remove property listed as buildable in the 1980s - out of current UGB calculations.

Hydrology Study

PBS ENGINEERING + JUSTIN'S QUALIFICATIONS

JUSTIN MAUNARD'S ORIGINAL SUMMARY OF
THE HYDROLOGY STUDY

JUSTIN'S INDIVIDUAL RESPONSES TO MS.
KELLINGTON'S CRITICISM OF HIS ORIGINAL REPORT

PBS AND JUSTIN MAYNARD'S Qualifications

At the April 18, 2019 Planning Commission hearing, Friends of Baker Creek presented to the commissioners a hydrology study of the Baker Creek Basin. It concluded the possibility that a portion of the proposed development could lie within the 100-year floodplain based on modern modeling methods and statistics, and the effective flood insurance maps should be updated to reflect current flood risks.

It was prepared by **PBS Engineering and Environmental Inc.** The company was founded in 1982. Headquartered in Portland OR, they employ over 200 professionals where they provide engineering and environmental consulting services. With revenues of \$37M, they are in the top 500 engineering firms in the nation; according to Engineering News Record they are ranked #10 in Civil Engineering in the Northwest.

The engineer responsible for the project is **Civil and Water Resources Engineer Justin Maynard**. He has a BS in Civil Engineering, focusing in Geotechnical, Structural, and Water Resources, from UCLA and an MS in Environmental Fluid Mechanics and Hydrology from Stanford. Since then he has specialized in water resources for five years and is licensed in Washington, Oregon, and California. This includes storm drainage master planning, NPDES permit compliance projects, flood studies, dam and levee evaluations, flood protection and stream restoration, and storm-water pump station designs. He has done some sanitary pump stations and water system work, but those are less relevant to hydrology.

Below is a list of heavily hydrology-oriented projects when he worked for Schaaf and Wheeler Consulting Civil Engineers in Santa Clara, CA.

- Storm Drain Master Plans for the City of Santa Clara, City of Palo Alto, City of Soledad, and City of Cupertino
- Forensic flooding analysis in the City of South San Francisco and City of San Mateo
- Anderson Dam Stochastic Reliability Analysis (Dam reconstruction project in Morgan Hill, CA)
- Dublin Crossing Development Flood Study and **CLOMR** (HEC-HMS and HEC-RAS 1-D/2-D)
- Christopher Ranch Flood Study and **LOMR** (HEC-RAS 1-D/2-D modeling)
- Enterprise Storm Basin **LOMR** (this included an extensive HEC-HMS model, similar to Baker Creek, and a 2-D HEC-RAS model)
- Moffett Gateway Development Flood Study (HEC-HMS and HEC-RAS)
- Fisher Creek Flood Study and Detention Storage Evaluation (HEC-HMS and RAS modeling)
- Zone 7 Water Agency Calibrated Hydrology Model Development
- Foster City Levee Deficiency and Wave Runup Analysis
- Coyote Point and Poplar Avenue Pump Stations in San Mateo, CA (included basin hydrology, flood study, and **CLOMR**)
- Anderson Dam Seismic Retrofit Dewatering Plan (part of the same dam reconstruction project as above)
- Dam Failure Inundation Studies for South Feather Water and Power (three dams)
- Dam Failure Inundation study for California Water Service (Bear Gulch Water Supply Reservoir)
- Matadero Creek Pump Station Rehabilitation (included a statistical evaluation of levees in the Creek pre- and post-Project)
- Base Flood Delineation for Foster City Central Lagoon
- He presented the Foster City Levee modeling and Anderson Dam Statistical modeling at the Floodplain Management Association conferences in 2016 and 2017.

With PBS, he has been doing more design work but is still been doing quite a bit of the same water-focused work as well. In addition to Baker Creek, this work has included:

- Magnolia and Magnolia Heights Subdivision storm drainage system design
- Hydrology and drainage design for a few roadway projects (Brady Road in Camas, Lake and Everett Intersection in Camas, Highway 101 Sidewalks in Lincoln City, and SR502/SR503 intersection in Battle Ground, WA)

- North 10th Street Fish Passage Culvert Crossing and downstream analysis (HEC-RAS)
- La Center Middle School storm design (HydroCAD – storm pipe systems and pond design)
- Lexington Elementary School storm pump design and downstream analysis (HydroCAD for hydrology, AutoDesk SSA for pump modeling, and HEC-RAS 2-D for hydraulics)
- Finnegan Creek Bridge Replacement Scour Analysis (HydroCAD and HEC-RAS)
- No-Rise analysis for temporary construction staging in the floodway along the South Umpqua River, south of Roseburg, OR

At the May 16th Planning Commission meeting, Wendi Kellington, of the Kellington Law Group, prepared a rebuttal to PBS's report. She called into question the reputation and reliability of PBS Engineering. The bulk of her letter attacks the report but there is no indication she has any engineering training or expertise in analyzing hydrologic flows.

At the May 16th hearing, attorney **Bill Kabeiseman**, of Bateman Seidel in Portland, **entered into testimony** information on the two successful **LUBA lawsuits that disallowed consideration of her testimony**. His testimony states "...LUBA has previously held that a letter from an attorney opining on matters that require expertise is not substantial evidence to support a decision. *Oregon Coast Alliance v. City of Brookings*, 72 Or LUBA222 (2015) and *Weuster v. Clackamas County*, 25 Or LUBA 425 (1993)". The City attorney neglected to advise the commissioners that Ms. Kellington's comments should not be taken into account. Yet during deliberations, the Planning Commission appeared to put a great deal of importance to her comments.

Ms. Kellington misrepresented the PBS report when she indicates the report would not support a FEMA LOMR. This comment ignores the fact the report was never intended to support a FEMA LOMR. It is a hydrologic analysis of Baker Creek and the potential floodplain impacts of recent and future development. While Mr. Maynard acknowledges there was a typographical error in the original report, Ms. Kellington's evaluation of the hydraulic model is a misrepresentation of the intent of PBS's report. His revisions do not change the outcome of the original conclusions.

It appears possible that a portion of the development in the 11.47 acres [4722] could lie within the 100-year floodplain based on modern modeling methods and statistics. Without an updated FEMA map, the City could be opening itself up to future lawsuits. Just look to the Johnson Creek project in Portland. Due to nuisance" flood events throughout its history, restoration of wetlands is costing the City of Portland millions of dollars. The website <http://nrcsolutions.org/johnson-creek-restoration-portland-oregon/> provides a cautionary tale for McMinnville.

PBS's June 17, 2019 rebuttal to Ms. Kellerman's May 15, 2019 opponent response is included with this packet. It explains why PBS's conclusions in their report are valid and PBS stand by its original report.



May 13, 2019

Catherine Olsen
Friends of Baker Creek
2650 NW Pinot Noir Drive
McMinnville, OR 97128

JUSTIN'S ORIGINAL SUMMARY
of the hydrology study

Via email: cdolsen@earthlink.net

Regarding: Baker Creek Hydrologic Analysis
McMinnville, OR
PBS Project 71440.000

Dear Catherine:

This letter summarizes the analysis and findings of the Baker Creek Hydrologic Analysis, completed by PBS Engineering and Environmental on May 8, 2019. The analysis applied technically sound methods to estimate runoff from the approximately 26 square mile Baker Creek watershed. A hydrologic model was developed and calibrated based on stream gage statistics in nearby watersheds as well as equations published by the USGS and developed specifically for Western Oregon. Industry standard hydraulic modeling software was used to estimate floodplain extents and elevations based on current soil data, land cover information, and elevation data intended in part for use in watershed-scale studies.

This analysis indicated first and foremost that effective FEMA floodplain mappings are in need of revision to reflect modern data and statistics not available at the time of original mapping. The technical basis for current FEMA flood mapping for Baker Creek is a detailed study performed prior to the original 1983 mapping. The 2010 modernization simply placed the previously established base flood elevations over updated topography without estimating flood flows or water surface elevations based on modern data. The results of the PBS study show that areas of the wide floodplain currently mapped as "Zone X" (areas of 500-year flood risk) can be inundated at approximately a 2-year return period. This magnitude of flood frequency has been verified anecdotally by residents and was documented photographically on numerous occasions.

Development currently planned in the vicinity of the floodplain would potentially place residential lots in an area of flood risk without a FEMA flood hazard designation, leaving potential buyers unaware of the risk and allowing for blockage of a floodplain. Currently planned developments and the recent installation of tiled drain systems on altered agricultural lands in a small area of the watershed have an impact on runoff characteristics. Allowed to occur unchecked as urban growth continues, further development and agricultural activities that increase runoff volume and peak intensity can have a much greater aggregate impact on the floodplain.

Beyond near-term activities, replacement of forested and grassland land covers lying west of the City could irrevocably alter drainage patterns, even further compound impacts on the Baker Creek floodplain, and put life and property in the City of McMinnville and Yamhill County at risk.

Consideration of such factors is a necessary part of protecting residents and businesses from increased flood risk, whether by way of revised flood hazard mapping, foresight in policy-making to mitigate impacts to Baker Creek and other watersheds, or other efforts to maintain watershed and stream health.

Please feel free to contact me at 360.567.2105 or justin.maynard@pbsusa.com with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jm', written over a faint, illegible background.

Justin Maynard
Civil/Water Resources Engineer

PBS RESPONSE TO KELLINGTON CRITICISM OF ORIGINAL SUMMARY



May 24, 2019

Catherine Olsen
Friends of Baker Creek
2650 NW Pinot Noir Drive
McMinnville, OR 97128

Via email: cdolsen@earthlink.net

Regarding: Baker Creek Hydrologic Analysis
McMinnville, OR
PBS Project 71440.000

Dear Catherine:

As you know, in May of this year, PBS prepared a Hydrologic Analysis of Baker Creek (PBS Report) for your organization. On May 15, 2019, PBS was made aware of a response to the PBS Report by the Kellington Law Group (Kellington), on behalf of the Oak Ridge Development applicant, Premier Development, LLC. This letter discusses responds, point by point, to the assertions in the Kellington letter and explains why PBS' conclusions in the PBS Report are valid and PBS stands by its Report.

Kellington first indicates that the "consultant report would not support a FEMA LOMR..." This comment ignores the intent of the PBS Report; the PBS Report was never intended to support a FEMA LOMR—the PBS report is pointedly a "Hydrology Study" and not an "MT-2 Narrative" that would support a LOMR. as explained in the Executive Summary of the PBS Report, PBS was asked to "perform a hydrologic analysis of Baker Creek and evaluate potential floodplain impacts of recent and future development." That is what the PBS Report did and, as explained in the Report, the conclusion that it reached is that the City's current flood insurance rate maps are outdated and in need of revision.

Kellington then goes on to claim that the mathematic calculations presented in the report are inaccurate for several reasons. Those reasons are each addressed below.

NOTE: His summary is highlighted in yellow on page 9

1. **The response states that the PBS report “vastly...overestimates the peak flow rates of water in Baker Creek.” Kellington asserts that PBS “jiggered” the numbers so that the concentration of peak flow happens earlier than it does.**

PBS acknowledges that the Report contained a typographical error, but the analysis was performed correctly, notwithstanding the typo. The tyop mistakenly discusses and provides the definition for time of concentration. This section should have described the calculated parameters as lag time. This section should, therefore read as follows:

3.4 Lag Time

Curve number methodology in the HEC-HMS model requires that a lag time be estimated for each watershed in order to apply the unit hydrograph and calculate runoff. The SCS method prescribes a watershed lag method for calculating time of concentration as follows:

$$L = \frac{l^{0.8}(S + 1)^{0.7}}{1,900 * Y^{0.5}}$$

Where: L = Lag Time (hours)
 l = Longest Flow Path (LFP) length (feet)
 $S = \frac{1,000}{CN} - 10$ = Maximum potential retention (inches)
 Y = Average watershed land slope (%)

Calculation of the maximum potential retention parameter requires the CN value for the watershed, estimated as described in Section 3.3. This equation has been developed to represent the lag time for watersheds of varying type and size.

What Kellington overlooked is that the proper input to the HEC-HMS model is, in fact, the lag time, and **not** the time of concentration. The lag equation was, therefore, *intentionally* applied to the basins. We recognize the typographical error contained in the PBS report but can assure that the calculated lag time was properly input into the hydrologic model. We have revised the PBS report accordingly, but correcting the typo does not change the result of our analysis.

2. **Kellington goes on to claim that the hydrologic model is undermined by the choice of calibration watersheds, providing unit discharges for two of the calibration watersheds (140 cfs per square mile and 154 cfs per square mile for Butte and Tualatin Creeks, respectively)**

Kellington has utilized unit discharge as reasoning to support the implication that a “whopping” 249 cfs per square mile is out of the realm of possibility. What Kellington selectively omits is that the gage statistics for the third calibration watershed (Scoggins Creek) indicate that its 100-year peak unit discharge for that gage is over 230 cfs per square mile, which is very similar to that estimated for the Baker Creek watershed.

Unit discharges are not a reliable way to compare watersheds in isolation. Unit discharge is ultimately influenced by a number of factors, including watershed geometry, soil types, and land cover types. One reason for higher unit discharge occurring in the Baker Creek watershed than in the Tualatin and Butte watersheds is that the calculated curve number parameter is higher than in the other watersheds, which results in a greater volume of runoff from the surfaces in the watershed. It stands out that a watershed with more similar size and calculated curve number parameter, all included in the report, has very similar unit discharge to Baker Creek.

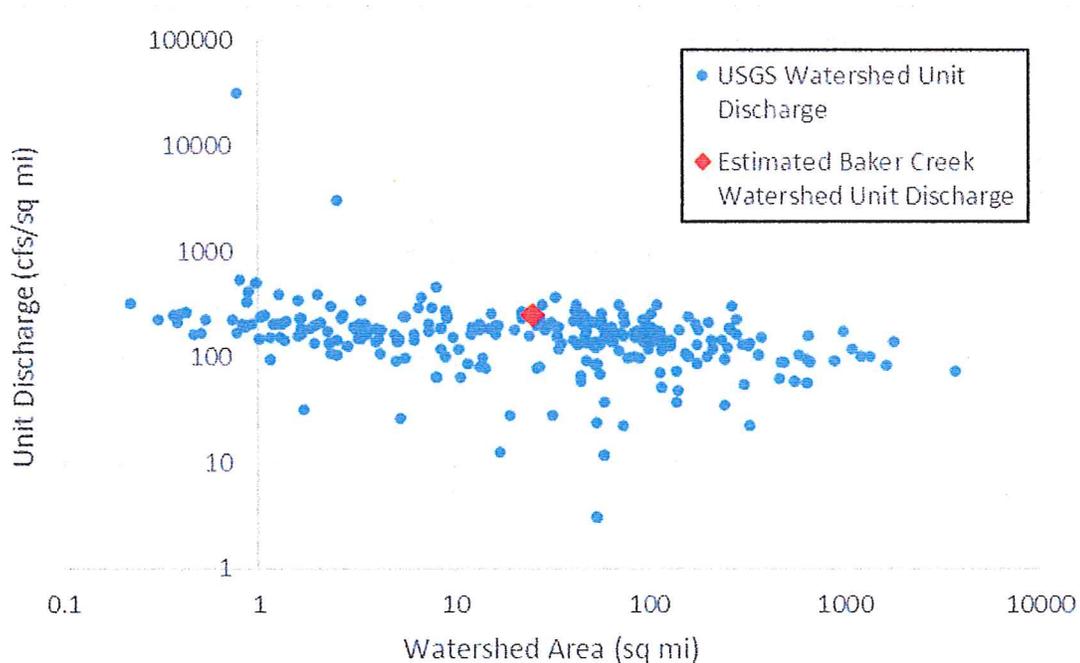
Choice of calibration watersheds is based on a number of factors, including:

- a. Watershed Area
- b. Watershed Geometry

- c. Soil and Land Use Make-up
- d. Location in relation to the study watershed

Ideally, these factors are all the same in the calibration watershed as in the study watershed. However, each watershed is unique and this is almost never the case – there simply aren't enough stream gages present to support an ideal analysis. These factors must be balanced by a qualified Engineer when such analysis is performed.¹ Adjustments in the PBS report to curve numbers were based on the watersheds sharing the greatest similarity balanced with proximity to Baker Creek; however, no two watersheds are completely alike.

This is most easily observed using a study of Western Oregon watersheds by the USGS, in which the regression equations for flow estimates in ungaged watersheds are based. 100-year flows and watershed areas extracted from that study, placed on a log-log plot show that the estimated Baker Creek unit discharge is not an obvious outlier from watersheds of similar size:

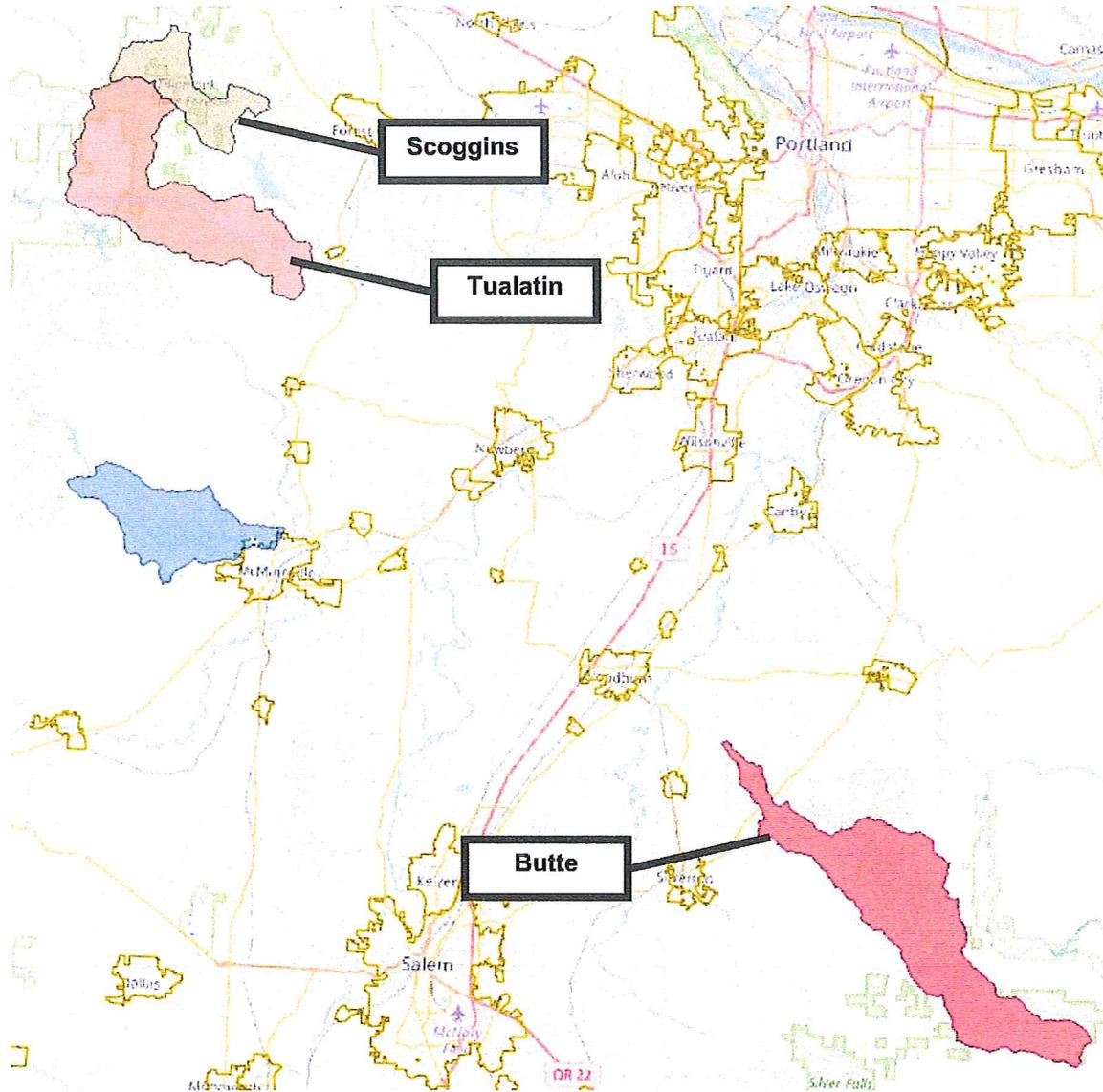


The calibration is founded on adjustment of the Curve Number according to the soil conditions and land uses present in the watershed. Curve number adjustment is therefore primarily based on the watershed with the closest physical properties (reference Table 10 and 11) and proximity. Even for a watershed with similar unit discharge (Scoggins), the curve number adjustment required to achieve a match to the 100-year gage statistic for peak flow is greater than that required for the other two watersheds.

If curve number adjustment were performed based on similar unit discharge alone, the result would actually have been higher peak discharge for Baker Creek. However, greater weight was given to the watersheds with more similar soil properties. This is an exercise of engineering judgment, based on experience calibrating Curve Number methodology.

¹ It is worth noting that Ms. Kellington is an attorney – not an engineer – and provides no basis to believe that she had the training or qualifications to undertake any such judgments or analysis. It is worth noting that the applicant has retained an engineer, but that engineer either did not perform the analysis, or was unwilling to put his name on the arguments made by Ms. Kellington.

For reference, a figure of the watersheds is provided below.



This leaves a multitude of reasons that the Baker Creek unit discharge is higher than the calibration watersheds, none of which have anything to do with improper calibration of curve number values. The most obvious reason is a higher curve number due to the presence of larger concentrations of Type C/D soils and somewhat more urbanization and agricultural uses, as well as a far more complex geometry. Baker Creek also has a relatively large northern branch (drainage area 3) coming to a confluence with flows from drainage areas 1 and 2. This lends itself to a somewhat different aspect ratio from the calibration watersheds, which do not have a significant tributary branch.

If every gaged watershed were eliminated from consideration in a calibration on the foundation of Kellington's assertions of dissimilarity of unit discharge, no calibration would be possible. Again, the arguments in Kellington's letter provides no reason for PBS to change the conclusions in its report.

- 3. Kellington notes that the hydraulic model relies exclusively upon LiDAR data and that the “Date of the LiDAR data used is not revealed – it could have been from spring or winter when the stream channel was full of water.” Kellington also indicates that the report’s “point of beginning – the capacity of the channel to handle storm water – is faulty.” The response further notes that the channel survey result came in May 15, 2019. Kellington makes the assertion that the “discharge capacity within the channel could be as much as 500 to 1,000 cfs greater than what the...hydraulic model indicates”.**

Although there is no requirement to include the date of the LiDAR data, the LiDAR dataset utilized in the study is the 2012 Tillmaook-Yamhill Bare Earth returns, collected between September 23rd and October 5th, 2012 (Full LiDAR metadata is available on the DOGAMI website). The assertion that the report’s “point of beginning” is an analysis of the capacity of the channel is, once again, a misrepresentation of the purpose of this report. The report is, after all, a *Hydrology Study*, with an ancillary Hydraulics element to it. Kellington’s assertion that the conclusions of this impact analysis are “fallacious” is unwarranted and incorrect, constituting a misrepresentation of the purpose of the hydraulic modeling, and demonstrating that these analyses should be left to qualified engineers. The LiDAR data was used primarily as an impact analysis tool in this report and was found to be the best available information at the time that the study was performed. Regardless of the water surface elevations present in the channel, if an activity is going to have an impact on this hydraulic model, the nature of that impact (increase or decrease) will remain the same regardless of the ground surface inputs.

PBS understands that LiDAR accuracy is susceptible to water surface elevations; however, no better elevation data was available at the time of the study that might have improved accuracy.² Without survey data, one could also assume that geomorphological processes have had an impact on the creek in the 40 years since the FIS was published. Contrary to the assertion in the Kellington letter, observation of the LiDAR cross sections did not show an unnaturally flat channel bottom that would indicate water surface interference. The channel centerline utilized in this study does not match the FEMA channel centerline, so morphological change couldn’t be placed out of the realm of possibility.

Kellington also provides testimony of ground surface difference that provides neither reference to locations nor figures to support their evaluation of the LiDAR data. The Kellington letter further never provides the datum of the elevations to which they are comparing the LiDAR.

In any case, PBS would not, and did not, base a LOMR application on unverified topographical data. LiDAR, for the purposes of this study, was used merely to illustrate the potential differences in water surface elevations from the published BFEs due to development and agricultural activity in the watershed, and to identify the potential for flood risk outside of the effective floodplains. This report does not claim to support a LOMR, and it does not propose new flood hazard areas. The report explicitly notes that, if a LOMR application were performed, hydraulic structures should also be added to the modeling to ensure compliance with FEMA’s modeling requirements (reference to Section 4.1.3).

Setting aside the accuracy of the topography, Kellington has provided testimony on channel capacity, stating that “*the discharge capacity within the channel could be as much as 500 to 1,000 cfs more than what the opponents’ hydraulic model indicates.*” No numerical support has been provided for this estimate, nor are any documents or credentials cited that back Kellington’s assertion regarding the channel capacity.

² Frankly, this only highlights to the PBS Report’s ultimate conclusion that the City’s current flood insurance maps are outdated and are in desperate need of revision.

Looking at the FIS independent of any ground surface data, the estimated 500-year flow is 2,400 cfs, which is only 370 cfs greater than the published 100-year flow rate. Zone X areas noted as areas of 0.2% chance (500-year) flood risk have clearly extended beyond the channel's banks. Based on this information, it is reasonable to state that the peak 100-year flow rate estimated by the PBS Report would extend flood hazard areas beyond the banks of the Creek. Such a vast increase in flow from the effective FIS, which clearly didn't take into account the complexity of the watershed geometry in its blind use of regression statistics, supports the conclusion of the PBS Report that the FEMA effective mapping is not reflective of current watershed conditions and the City's flood insurance maps are in need of updating.

4. Kellington notes that Lake Oswego rain gage data was used to provide an evaluation of the hydraulic model's performance.

Kellington notes that the report relies for verification on anecdotal photographs that are undated and could have been taken at any time. Kellington states that this "can't be accurate" on the grounds that the "largest 24-hour storm event in November 2015 had a total rainfall for McMinnville airport of 1.53 inches, which is unlikely to be enough rainfall to cause [this] kind of flooding."

The Lake Oswego Gage was originally used in the analysis because at the time, data downloads from the CDO website were not working due to server errors. The cause of these errors is not known. Since the report was issued, PBS has been able to download data from the NOAA CDO website.

Since the report was issued, residents have also clarified what dates their photos were taken and provided metadata for the photo files supporting clarification to the model verifications. The year of the photos in the PBS report were reversed, Figure 16 in the report was an observation of flooding during a December 7, 2015 rainfall event, while Figure 17 was taken during a December 18, 2018 rainfall event. These dates have been clarified in the attached revised report.

Kellington's evaluation far oversimplifies the complexity of both storm events and watershed response, citing 24-hour rainfall totals and making the claim solely based on those values that flooding is unlikely. The rainfall depth cited must be taken at face value in that it was taken at a single point in a 25 square mile watershed and does not provide a sub-24-hour duration analysis. A real storm event that brings 1.53 inches of precipitation over 24 hours at McMinnville airport can include a single hour that includes the vast majority of that 24-hour total. A single one-hour precipitation total can also bring "10-year" rainfall at one point in a watershed and "25-year" rainfall totals in another.

Hydrologic analyses such as that presented in the PBS Report are based on balanced, synthetic storm events that assume that a storm is not varying in its return period throughout its duration. While these are referred to as "24-hour storm events", that synthetic storm event includes a 2-year, 1-hour rainfall total, a 2-year, 6-hour rainfall total, and so on. In reality, a single hour of that event in isolation, due to its high intensity, could be capable of causing flooding regardless of the surrounding hourly rainfall.

Observation of the McMinnville Airport gage data on December 18, 2018 shows a single hour from approximately 11 AM to 12 PM that recorded 0.68 inches of rainfall. A 2-year, 1-hour rainfall total based on the ODOT precipitation GIS grid and a NOAA Type 1A storm distribution is about 0.70 inches in depth.

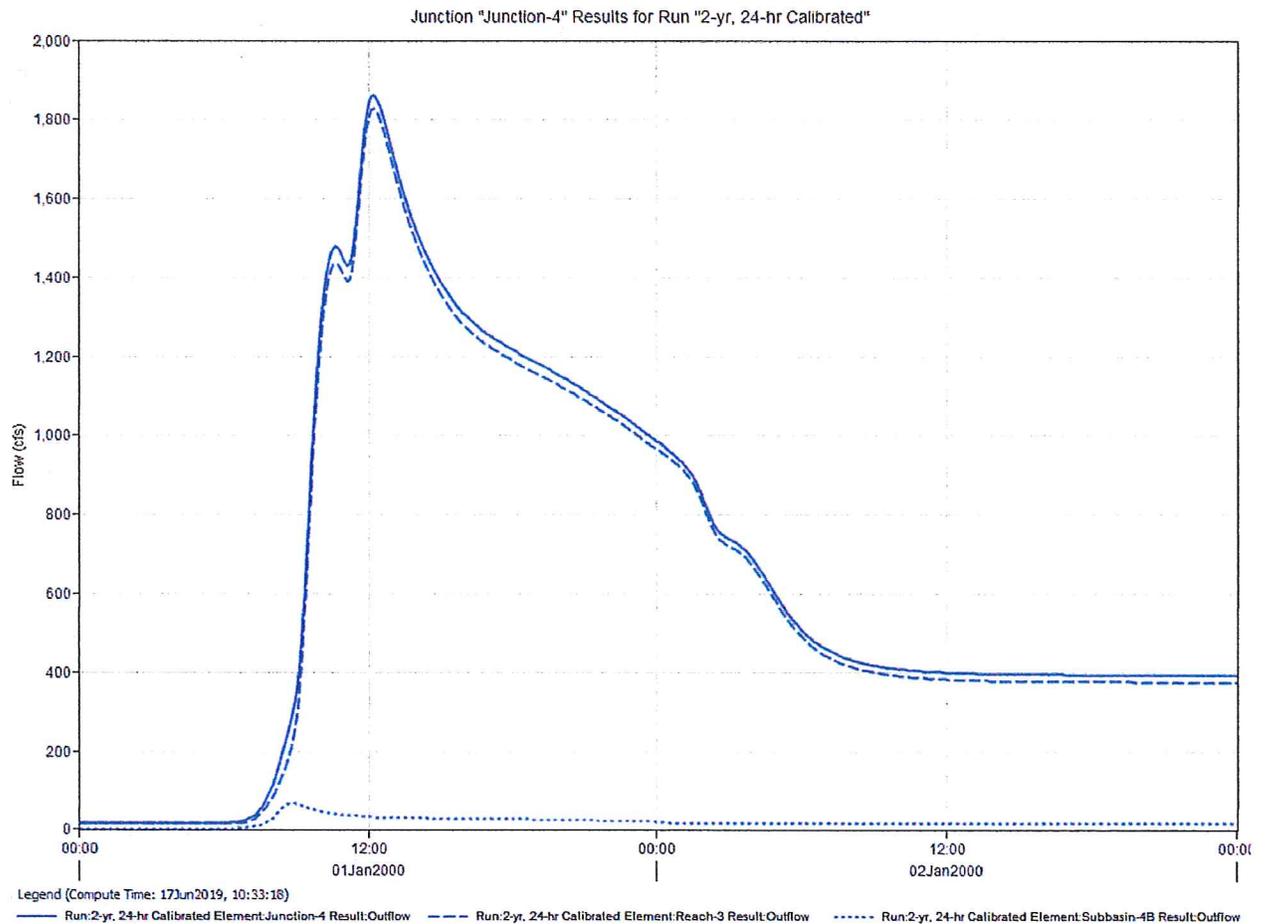
On December 7, 2015, 6- and 12-hour rainfall totals at the Airport gage registered 1.11 inches and 1.99 inches, respectively. Based on the same ODOT data, 2-year, 6-hour and 2-year, 12-hour

events produce approximately 1.39 and 1.83 inches of rainfall, respectively, on the Type 1A distribution used in the analysis.

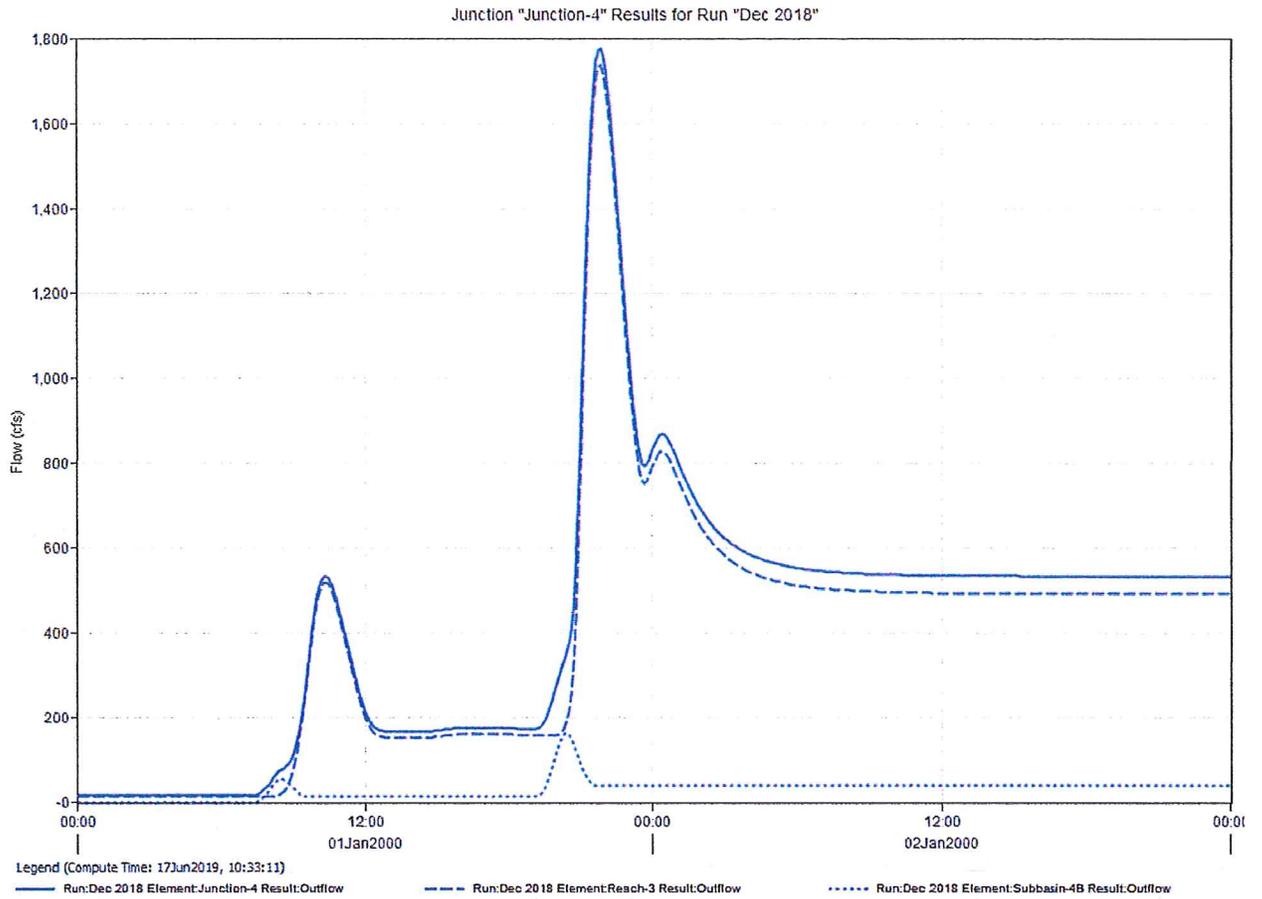
While the 24-hour rainfall totals for both flooding events may not have registered as a 2-year return period, sub-durations that would produce the bulk of a balanced 24-hour storm used in modeling did reach that level.

In order to illustrate this possibility, 1-hour precipitation readings from the McMinnville Airport gage for December 18, 2018 were input into the HEC-HMS hydrology model in order to roughly estimate peak flow produced by the watershed. The figures below provide the 2-year result first for a synthetic, Type 1A storm event, then for the December 18, 2018 event. This result indicates that peak flow values at the watershed's point of concentration from the two models fall within approximately 5% of one another.

While PBS recognizes that running precipitation data from a single point through the model may not represent the spatial distribution of the actual storm event, this exemplifies the reason that one cannot discount the possibility that these two events could cause overtopping of Baker Creek's banks.



2-year Synthetic Storm Event HEC-HMS Flow Hydrograph Result at the Baker Creek Model's Point of Concentration (Peak Flow ~1,860 cfs).



December 2018 Rainfall Event HEC-HMS Model Result (Peak Flow ~1,780 cfs).

What Kellington further does not acknowledge is that these photos, regardless of their exact dates, provide clear and specific evidence that flood waters encroached into areas beyond the 100-year FEMA-defined special flood hazard areas.

In sum, the Kellington's testimony does not impact the conclusions of the PBS Report, as the comments on the analysis were based on a typographical error that did not affect the accuracy of the model and the omission of data presented in the report to support their claims. Kellington's evaluation of the Hydraulic model as if it was intended to provide anything but an illustration of potential floodplain impacts is a misrepresentation of the intent of this report, which is to show that the currently effective FEMA study does not accurately depict the current extent of the floodplain.

We acknowledge that the typographical error in the report may have been the cause of some confusion in the interpretation of the Hydrologic analysis; accordingly, we have provided with this letter a revised copy of the report correcting this error, as well as providing a citation of the LiDAR dataset used and more specific photo dates and local rainfall data. Most importantly, our conclusions have not changed – it appears possible that a portion of the development proposed could lie within the 100-year floodplain based on modern modelling methods and statistics, and the effective flood insurance maps need to be updated.

Please feel free to contact me at 360.567.2105 or justin.maynard@pbsusa.com with any questions or comments.

Sincerely,

Justin Maynard
Civil/Water Resources Engineer

Attachments:
Kellington Law Group Testimony
Revised Hydrology Report

Environmental Impacts

We don't claim to be experts in environmental impacts of mitigation, filling (legal or otherwise), delineation, riparian zones, or any other area of environmental concern. We do, however, have other agencies that have stepped up and supported our efforts to deny building on the wetlands and in the flood-prone basin (Friends of Yamhill County & Yamhill Soil & Water Conservation District) based on those environmental impacts. We also have been in close contact with the Department of State Lands and have been educated on processes and requirements which we feel have not been met by the developer.

The following pages illustrate environmental impacts that have already happened or will be allowed to happen unchecked if this development moves forward.

Mitigation

Riparian zone damages already incurred

Filling (without permits) already incurred

Incomplete Delineation

DSL concurrence with the incomplete delineation

To our knowledge, no permits have been filed. No contact has been made with DEQ or Army Corp of Engineers for permitting. No contact has been made with DSL despite Mike DeBlasi inviting Premier to discuss the delineation report.



Delimitation from Pacific Habitat

Neighbors watched as Pacific Habitat crews delimitated the area in the basin. There is heavy blackberry cover on a large portion of the property where Premier is planning to build homes.

We believe that Pacific Habitat did NOT delimitate within the blackberry bushes. All around the bushes, the areas were deemed to be wetlands according to their report. If we are correct, there are a lot more wetlands being affected than Premier is claiming.

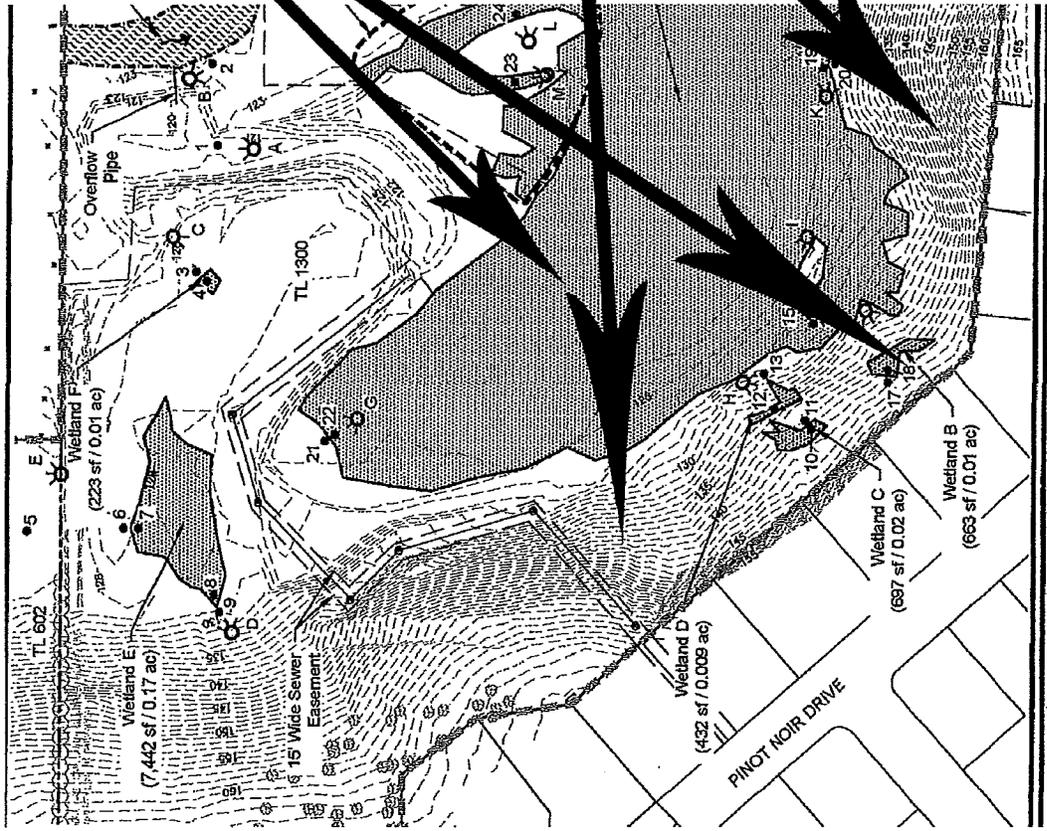
You can compare the Pacific Habitat reported areas of wetlands with this drone photo and see that according to their report, the wetlands are located in non-blackberry property, and all around them.

Having the assumption be that if it wasn't delimitated because of inaccessability, it's not wetlands isn't an accurate conclusion.

According to the Wetland Use Notice Response from the Departmet of State Lands, Mike DeBlasi, also noted that not all of the area had been delimitated. When FOBC brought this up at the Planning Commission meeting, it was dismissed as unimportant and not relevant by Premier.

A copy of the Pacific Habitat delimitation area is attached for comparison as well as a copy of the comment by Mike Deblasi on the Wetland Use Notice Response.





Wetlands

Heavy Blackberry cover

- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.
- The property includes or is adjacent to designated Essential Salmonid Habitat.
- This property includes a compensatory mitigation.

Your Activity

- It appears that the proposed project **may** impact Essential Salmonid Habitat and, therefore, **may** require a State permit.
- It appears that the proposed project **will** impact wetlands and **requires** a State Permit.
- An onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination or delineation report should be submitted to DSL for review and approval. Approved maps will have a DSL stamp with approval date and expiration date.
- The proposed parcel division may create a lot that is largely wetland and thus create future development problems.

Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.
- A state permit is required for any amount of fill, removal, and/or other ground alteration in Essential Salmonid Habitat and within adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to the stream.
- A state permit is required for any amount of fill or removal activity within a compensatory mitigation site.

Closing Information

Additional Comments

The DSL recently received a wetland delineation that partially studies these subject parcels. In addition, the delineation studies only a portion of the area proposed for development in this subdivision plan. The DSL would welcome the applicant to call Mike DeBlasi (503-986-5226) for a pre-application meeting to discuss the project configuration prior to submitting a Joint Permit Application for any proposed wetland removal/fill.

This is a preliminary jurisdictional determination and is advisory only.



Wetland Land Use Notice Response

Response Page

Department of State Lands (DSL) WN#*

WN2019-0178

Responsible Jurisdiction

Staff Contact

Jamie
Fleckenstein

Jurisdiction Type

City

Municipality

McMinnville

Local case file #

PDA 3-18/PDA 4-18/S 3-18

County

Yamhill

Activity Location

Township

04S

Range

04W

Section

17

QQ section

Tax Lot(s)

1300

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Yamhill

Latitude

45.23041

Longitude

-123.216862

Township

04S

Range

04W

Section

07

QQ section

Tax Lot(s)

602

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Latitude

45.23041

Longitude

-123.216862

Wetland/Waterway/Other Water Features

There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

4/19/2019

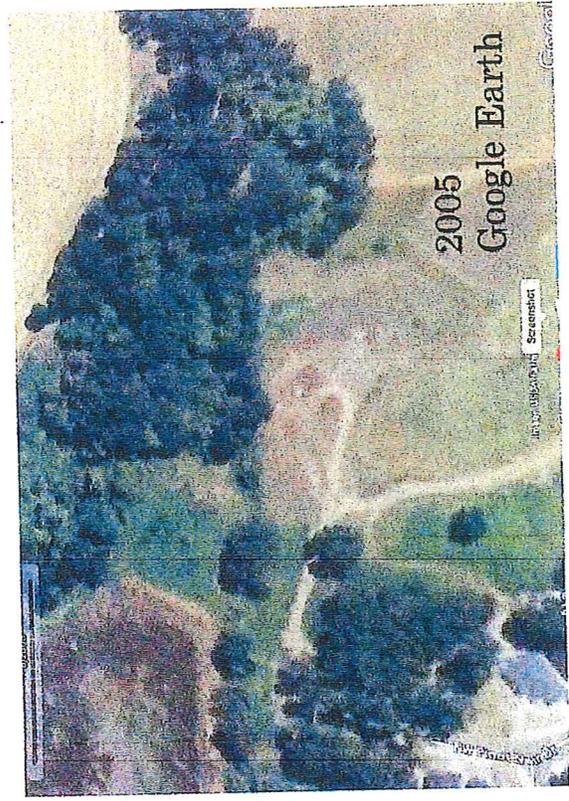
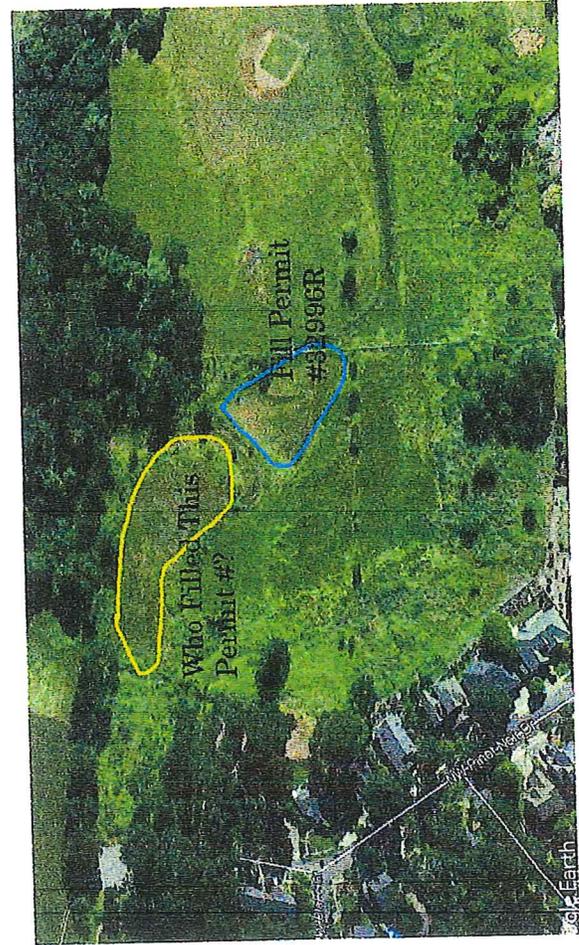
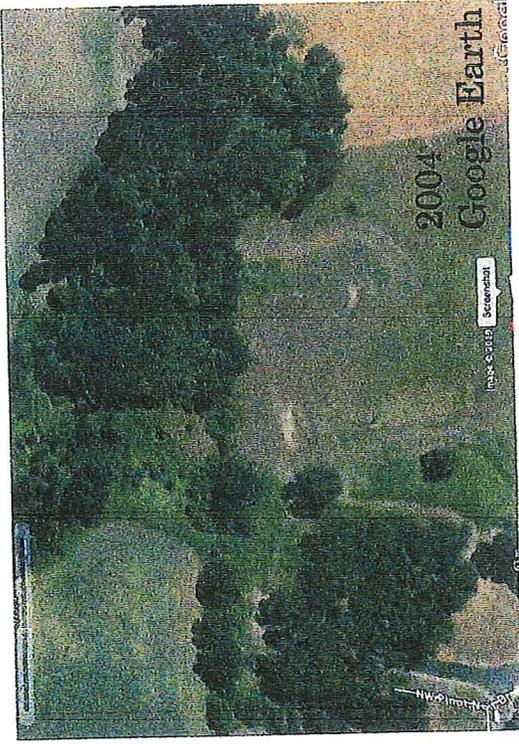
Response by:

Daniel Evans

Response Phone:

503-986-5271

= "Island" of unpermitted fill from 2005. Google Earth clearly shows that berm did not exist in 2004, but roads and fill came in 2005 under the ownership of Premier. We can find no record of permit for this fill in an area of probable wetlands at the time.





By 2015, enough additional storm drainage from road and new housing developments, that as little as 3.52 inches of rain over a three day period, was enough to flood the basin and:

- All of the 500 year flood plain

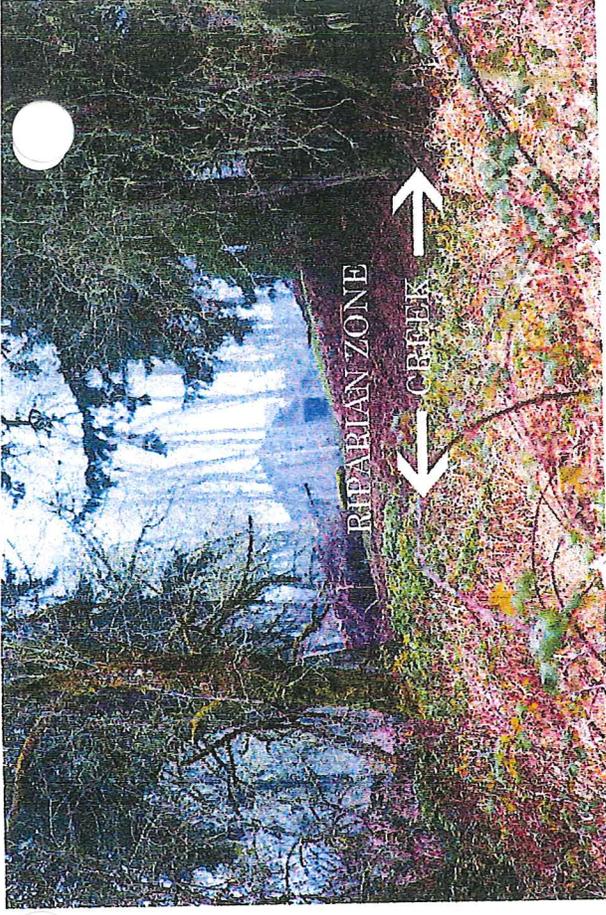
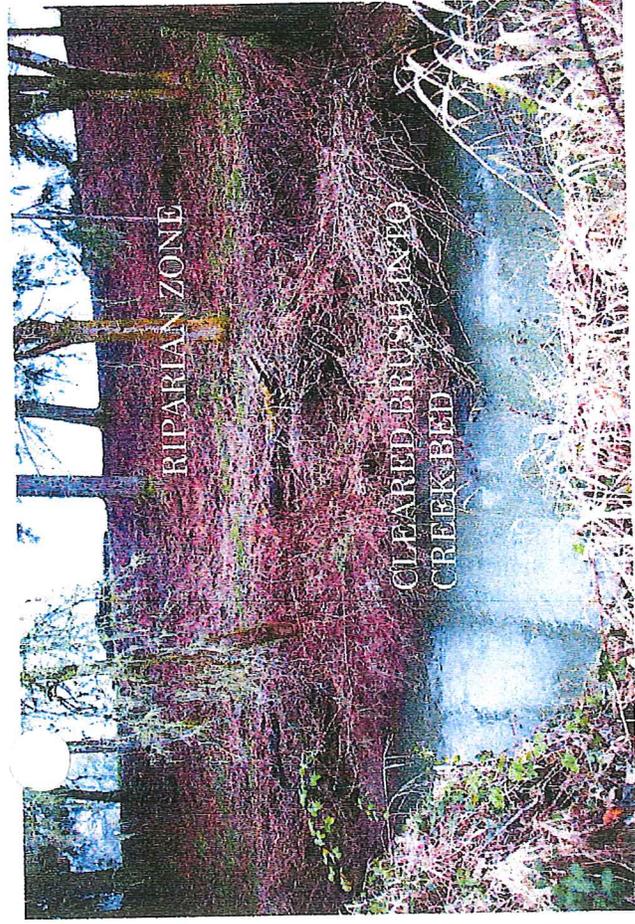
- A large portion of the wetland area west and upstream of the flood plain

- Almost the homes in Crestbrook.

NOTE: East of fence = 500 year flood plain

West of fence = wetlands in 1983 & 2010 FEMA maps

Yellow outline is permitted fill area and failed mitigation from early 2000s.

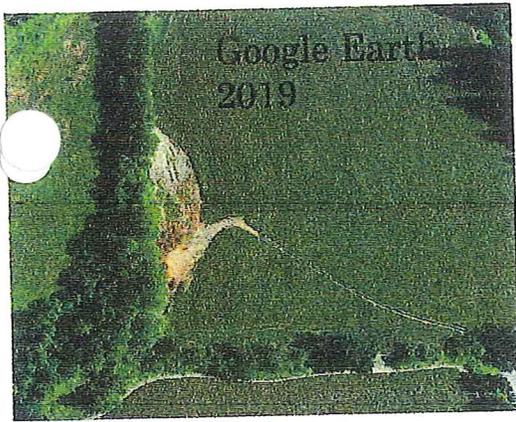


Riparian Zone Damage - 4822

Riparian zones were completely stripped of vegetation on steep slopes and in some cases, the vegetation was dumped directly into the creek. You can see the piles of small trees and vegetation on the top left of the right-hand photograph.

Riparian zones are there to protect the waterways from contamination from run-off, shade for fish habitat, and protection from erosion of the banks. No vegetation makes for a much prettier "park" but with a water-way considered a salmon habitat, the damage to the riparian zone should never have happened.

Had this been on the north side (county control) of Baker Creek, it would not have been permitted to happen at all. The County doesn't allow for riparian zones to be damaged according to the Yamhill Soil & Water Conservation District and would have required a permit under strict guidelines.



FILL ON 4822

Google Earth photos clearly show area of fill on the SW section of 4822 where homes and greenway will be located.

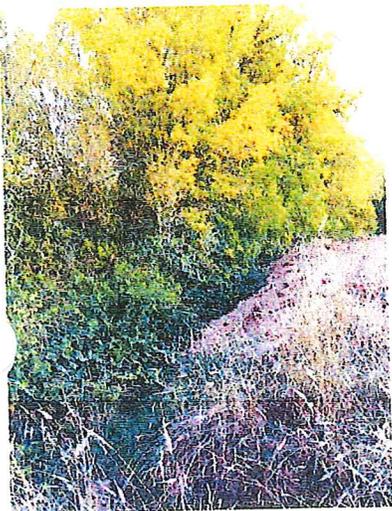
We could, again, find no permit on record.

10-20 dump-truck loads of fill dirt per day came through the Oak Ridge neighborhood for weeks at a time in 2017 & 2018.

Dump truck was driven by Jeff Zumwalt, personally witnessed by multiple neighbors. It went in full of dirt and came out empty.

According to testimony given by Premier's attorney, the farmer leasing the field from Premier, requested the fill to even out the field surface.

Using riparian area debris, logs and other fill material doesn't seem very farmer or tractor friendly.



Case Study:

JOHNSON CREEK RESTORATION, PORTLAND, OREGON

Challenge:

Johnson Creek has been plagued by "nuisance" flood events throughout its history, particularly in and around Foster Road, a residential area that flooded as often as every one to two years. In 1964, Johnson Creek experienced one of its largest floods; almost 1,200 structures were flooded, and the next several years marked numerous ineffective attempts at flood mitigation, as well as the near total loss of the salmon and trout species in the river.

History

Johnson Creek is a 26-mile river in a 54-square-mile watershed; nearly half the area falls within the Portland watershed. Prior to urbanization, Johnson Creek was forested; however, as pioneers settled along the banks of the river, they cleared many of the trees for housing and railroad materials.

In the 1930s the Works Progress Administration (WPA) lined and channelized 15 miles of Johnson Creek with rocks, under the mistaken assumption that this would reduce flooding. There have since been dozens of ideas on how to arrest the flooding, but none proved successful until 1995, when the Portland Bureau of Environmental Services (BES) finalized the Johnson Creek Resources Management Plan, with a focus on natural infrastructure.

Solution

In October of 1996, the Portland City Council adopted the Flood and Landslide Hazard Mitigation Plan, which recommended the acquisition of the most vulnerable properties in the floodplain. In 1997, the BES began acquiring vulnerable properties and moving people out of the floodplain. Since that time, more than 70 structures have been removed and 107 acres are in permanent conservation.

With many of the most vulnerable structures out of the way, BES began reconnecting Johnson Creek to its floodplain. This initially required the removal of more than 50,000 cubic yards of soil, or approximately 5,000 dump truck loads from the lowlands adjacent to the creek. The BES restored approximately 63 acres of wetland and floodplain habitat and over half a mile of Johnson Creek,



Project Details

- **Location:** Foster Floodplain, Portland OR
- **Population:** 620,000 (Portland metro area)
- **Strategies:** Buy-outs, Floodplain restoration, Berm removal
- **Cost:** \$20M
- **Benefits:** Reduced flood damages, Ecosystem restoration, Water quality, Recreation

Case Study:

JOHNSON CREEK RESTORATION, PORTLAND, OREGON

specifically in the Foster Floodplain Restoration Area, making it habitable once more for ESA-listed Coho and Chinook salmon and steelhead trout. They then added over 200 large pieces of wood to improve habitat along the stream bank and created two backwater channels to provide resting areas for fish during peak flows. The BES additionally re-vegetated the stream bank by planting 20,500 native trees, 70,500 native shrubs, 4,750 wetland plants, and 1,000 pounds of native grasses, sedges, and forbs to further improve the area's habitat for local fauna.

Finally, the BES rectified the creek's channelization by removing the rock lining, as well as three bridges and three roads, increasing the capacity of the floodplain to absorb floodwaters.

Partners and Funding

The Johnson Creek Restoration Project was in part funded through a large grant from the Federal Emergency Management Agency (FEMA) for the sum of \$2.7 million. Additional funding came in the form of Community Development Block Grants from the U.S. Department of Housing and Urban Development (HUD) as well as commitments from the City of Portland's stormwater funding.

While BES was the main agency involved in implementing the project, it is important for projects like these to possess a champion. In this instance, Ann Riley, who worked with the Waterways Restoration Institute at the time, was the champion of using natural infrastructure to decrease flood risk in Johnson Creek.

Benefits

The Johnson Creek neighborhood was noticeably improved after this project. The restoration created a publicly-accessible natural area in east Portland, and included the creation of a pedestrian trail and bridge for wildlife viewing in the Foster Floodplain Restoration Area. BES also installed sidewalks, street trees, and stormwater sewers along Foster Road to better absorb or divert heavy rainfall.



In 2004, an ecosystem services valuation of the restored area found that the project would produce approximately \$30 million in benefits over the course of 100 years from avoided property damages to residents and businesses, avoided traffic delays, avoided utility damage, water quality benefits, parks and open space benefits, fish and wildlife benefits, and air quality improvements.

This project is relatively recent, but it has already been proven effective. The Johnson Creek area experienced heavy rains in January of 2012, pushing Johnson Creek to more than 2 feet above its historic flood stage, and filling the restoration site with water. Despite the pressure, the floodplain held the high water, keeping Foster Road dry and local businesses open.

WHAT ACTIONS ARE THE FRIENDS OF BAKER CREEK REQUESTING

From the beginning, our group has only been opposed to the portion of the application on the 4722 property where all the filling, diking, and road building activities in the Baker Creek basin are proposed. Our recommendations to the council are:

1. DENY THE COMBINED 35 ACRE SUBDIVISION REQUEST OUTRIGHT. We feel that we have shown that the Oak Ridge Meadows application does not meet comprehensive plan goal/policies in several areas (access, mitigation, environmental, etc). If approving the removal of the 11.47 acres from Oak Ridge Meadows and leaving it in limbo for awhile – but not approving the connection to 4822 is the way to accomplish that, that is fine too.
2. REQUIRE DEVELOPER TO START OVER WITH APPROVALS FROM DSL, DEQ, AND ARMY CORPS OF ENGINEERS – BEFORE TURNING PLANS IN TO THE CITY NEXT TIME. – We have talked to all three agencies. And they all stated that the developer is supposed to start with their approvals in step #1. – ESPECIALLY IN DEVELOPMENTS ALONG RIVERS, CREEKS AND WETLANDS. But the only permit we ever found expired years ago. Please don't allow the applicant and one city department to convince city leaders to skirt around state required environmental permits. If there is future fallout, it will probably be the city council who citizens will blame.
3. PLEASE ORDER AN UPDATED FEMA LOMR REPORT. It is an online update that an independent engineering company can do for the city. Both a FEMA rep and our engineer have told us those reports can be completed in 5-7 months. Besides bringing the goal posts along Baker Creek forward thirty-six years, it will allow councilors to:
 - A. Update city master plans on UGB land inventory and TSP in the basin. They appear to be as inaccurate as the FEMA hydrology. Like the 36 year old goal posts, those outdated plans allowed the applicant to argue that we are being selfish for arguing against city master plans. If city master plans were accurate, today's situation would not exist.
 - B. It sounds like that part of a LOMR update is to have the independent engineer audit the city's hydrology records for accuracy. Baker Creek hydrology records have probably never been audited by an outside agency for at least 36 years. We don't think the planning staff would have argued so hard that our hydrology claims are false "IF" their in-house records were even close to accurate.
 - C. Speaking of long-term planning – Updating FEMA floodplain locations is needed to inform the city manager and city councilors if there is still capacity in the basin today or not. BUT, without a question, as Justin Maynard's summary stated, "Beyond near-term activities, replacement of forested and grassland land covers lying west of the City could irrevocably alter drainage patterns, even further compound impacts on the Baker Creek floodplain, and put life and property in the City of McMinnville and Yamhill County at risk." Great long-term planning is what has made McMinnville one of the greatest cities in the Northwest. Please don't mess that up.

STATEMENT by Cathy Goekler

PRESIDENT

FRIENDS of Baker Creek

CITY COUNCIL

7-23-19

The 120 day clock is ticking and sometimes when we feel pressed by time we don't do our best.

This proposal was deemed complete by the Planning Department. We had trouble telling which lot plan was in fact being submitted. Exhibit 4 is not the same as Exhibits 6,7,9,11, and 26. And Exhibits 21 and 22 were of yet a different plan. We had to call the planning department to see which plan the builder really meant to submit.

We were further confused by EXHIBIT 8, DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE OAKRIDGE WETLAND MITIGATION SITE. (exhibit attached) We called DSL and spoke with Mike DeBlasi about the "Permit Number DSL # 32996-RF". The permit expired years ago. The applicant has to start all over. The mitigation site on Exhibit B shows a tiny portion of the wetlands to be considered for development. Why submit outdated information? Very confusing.

We were surprised to see Exhibit B From: Les & Kathleen Toth To: The City of McMinnville (see attached). It almost looks like the Toth's submitted these documents. We understood from county records (Les Toth's property in question for this planned development is in Yamhill County) that in 2004 Les Toth had opposed development on his land. He continues to oppose any development on his land and has submitted letters to that effect (attached in other portions of this submission). So how can this developer promise connection to a road on property he doesn't own and which the owner has presented written opposition to?

We were confused that this complete application had only one access street and that through an existing neighborhood when city fire code requires two. It was confusing to see how on earth a dead end street named Pinehurst qualified as one of the two required streets. No matter how you cut it a dead end street is still a dead end street. Promises of connection in the future were questionable when the owner of that land is opposed to that proposal. This is the same owner who generously allows the local ball teams to play on fields that he maintains.

We were surprised to see Exhibit 3 from 2005, addressed to "Dear Jeff and Lori". If today's application wasn't the same plan as submitted in 2005, then why was this being included?

A completed Delineation Study was not submitted. Interesting since building on the 11.42 acres is on wetlands. Interesting too that a delineation study was begun. We watched as blue flags denoting wetlands began blooming along our fence lines, places not identified as wetlands on any of the maps being submitted to the city.

Another concern was the promise of a five year build out, particularly because the first part of the information requests moving 11.47 acres which was part of a five year promise never fulfilled. The

reason stated was The Great Recession of 2007. Twelve years this promised build out has been unfulfilled. We can't know what the next five years will bring. We're being promised that Pinot Noir will be relieved of its burden of carrying 100% of the traffic for this planned development within five years. Can you imagine what it will be like to have your neighborhood suddenly have 1000-1200 vehicles a day added to the load your streets already carry? It certainly seems to be overload to us! Five year promises can be difficult to keep as 4722 reveals (2005-2019), especially on an issue as vital as traffic flow. This development could be an island serviced only by Pinot Noir for a very long future.

And this application was deemed complete? Why?

We were also disheartened by the 0.85 acre park. This is NOT proposed to be turned over to the city. This is to be a private park managed by the HOA. This lovely parkland is mostly a steep slope covered with blackberries. This steep slope also has a spring. The proposal includes a play structure and a path down the slope. Trash will be an on-going issue. This park will be an attractive nuisance since entrance is from *public* paths top and bottom. The slope will be difficult to maintain, especially with a spring keeping everything wet, not to mention rain. This is part of the land NOT delineated and therefore NOT listed as wetlands. The spring sort of gives it away. So do the wetland vegetation at the top and bottom of this slope. Neighborhood HOA's often have difficulty finding people to fill office let alone become park managers and carry liability insurance. The only feasible option is to re-label this donated land a nature preserve and leave it as is. What looks wonderful on paper will be an in-perpetuity nightmare.

Then there's the issues raised by the denial by the county in January 8, 2004 for fill to be placed in the floodplain on Les Toth's land. Under Ordinance Provisions and Analysis B.6 (see attached)we read:

*"Regarding criterion (D), the applicant must coordinate with the Division of State Lands and the Army Corps of Engineers for proper permitting regarding the placement of fill dirt within the wetland area. **They have stated in their application that they are aware of these requirements and they do not yet have the required wetlands fill permits.**"*

A 2004-2005 Google map search shows significant fill placed in two of the areas to be developed in this application. We have not found any permits for that fill.

A 2018 look at Google maps shows more fill being added along the creek. Again we can find no permit for that fill, permits which in 2004 they said they were aware of. In that chummy letter to "Jeff and Lori" from the city in 2005 there are twenty-five conditions of approval. Number eight states *"That all fill placed in the areas where building sites are expected shall be engineered and shall meet with the approval of the City Building Division and the City Engineering Department."*

We called the city to express our concern since this fill is along Baker Creek, an ESH (essential salmon habitat). Members of City Engineering and City Planning came out and looked at the fill. To our knowledge no action was taken. Mike DeBlasi from Oregon Department of State Lands states that he has not yet received an application. Neither has Kinsey Friesen from Army Corps of Engineers nor Dave Belyea from DEQ. We continue to be deeply concerned and hope you will take action.

In the City of McMinnville Memorandum dated December 8, 2003 (see attached) we read: *“Based upon this direction provided by DSL, it would seem that Premier Development LLC would be advised to first obtain concurrence from that agency...”* This advice was given yet again in a conversation with Mike DeBlasi. He stated that what the state permits may differ from that of the city and it is wise to begin with the state before taking up city time. It would certainly have saved the city, the developer and our neighborhoods if the developer had heeded knowledge given in 2003.

This process has been long and arduous to be able to have effective citizen input. We've been accused in the newspaper by Ms Richards of “spreading misinformation”. We've been treated like political adversaries rather than citizens with a right to voice their concerns. We've been deeply frustrated that at the initial Planning Commission meeting the city and developer were allowed to essentially filibuster until after nine pm which meant of the many people who came to give public testimony left before they were allowed to do so. Again that idea of a complete application comes in. If what the city and developer submitted in print were complete then why did it have to be read to the Planning Commission? And we've been deeply frustrated that the city and applicant have unlimited time to present their views and we've been limited to three minutes per person, which is then offered to unlimited rebuttal.

Lastly, it is too easy to take the narrow view of this application. That would be a mistake for more than one reason.

One is the obvious – whatever we do with this development affects Baker Creek and its ecology all the way from upstream to where it **joins the Yamhill River**.

This development abuts a floodplain. What we do here will have effects on flooding in multiple areas beyond this development.

This development borders Yamhill County. It pays to be a good neighbor and not abuse our side of Baker Creek so they have to deal with the effects of the City's poor decisions. Farmer's fields are already flooding causing loss.

Stafford has several developments in this same area which will also add to the drainage into Baker Creek. There is only so much that creek can handle. Annual flooding these past several years with minimal rain tells us the creek is reaching its capacity. While we may take steps to channel the water on our side of the bank, we are still responsible for what it does on the other side.

Please learn from Portland's Johnson Creek debacle. We don't have that large of a tax base to recover such costs.

With so much at stake we respectfully request that the city heed its own wisdom from 2003 and stop the clock on development of 4722. Require the applicant to get all the DEQ, DSL and ACE permits required to see if any of the building plans on the wetlands are feasible. Then bring the plan to the table.

We ask that the City approve Shadden as the primary access .

We ask that the City require all relevant permits for the fill already dumped along Baker Creek and for all other state and federal permits applicable.

Exhibit 8

OFFICIAL WASHMILL COUNTY RECORDS
JAN COLEMAN, COUNTY CLERK



\$56.00

200422594

9:30:27 AM 11/05/2004

PR-CRPR Cnt=1 Stn=3 SUSAN
\$35.00 \$10.00 \$11.00

DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE Oak Ridge Wetland Mitigation Site

THIS DECLARATION is made this 1st day of November 2004, by Premier Development, LLC. , ("Declarant"). This Declaration of Covenants is required as a permit condition which is part of the mitigation of impacts to wetlands regulated under Oregon's Removal-Fill Law, ORS 196.800 et seq. ORS 182.060 provides that "Any instrument creating a[n]...easement...may be indexed and recorded in the records of deeds of real property in the county where such real property is located." Further, ORS.060 provides that "When requested by a state board or commission, the county clerk shall file or record, or both, in the office of the clerk any instrument affecting real property and immediately shall return to the board or commission a receipt for the instrument, aptly describing it and showing the legal charge for the filing or recording or the instrument." Therefore, the Division of State Lands, operating under the State Land Board, requires the recording of this instrument as described above.

RECITALS

1. WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and by this reference incorporated herein as the "Property", and desires to create thereon wetlands to be maintained in accordance with the Permit Number approved by the Oregon Division of State Lands ("Division"), attached as Exhibit B;

2. WHEREAS, Declarant desires to provide for the preservation and enhancement of the wetland values of the Property and for the maintenance and management of the Property and improvements thereon, and to this end desires to subject the Property to the covenants, restrictions, easements and other encumbrances hereinafter set forth, each and all of which is and are for the benefit of the Property.

NOW, THEREFORE, the Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements and other encumbrances hereinafter set forth in this Declaration.

ARTICLE 1 DEFINITIONS

1.1 "Declaration" shall mean the covenants, restrictions, and all other provisions set forth in the Declaration of Covenants and Restrictions.

1.2 "Declarant" shall mean and refer to Premier Development, LLC., its successors or assigns.

1.3 "Removal fill permit" shall mean the final document approved by the Division that formally establishes the wetland mitigation and stipulates the terms and conditions of its construction, operation and long-term management.

1.4 "Property" shall mean and refer to the wetland mitigation site described in Exhibit "A".

ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Yamhill County, Oregon and is more particularly described as the wetland mitigation site described in Exhibit "A".

ARTICLE 3 GENERAL PLAN OF DEVELOPMENT

Declarant currently manages the property for the purpose of wetland mitigation. Current management is in accordance with Permit Number DSL #32996-RF.

ARTICLE 4 USE RESTRICTIONS AND MANAGEMENT RESPONSIBILITIES

The Property shall be used and managed for wetland mitigation purposes in accordance with Permit Number DSL #32996-RF. Declarant and all users of the Property are subject to any and all easements, covenants and restrictions of record affecting the Property.

1. There shall be no removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of any vegetation on the restricted property, nor any disturbance or change in the natural habitat of the property, except to remove non-native species.
2. There shall be no agricultural, commercial, or industrial activity undertaken or allowed in the property; nor shall any right of passage across or upon the property be allowed or granted if that right of passage is used in conjunction with agricultural, commercial or industrial activity.
3. No domestic animals shall be allowed on the property.
4. There shall be no filling, excavating, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock minerals or other materials, nor any dumping of ashes, trash, garbage, or of any other material, and no changing of the topography of the land of the Property in any manner without written approval from the state and federal wetland regulatory agencies.
5. There shall be no construction or placing of buildings, mobile homes, advertising signs, billboards, or other advertising material, or other structures on the Property.
6. Crossings of the restricted property for utility line installation shall be allowed only if complete restoration of grades and vegetation is done.

**ARTICLE 5
RESOLUTION OF DOCUMENT CONFLICTS**

In the event of any conflict between this Declaration and Permit Number
DSL #32996-RF, the permit shall control.

IN WITNESS WHEREOF, the undersigned being Declarant herein, has executed
this instrument this 3rd day of November, 2004.

Premier Development, LLC:
Yamhill County, Oregon

By: Lou J. Zumwalt, Member
Title: Member

EXHIBIT "A"

1 of 2

Matt Dunkel & Assoc.
3765 Riverside Drive
McMinnville, Oregon. 97128
Phone: 472-7904
Fax: 472-0367

Date: 1 Sept. 2004

PREMIER BUILDERS - Legal Description of Wetland Mitigation Area

A tract of land in Section 17, Township 4 South, Range 4 West, Yamhill County, Oregon, being more particularly described as follows:

Beginning at a point that is North 83°59'30" East 405.48 feet from the north east corner of Lot 44 of OAK RIDGE SUBDIVISION, in the City of McMinnville; thence southeasterly 46.71 feet along a curve (C1) concave to the north having a radius of 147.70 feet (chord=South 51°48'24" East 46.51 feet);
thence southeasterly 37.67 feet along a curve (C2) concave to the south having a radius of 2220.97 feet (chord=South 60°22'49" East 37.67 feet);
thence southeasterly 21.84 feet along a curve (C3) concave to the north having a radius of 71.46 feet (chord=South 68°38'57" East 21.75 feet);
thence southeasterly 20.12 feet along a curve (C4) concave to the north having a radius of 182.94 feet (chord=South 80°33'17" East 20.11 feet);
thence southeasterly 13.81 feet along a curve (C5) concave to the south having a radius of 78.400 feet (chord=South 78°39'27" East 13.80 feet);
thence southeasterly 10.39 feet along a curve (C6) concave to the south having a radius of 16.56 feet (chord=South 55°38'35" East 10.22 feet);
thence southeasterly 18.03 feet along a curve (C7) concave to the north having a radius of 37.44 feet (chord=South 51°28'16" East 17.85 feet);
thence southeasterly 17.06 feet along a curve (C8) concave to the south having a radius of 131.81 feet (chord=South 61°33'27" East 17.05 feet);
thence southeasterly 12.51 feet along a curve (C9) concave to the north having a radius of 24.68 feet (chord=South 72°22'29" East 12.38 feet);
thence northeasterly 18.99 feet along a curve (C10) concave to the north having a radius of 19.98 feet (chord=North 65°52'03" East 18.28 feet);

Page 1 of 2

4/7

EXHIBIT "A" 202a

Date: 1 Sept. 2004

PREMIER BUILDERS - Legal Description of Wetland Mitigation Area

thence northeasterly 10.77 feet along a curve (C11) concave to the north having a radius of 27.57 feet (chord=North 28°03'55" East 10.11 feet);
thence North 00°08'22" West 16.72 feet;
thence northwesterly 18.04 feet along a curve (C12) concave to the east having a radius of 136.99 feet (chord=North 13°07'56" West 18.03 feet);
thence northwesterly 9.52 feet along a curve (C13) concave to the west having a radius of 52.08 feet (chord=North 14°35'46" West 9.51 feet);
thence northwesterly 15.76 feet along a curve (C14) concave to the east having a radius of 99.89 feet (chord=North 15°18'53" West 15.74 feet);
thence northwesterly 24.01 feet along a curve (C15) concave to the west having a radius of 130.60 feet (chord=North 16°03'41" West 23.97 feet);
thence northwesterly 17.35 feet along a curve (C16) concave to the west having a radius of 79.66 feet (chord=North 27°34'03" West 17.32 feet);
thence northwesterly 19.62 feet along a curve (C17) concave to the east having a radius of 99.73 feet (chord=North 28°10'18" West 19.59 feet);
thence northwesterly 23.84 feet along a curve (C18) concave to the west having a radius of 107.10 feet (chord=North 28°54'48" West 23.80 feet);
thence northwesterly 21.30 feet along a curve (C19) concave to the east having a radius of 54.99 feet (chord=North 24°11'43" West 21.17 feet);
thence northwesterly 15.36 feet along a curve (C20) concave to the west having a radius of 101.28 feet (chord=North 17°26'39" West 15.34 feet);
thence northwesterly 34.56 feet along a curve (C21) concave to the west having a radius of 1369.28 feet (chord=North 22°30'42" West 34.55 feet);
thence South 43°31'41" West 175.64 feet to the point of beginning as shown by Exhibit "___".

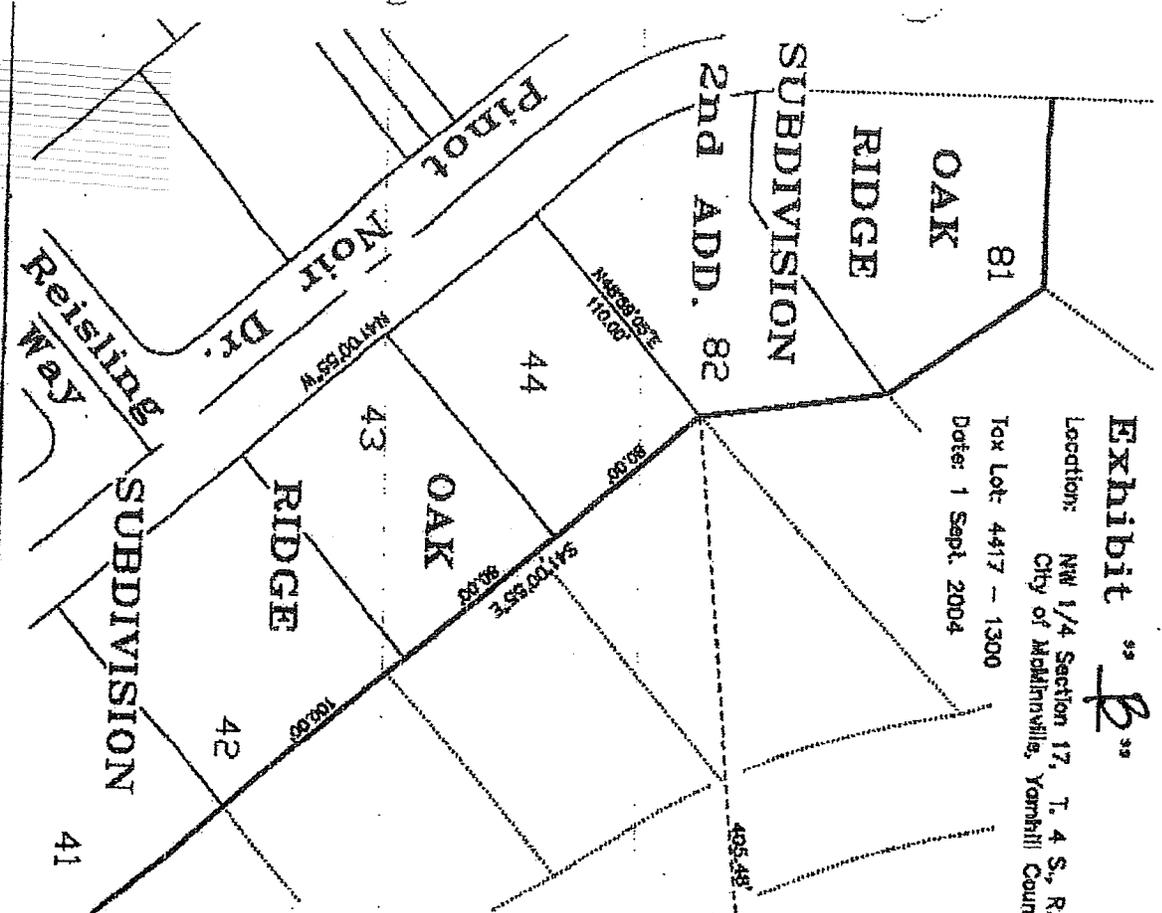
Page 2 of 2

Exhibit B

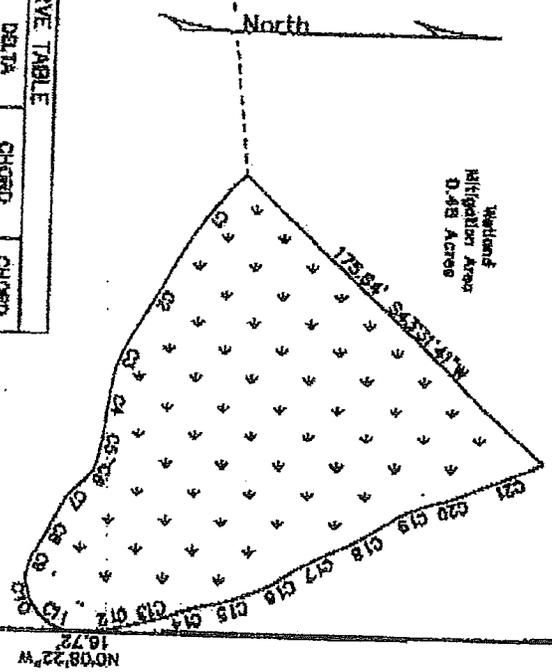
Location: NW 1/4 Section 17, T. 4 S., R. 4 W., W.M.,
City of Madrasville, Yamhill County, OR

Tax Lot: 4417 - 1300
Date: 1 Sept. 2004

Scale: 1" = 100'



CURVE TABLE						
CURVE	RADIUS	LENGTH	DELTA ANGLE	CHORD BEARING	CHORD DISTANCE	
C1	147.70	46.71	1807.08"	S81.48/24"E	46.51	
C2	2220.97	37.67	058.18"	S80.22/49"E	37.67	
C3	71.48	21.84	1730.35"	S88.38/57"E	21.78	
C4	182.84	20.12	678.05"	S80.33/17"E	20.11	
C5	78.40	13.61	1005.46"	S78.39/27"E	13.60	
C6	18.58	10.39	3555.35"	S85.35/35"E	10.22	
C7	37.44	18.03	2735.20"	S91.28/16"E	17.85	
C8	131.91	17.06	724.50"	S81.33/27"E	17.05	
C9	24.88	12.51	2902.58"	S72.22/28"E	12.38	
C10	18.98	18.99	5427.87"	N85.52/05"E	18.28	
C11	27.57	10.17	2108.18"	N28.00/55"E	10.11	
C12	136.89	18.04	7382.49"	N13.00/38"W	18.03	
C13	52.08	8.52	1028.30"	N14.36/46"W	8.51	
C14	98.89	15.78	8921.17"	N15.87/53"W	15.74	
C15	130.60	24.01	1031.54"	N16.03/41"W	23.97	
C16	79.66	17.35	1228.51"	N27.54/03"W	17.32	
C17	89.73	19.62	1118.21"	N28.10/18"W	18.59	
C18	107.10	23.84	1248.20"	N28.54/48"W	23.80	
C19	54.88	21.30	2211.30"	N24.11/43"W	21.17	
C20	101.28	15.36	841.72"	N17.28/39"W	15.34	
C21	1389.28	34.66	126.45"	N22.30/42"W	34.55	



Matt Duncel & Assoc.
3765 Riverside Drive
Madrasville, Oregon 97128
Phone: 503-672-7804
Fax: 503-672-0557
Email: duncel@mlh.com

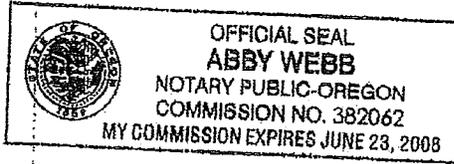
REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
MATT DUNCCEL
1942

Revised 03 December 2005
5144

STATE OF OREGON)

County of Yamhill)

SS:



This instrument was acknowledged and signed before me on November 3, 2004
by Lori L. Zumwalt

Abby Webb

Signature of Notarial Officer

My Commission Expires: June 23, 2008

EXPIRES 31 DECEMBER 2018

Leland MacDonald & Assoc., LLC
Land Surveyors
3765 Riverside Drive
McMinnville, OR 97128
Phone: 472-7904
Fax: 472-0367

REGISTERED
PROFESSIONAL
LAND SURVEYOR


OREGON
JANUARY 16, 2002
Leland A. MacDonald
53226

EXHIBIT "A"

7 May 2018

Description of Real Property for: Les & Kathleen Toth & The City of McMinnville: Easement description

An easement located in Section 17, Township 4 South, Range 4 West of the Willamette Meridian in Yamhill County, Oregon, being a portion of that tract of land described by Deed from Compton Family Limited Partnership to Compton Crest, LLC and recorded in Instrument No. 200408905, Yamhill County Deed and Mortgage Records, and being a portion of Parcel 1 of Yamhill County Partition Plat 2000-37, being 20 feet in width, lying 10 feet each side of the centerline thereof, said centerline being more particularly described as follows:

Commencing at an iron rod marking the northeast corner of Lot 26 of Compton Crest subdivision, said point being on the east line of said Parcel 1; thence North 00°07'08" West 315.00 feet along said east line to a point on the centerline of an existing sanitary sewer easement, said easement being 20 feet in width, lying 10 feet each side of centerline, recorded in Instrument No. 200503254, Deed Records of Yamhill County, Oregon; thence South 89°49'57" West 15.00 feet along said centerline to a point; thence South 64°36'04" West 243.01 feet to an angle point in said centerline and the POINT OF BEGINNING; thence South 58°21'07" West 172.52 feet to a point on an existing sanitary sewer easement, said easement being 20 feet in width, lying 10 feet each side of centerline, recorded in Partition Plat 2000-37, Survey Records of Yamhill County, Oregon, as shown on a map attached, hereto and made a part thereof, the sidelines of said easement to extend and shorten with the west margin of said Instrument No. 200503254 and with the North and South margin of said easement per Partition Plat 2000-37.

End of Description

From: Les & Kathleen Toth
To: The City of McMinnville

Location: Section 17 T. 4 S., R. 4 W., WM.,
 City of McMinnville
 Yamhill County, OR

Tax Lot: 4417 - 1202

Date: 4 May 2018

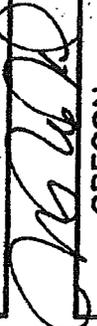
Scale: 1" = 60'

Exhibit "B"
Easement Map

LINE	BEARING	DISTANCE
L1	N 30°06'31" E	97.45'
L2	N 32°49'35" E	141.89'
L3	S 64°36'04" W	243.01'
L4	S 89°49'57" W	15.00'
L5	S 87°08'06" E	128.10'
L6	N 51°43'58" E	322.64'
L7	N 87°24'22" W	327.16'
L8	S 58°21'07" W	172.52'

By : Leland MacDonald & Assoc., LLC
 Formerly dba Matt Dunckel & Assoc.
 3765 Riverside Drive
 McMinnville, Oregon 97128
 Phone : 503-472-7904
 Fax: 503-472-0367
 Email: lee@macdonaldsurveying.com

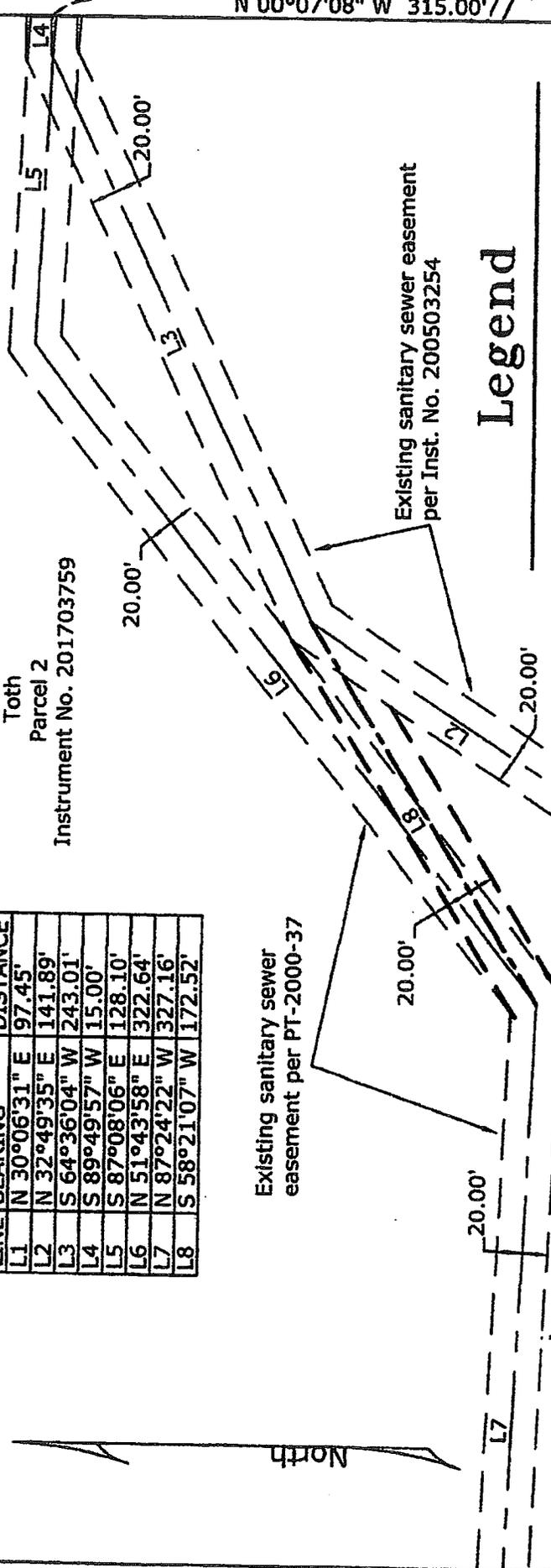
REGISTERED PROFESSIONAL LAND SURVEYOR



OREGON
 January 16, 2002
LELAND A. MACDONALD
 53226

Expires 31 December 2018

Tax Lot: 4417 - 1202
 Toth
 Parcel 2
 Instrument No. 201703759



Legend

- = Monument Found, 5/8" iron rod with yellow plastic cap marked "Matt Dunckel & Assoc." set in the Compton Crest Subdivision.
- = Easement

Northeast corner of Lot 26 of Compton Crest Subdivision

361.05' to centerline easement

N 88°51'28" W 514.75'

Merlot Drive

153.70'

Tax Lot:
 4417 - 1200
 Compton
 Parcel 2
 PT-2000-37

S 87°24'22" E
 166.70'

S 02°22'58" W
 54.99'

S 02°22'58" W
 50.83'

Lot 29

Lot 28

Lot 27

Compton Crest Subdivision

Lot 26

#8639

Instrument No. 201703759
 Parcel 1
 Tax Lot: 4417 - 1202
 '00.51E W 80.70.00 N
 Pinehurst Drive

Exhibit 3



230 NE Second Street • McMinnville, Oregon 97128 www.ci.mcminnville.or.us

April 18, 2005

Premier Development LLC
1312 NE Highway 99W
McMinnville, OR 97128

RE: ZC 12-04/S14-04

Dear Jeff & Lori:

This is to advise you that, at a meeting of the McMinnville City Council on Tuesday, April 12, 2005, they took action to approve the attached ordinance and findings relative to your application for approval of a zone change from a County EF-80 (Exclusive Farm Use - 80 acre minimum) zone to a City R-2 PD (Single-Family Residential, Planned Development) zone on approximately 23 acres of land. The subject property is located north of Pinot Nair Drive and the Oak Ridge residential development and is more specifically described as a portion of Tax Lot 600, Section 7 and Tax Lot 200, Section 8, T. 4 S., R. 4 W., W.M.

As you may be aware, the Council took separate action on March 8, 2005, to approve your tentative subdivision plan for the same property. The conditions of approval for this subdivision are as follows:

1. That the subdivision approval does not take effect until and unless the companion zone change request is approved by the City Council.
2. That a detailed storm drainage plan, which incorporates the requirements of the City's Storm Drainage Master Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat. If the final storm drainage plan incorporates the use of backyard collection systems and easements, such must be private rather than public and private maintenance agreements must be approved by the City for them.
3. That a detailed sanitary sewage collection plan which incorporates the requirements of the City's Collection System Facilities Plan must be submitted to, and approved by, the City Engineering Department. Any utility easements needed to comply with the approved plan must be reflected on the final plat.
4. That the applicant secures from the Oregon Department of Environmental Quality (DEQ) applicable storm runoff and site development permits prior to construction of the required site improvements. Evidence of such permits shall be submitted to the City Engineer.

Community Development Department
Planning Department (503) 434-7311 FAX (503) 472-4104

12. Said cross sections shall be submitted to the Community Development Director for review and approval prior to submittal of the final plat. If the submitted information so indicates, the Planning Director may require the tentative subdivision plan be revised in order to provide for a more practical configuration of lots, utilities, and streets. All such submittals must comply with the requirements of 13A of the Land Division Ordinance and must meet with the approval of the City Engineer.
13. That all streets within the subdivision shall be improved with a 26-foot-wide paved section, curbside planting strips, and five-foot-wide sidewalks placed one foot from the property line within a 50-foot right-of-way, as required by the McMinnville Land Division Ordinance for local residential streets.
14. That the applicant extend water service to the subject site in accordance with McMinnville Water and Light requirements. Easements as may be required for the extension of water shall also be provided.
15. That approved, working fire hydrants must be installed prior to the issuance of building permits for the subject site.
16. That if the property owner wishes a one-year extension of the Commission approval of this tentative plan under the provisions of Section 16 of Ordinance No. 3702, a request for such extension must be filed in writing with the Planning Department a minimum of 30 days prior to the expiration date of this approval.
17. That a plan for the provision of secondary emergency access to the subject site shall be submitted to the McMinnville Fire Department for review and approval. At a minimum the required secondary emergency access must be constructed to include a 12-foot-wide paved travel lane with 20 feet of vertical clearance. All improvements required by this approved plan shall be constructed by the applicant prior to the filing of a final plat for the proposed subdivision.
18. That prior to construction of the proposed subdivision, the applicant shall secure all required state and federal permits, including, if applicable, those related to the federal Endangered Species Act (if applicable), Federal Emergency Management Act, and those required by the Oregon Division of State Lands, and U.S. Army Corps of Engineers. Copies of the approved permits shall be submitted to the City.
19. That barricades shall be installed by the applicant at the terminus of all public streets, consistent with City standards. The barricades shall include text stating: "This street is planned for extension in the future to serve proposed development."
20. That the submitted tentative plan shall be revised to include a public street extending south from "A" Street to serve future development of adjacent land. The street shall be centered approximately 225 feet east of the easterly right-of-way line of Pinehurst Drive so as to allow the future platting of lots some 100 feet in depth within the adjacent property to the south. In addition, the proposed cul-de-sac street ("C" Court) shall be redesigned as a through street connecting "B" Street and "A" Street. Adjustment of the submitted tentative plan is authorized as may be necessary to accommodate the provision of these streets.

Premier Development LL(.,
April 18, 2005

Page 5

Jerry Stellflug, 2684 NW Pinot Noir Drive, McMinnville
Dudley Frost, 506 Altivo Avenue, La Selva Beach, CA 95076
Jeff & Carol Mason, 2610 Riesling Way, McMinnville
Melba L. Smith, 2780 NW Pinot Noir Dr., McMinnville
Robert & Dolores Blechman, 2812 NW Pinot Noir Dr., McMinnville
Emily Stater Duerfeldt, 1545 NW Cabernet Ct., McMinnville
Bart Ellinger, 2660 Pinehurst Drive, McMinnville
Paul Lunsford, 2737 NW Pinot Noir Drive, McMinnville
John Paul, 2731 NW Pinot Noir Drive, McMinnville
Lisa McKinney, 2684 NW Pinot Noir Drive, McMinnville
Dale & Rosalie McKinney, 1220 NW Greenbriar Place, McMinnville
Randy Hartzell, 1093 NW Baker Crest Court, McMinnville
Raymond & Nina Clevidence, 1493 NW Riesling Way, McMinnville



DATE: December 8, 2003
TO: Michael Brandt, Yamhill County Planning Director
FROM: Doug Montgomery, McMinnville Planning Director
SUBJECT: DOCKET NO. FP-08-03

RECEIVED

DEC 08 2003

YAMHILL COUNTY PLANNING

Regarding the above referenced land use application, the McMinnville Planning Department offers the following comments for your consideration:

1. The application appears premature.

The applicant states in their submitted material that: "There is no use proposed for the subject property at this time, other than to fill an area of property within the floodplain." It begs the question that, if there is no use proposed at this time, why should fill material be allowed within the floodplain?

Also within the applicant's submitted material is a letter from the Oregon Division of State Lands (DSL), dated December 13, 1999, which states:

"In evaluating a permit application [for working within a delineated wetland], our agency will first consider whether there is an analysis of alternatives that avoid or minimize wetland or waterway impacts. Please advise you client that state law establishes a preference for avoidance of wetland impacts."

Based upon this direction provided by DSL, it would seem that Premier Development LLC would be advised to first obtain concurrence from that agency as to their efforts in minimizing impacts through a study of alternative designs. Yamhill County should also defer recommending approval of this request until and unless such approvals are granted by the State. From my perspective, it seems premature for the County to take action on this request at this time, particularly given the DSL's stated position and the possibility that they might not approve subsequent actions necessary to permit this area's use for residential housing, as intended by the applicant.